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STATE OF ILLINOIS
POLLUTION CONTROL BOARD

BEFORE THE POLLUTION CONTROL BOARD
OF THE STATE OF ILLINOIS

IN THE MATTER OF:)

SITE REMEDIATION PROGRAM)
35 Illinois Adm. Code 740)

R97-11
(Rulemaking)

STATEMENT OF REASONS

Pursuant to 35 Ill. Adm. Code 102.121(b), the Illinois Environmental Protection Agency ("Agency") submits its STATEMENT OF REASONS for the above-captioned proceeding to the Illinois Pollution Control Board ("Board").

I. FACTS IN SUPPORT, PURPOSE AND EFFECT

A. Legislation

Section 58.11(c) of the Environmental Protection Act ("Act") (415 ILCS 5/58.11(c), as added by P.A. 89-431 (1995)) directs the Agency to submit to the Board within nine months of the effective date of P.A. 89-431 proposed regulations prescribing procedures and standards for the Agency's administration of its duties under the new Site Remediation Program ("Program") contained in Title XVII of the Act. 415 ILCS 5/58 - 58.12, as added by P.A. 89-431 (1995). P.A. 89-431 was signed into law by Governor Edgar and became effective on December 15, 1995.¹

¹ P.A. 89-443 reenacted the Site Remediation Program with minor differences from the version contained in P.A. 89-431. Those differences have been accommodated in today's proposal. In addition, P.A. 89-443 added Section 58.9 of the Act providing for proportionate

Title XVII defines its own purpose and intent. The purpose is to establish "the procedures for the investigative and remedial activities at sites where there is a release, threatened release, or suspected release of hazardous substances, pesticides, or petroleum and for the review and approval of those activities." Id. § 58.1(a)(1). Title XVII sets forth five objectives to be achieved by the Title and the Site Remediation Program. These objectives are:

- 1) To establish a risk-based system of remediation based on protection of human health and the environment relative to present and future uses of the land;
- 2) To assure that the land use for which remedial action was undertaken will not be modified without consideration of the adequacy of such remedial action for the new land use;
- 3) To provide incentives for the private sector to undertake remedial action;
- 4) To establish expeditious alternatives for the review of site investigation and remedial activities, including a privatized review process;
- 5) To assure that the resources of the Hazardous Waste Fund are used in a manner that is protective of human health and the environment relative to present and future uses of the site and surrounding area.

Id. § 58.

The remainder of Title XVII prescribes in substantial detail how the Program is to be structured. However, as described elsewhere, some elements of Title XVII are to be addressed in other proposals. The Program is to be administered by the Agency. Id. § 58.3. It is available on an elective basis for any person performing site investigation or remediation under the Act unless the site is subject to a federally delegated program, federal court order, or United States Environmental Protection Agency ("U.S. EPA") administrative order. Id. § 58.1(a)(2). Even

share liability for environmental contamination and directing the Board to adopt rules and procedures for determining proportionate share within 18 months of the effective date, July 1, 1996. See 415 ILCS 5/58.9, as added by P.A. 89-443 (1996).

then, the procedures may be followed if no conflict with the federally delegated program, federal court order, or U.S. EPA administrative order is created. § Participants may enter the Program on a voluntary basis or through the enforcement process.

Each participant in the Program will submit an application and enter into a service agreement with the Agency. § 58.7(b)(1). The application and agreement will set forth the objectives of the participant and the services requested from the Agency. At a minimum, the Agency will perform review and evaluation services for site activities and the plans and reports that may be submitted by the participant. Those plans and reports are the Site Investigation Report, the Remediation Objectives Report, the Remedial Action Plan, and the Remedial Action Completion Report. § 58.7(d)(2). As an alternative, the participant may contract with a private reviewer for the review and evaluation of plans and reports. However, the private reviewer will conduct the reviews on behalf of and under the direction of the Agency. § 58.7(c)(2). The Agency retains authority for all final decisions on the acceptability of plans and reports. § 58.7(d)(3).

As indicated by the plans and reports listed above, the Program proceeds roughly in four steps as appropriate for each site. The first step is the site investigation to determine the presence of likely presence of any regulated substances or pesticides under conditions that would indicate a release or threatened release (recognized environmental conditions). The participant may limit the parameters of the investigation by regulated substance or by area. § 58.6(a), 58.2 (definition of "site"). The investigation is followed by a report of the findings. If contamination of soil or groundwater, or both, is identified, the need for remediation is determined by comparing the concentrations with background concentrations, conservative, pre-

determined remediation objectives, or site-specific remediation objectives calculated by the participant.⁷ If remediation is necessary, a remedial action plan for achieving the objectives is prepared and submitted for approval. Following approval, the plan is implemented, and a completion report is submitted demonstrating compliance with the plan.

Upon successful completion of the process, a No Further Remediation ("NFR") Letter is issued by the Agency. The NFR Letter signifies a release from further responsibilities under the Act for performing the approved remedial action. Id. § 58.10(a). In addition, the NFR Letter is considered prima facie evidence that the site does not constitute a threat to human health and the environment and does not require further remediation under the Act as long as the site is used in accordance with the NFR Letter. Id. The protection offered by the NFR Letter extends to the holders of a variety of interests in the site as well as to subsequent transferees. Id. § 58.10(d). The NFR Letter is voidable for several reasons including the subsequent discovery of contaminants posing a threat to human health or the environment that should have been identified in the site investigation and addressed in the Remedial Action Plan and the failure to comply with any continuing requirements of the Remedial Action Plan (e.g., maintenance of engineered barriers, compliance with groundwater monitoring requirements, violation of institutional controls). Id. § 58.10(e).

⁷ Section 58.5 of the Act authorizes the establishment of procedures for determining risk-based remediation objectives. This represents one of the major changes Title XVII brings to environmental policy in Illinois. It parallels a similar nation-wide trend. Instead of remediating all sites to levels suitable for all uses, participants may calculate site-specific remediation objectives based on current and projected post-remediation uses. If these uses suggest limited exposure to contaminants for those likely to be present at the sites, remediation objectives may be relaxed accordingly. Because the risk-based procedures will apply to other programs in addition to the Site Remediation Program, they are being submitted to the Board as a separate proposal, 35 Ill. Adm. Code 742.

The NFR Letter does not become effective until it is recorded with the Office of the Recorder of the county in which the site is located. Id. § 58.8(a), (b). The NFR Letter is to be recorded within 45 days of its receipt, and a copy of the letter as recorded is to be filed with the Agency. Id. The purpose of recording the NFR Letter is so that the public, and prospective purchasers in particular, are placed on notice that the property may or may not be suitable for all uses. The Act imposes a strict prohibition against using a property in a manner inconsistent with any property use limitations upon which risk-based remediation objectives have been based.³ Id. § 58.8(c).

B. Regulatory Development

The proposed regulations are the product of nine months of efforts by the Agency project workgroup and the Site Remediation Advisory Committee ("Committee") created under Section 58.11 of the Act. 415 ILCS 5/58.11, as added by P.A. 89-443 (1996). The Committee consists of ten members appointed by the Governor including one member each as recommended by the Illinois State Chamber of Commerce, the Illinois Manufacturers Association, the Chemical Industry Council of Illinois, the Consulting Engineers Council of Illinois, the Illinois Bankers Association, the Community Bankers Association of Illinois, the National Solid Waste Management Association, the Illinois Petroleum Marketers Association, the Illinois Petroleum Council, and the City of Chicago.

³ The recording requirement and the prohibition on property uses inconsistent with those upon which risk-based remediation objectives were determined are the *quid pro quo* for leaving more contamination in place. When all sites were remediated so that they were suitable for all uses there was no need for further restrictions or tracking. In return for leaving more contamination in place, the Act acknowledges by inclusion of these requirements that restrictions on uses must be accepted and that the public must have a way of learning whether such restrictions are in place.

The Agency has fulfilled its statutory duty of consultation by meeting formally with the Committee on June 12, August 15 and August 29, 1996, to discuss the Part 740 proposal. In addition, there have been numerous informal contacts. Attendance at the meetings was not restricted, and in many cases the meetings were attended by interested parties who were not Committee members. While the Agency cannot represent that there is total concurrence on all details, there is substantial concurrence on conceptual issues, and the Agency is not aware of any major conceptual issues to be resolved by this rulemaking.

II. THE PROPOSED REGULATIONS

Title XVII of the Act does not create a new program so much as it substantially alters an existing program, the Agency's Pre-Notice Site Cleanup Program ("PNSCP"). What eventually became known as the PNSCP began operating in 1989 under the authority of Sections 22.2(m) and 22.2(n) of the Act. 415 ILCS 5/22.2(m), (n) repealed by P.A. 89-431 (1995). At the time of the repeal of Sections 22.2(m) and (n), approximately 100 participants had successfully completed site remediations and nearly 400 were enrolled. Thus the Agency has had a significant amount of experience in administering a program similar to that envisioned by Title XVII. Much of that experience, especially with regard to applications, agreements, recordkeeping, billing, and payment, has formed the basis for the proposal submitted today.

The primary changes from past practice include the specification of the types of plans and reports that must be prepared and submitted for review, the use of risk-based methods to determine remediation objectives, the use of private licensed professional engineers ("LPE") for some review functions, and the more prescriptive NFR Letter. By more precisely defining the steps of the Program from application to NFR Letter, the rights and duties of the Agency and the

participants have become more clear but perhaps less flexible than under the PNSCP. One consequence of this new structure that may be of particular interest to the Board is that eight new appeal points have been created,^{*} whereas under the PNSCP there was no provision for direct appeal.

The proposed new Part 740 is subdivided into six subparts and two appendices. What follows is a review of the format and content of the proposal with a more detailed discussion of the rationale for certain key sections.

A. SUBPART A

Subpart A sets forth the general provisions of the Part including a statement of the purpose of the Part, applicability information, definitions, a permit waiver, a statement of the Agency's continuing authority to take action, as necessary, under other provisions of the Act, and incorporations by reference.

Section 740.105 paraphrases the applicability provisions of Title XVII. These provisions are complex and require some explanation. Subsection (a) provides that the procedures of the Part generally are available to persons required under the Act or electing to perform investigative or remedial activities at sites where there is a release, threatened release or suspected release of hazardous substances, pesticides or petroleum. "Persons required under the Act" are those who are the object of formal enforcement activities. The procedures also are available to persons who may not be required to perform investigative or remedial activities but who may have

^{*} New appeal points are as follows: Denial of applications at Section 740.215(d), Agency termination of service agreements at Section 740.230(d), requests for payment at Section 740.310(d), disapproval or approval with conditions of any of four plans or reports at Section 740.505(b), and voidance of NFR Letters at Section 740.625(c).

commercial or personal reasons for doing so. The use of the procedures is not mandatory in either case, but subsection (e) requires that they must be followed if the participant wishes to obtain the NFR Letter under Section 740.605.

Sections 740.105(a)(1) through (a)(4) note the exceptions to the use of the procedures. The purpose of the exceptions is to keep procedures based on state law from interfering with delegated federal programs, federal court orders, or administrative orders issued by the U.S. EPA. Programs administered by the state under federal delegations or cooperative agreements are based on established regulations that usually specify their own investigative and remedial requirements in the event of a release (e.g., Leaking Underground Storage Tank Program). To obtain the delegation or cooperative agreement, these regulations have been approved by the U.S. EPA as at least as stringent as federal requirements. Allowing persons who are subject to such programs to use unapproved alternative provisions would require new applications and approvals from the U.S. EPA or would risk a finding by the U.S. EPA that the procedures are less stringent than federal law. In either case, delegations and the accompanying grants for operating expenses would be jeopardized.¹

As a result of these concerns, the exceptions provide that persons whose sites are subject to such programs are excluded from the Program's procedures. However, if it is clear under federal law or if there is some other federal authorization or approval acknowledging the

¹ This scenario is a very real possibility. Substantive deficiencies in the Leaking Underground Storage Tank Program resulting from the passage of Title XVI of the Act led to a phased federal withdrawal of state administrative authority between August 1995 and April 1996. The return of full authority to the state was achieved only by passage of additional legislation correcting the deficiencies. The regulations at 35 Ill. Adm. Code 732 still must be amended before this process is complete.

suitability of these procedures in lieu of those provided in a delegated program, then subsection (b) authorizes the use of the Program's procedures. An example of such federal approval would be a Memorandum of Agreement between the U.S. EPA and the Agency.

Section 740.115 reaffirms the Agency's authority to take action as appropriate where authorized under provisions of the Act. In addition, the section and the accompanying Board Note expand the use of some of the proposed procedures to sites where participants are seeking an Agency release under Section 4(y) of the Act, 415 ILCS 5/4(y). This is necessary to correct an oversight in Title XVII. Under the Pre-Notice Site Cleanup Program, a variety of large and small sites were addressed with procedures tailored to site-specific needs. Title XVII sets forth a prescriptive approach that is appropriate for more complex circumstances or for those wanting the maximum protection offered by the NFR Letter. Even though small releases traditionally were handled by the PNSCP under service agreements, Title XVII does not take into account these sites or other circumstances that may be handled more appropriately with minimal procedures.⁴

Both the Agency and the Committee have agreed that there still is a need for streamlined approaches to these sites (including risk-based remediation objectives) and for the Section 4(y) release. As proposed, the choice of Program options remains with the participant. However,

⁴ An example would be where a tank truck hauling petroleum overturns and releases a small quantity of petroleum. The remediation may be accomplished quickly within hours or days. The trucking company does not want to be burdened with site investigation, planning and reporting requirements, but it does want a written acknowledgment from the Agency that the release has been properly remediated. The property owner wants his property cleaned up but does not want an NFR Letter recorded in the chain of title of his property. Under these and many other circumstances more limited procedures and a release under Section 4(y) are appropriate.

unless the Agency has the authority to enter into service agreements and bill for services as in the past, it will not have the resources to address these special circumstances in the most efficient manner. Instead, as a practical matter, the participants will be forced to comply with the full procedures proposed today in order to obtain Agency oversight and a written release.

Section 740.120 contains the definitions necessary to interpret Part 740. Many of the definitions provided in Title XVII are not used here because they have instead been included with the procedures proposed under Part 742. The definition of "contaminant of concern" is identical to the statutory definition of "regulated substance of concern" but has been added here to maintain consistency with proposed Part 742. The definition "remediation site" has been added to clear up ambiguity created by multiple uses of the statutory definition of "site." The definition of "site" was broad enough to encompass both the source property within its legal boundaries as well as the area to be remediated, which may extend across property boundaries. Because the word was used in both contexts, it was decided to add the concept of "remediation site," which specifically means the area to be remediated regardless of property boundaries.

B. SUBPART B

Subpart B describes the requirements for completing applications for Agency services, the bases for approval or denial of applications for services, and the requirements for entering into or terminating service agreements.

Section 740.205 provides that applications and service agreements are to be submitted on forms prescribed and provided by the Agency. The same is true for all other plans and reports required under this Part. This is to ensure that the information is presented consistently and completely so that the review of applications and agreements is as standardized as possible.

Section 740.210(a) details the information the Agency needs to determine applicant eligibility, verify applicant authority to proceed under the Program, identify the site, identify the remediation site and its approximate size, and the nature of the remediation to be performed, track the site activities, identify the types of services requested and the nature of the release desired (NFR Letter or Section 4(y) release), and estimate the time and cost of services to completion.

Section 740.210(b) sets forth the minimum conditions the Agency may require for entering into service agreements and provides that the parties may expand upon these by mutual agreement. The section also provides for payment of the advance partial payment. Two payment options have been provided along with a suggested Board Note describing the potential advantages and disadvantages of the choices. Under Section 740.210(b)(2)(E)(i), the applicant may submit along with the application and signed agreement a payment of \$500, which in the Agency's experience is at or near one-half of the minimum amount that would be required for services. If the application and agreement are approved, services may begin immediately. This is particularly useful where the applicant desires to accelerate the process (e.g., pending property transfer) and/or is submitting plans or reports along with the application and agreement. The disadvantage is that statutory restrictions prevent the Agency from refunding money submitted to the Agency. As a result, a denial of the application for ineligibility or lack of resources will lead to forfeiture of the payment.

To avoid forfeiture of the payment, Section 740.210(b)(2)(E)(ii) allows the applicant to request that the Agency project the total costs to the Agency of providing the requested services and assess an advance partial payment within the statutory limitations. The payment may or may

not be greater than \$500. This adds an additional step that increases the time before services actually are commenced but allows the Agency to make the determination of whether or not the applicant will be accepted into the Program before the applicant's money is committed.

Section 740.215 gives the Agency 30 days from the receipt of the application to make its determination of acceptance or denial. Reasons for denial are set forth along with appeal rights and a deadline waiver provision for applicants. There is no appeal for the denial of an application based on lack of Agency resources. Section 58.7(b)(1) of the Act allows the Agency to deny an application on these grounds. Availability of Agency resources is an internal matter related to legislative appropriations, statutory duties and management decisions and requires judgments on allocations of Agency resources that are not appropriate subjects for external review.

Section 740.230 provides for termination of an agreement by the Agency and the reasons the Agency may use for termination. Subsection (b) requires the Agency to provide a preliminary notice of its intention to terminate. The Agency may, but is not required to, offer an opportunity to correct the deficiencies. Under subsection (d), terminations by the Agency are appealable except when an imminent and substantial threat to human health or the environment exists. The exclusion is to prevent delays for appeals when immediate responses are necessary.

Section 740.235 authorizes the use of private licensed professional engineers for review and evaluation of plans and reports. At the request of the Committee, language has been added at Part 740 Appendix B listing factors that should be considered by Remedial Applicants ("RA") before entering into agreements with Review and Evaluation LPEs ("RELPE"). Subsection (a) requires that RELPEs provide this information to the RA. Subsection (b) requires that the RA

inform the Agency of the RELPE to be selected, submit the information from Appendix B, and discuss the potential terms of the contract. The notification and discussion requirements are statutory and represent a compromise with those in favor of requiring the Agency to pre-certify potential RELPEs. See 415 ILCS 5/58.7(c)(1).

C. SUBPART C

Subpart C describes the Agency's recordkeeping practices, the types of costs for which the Agency may bill the RA, and the manner and method of payment. Generally, the Agency will track costs and allocate them using site-specific codes. Requests for payment must be in writing, and RA's may request copies of documentation. These provisions are essentially identical, except for Board appeals, to Agency rules promulgated at 35 Ill. Adm. Code 859.

Under Section 740.310, requests for payment may be appealed to the Board on a limited basis. Agency costs are determined by a number of fixed factors including labor agreements and are not appropriate for external review. Therefore, appeals of costs are limited to the issue of whether the services billed actually were performed rather than the Agency's costs to perform those services.

D. SUBPART D

Subpart D describes the requirements for site investigations, provides for the determination of remediation objectives, and specifies the contents for plans and reports submitted to the Agency.

Section 740.410(c) represents a solution to the problem of how to handle reliance on site activities and accompanying documentation performed prior to the attesting LPE's assumption of responsibility at the site. This question arises in a variety of contexts. Such documentation may

not satisfy all the specific requirements for plans and reports, and there may be no way to determine whether all of the performance standards have been met. Nevertheless, the activities and documentation may be useful, and acceptance of the documentation may prevent needless duplication. The Agency and the Committee ultimately agreed that the best approach was to require the LPE to review the documentation and provide an evaluation of the quality of the work and its suitability for the purposes of Part 740. The LPE would not be required to attest to its conformance with the procedures of the Part. The Agency has the discretion to accept or refuse the submittal regardless of the LPE's evaluation. Rather than create a presumption that the Agency is required to accept all other plans and reports, the last sentence of the subsection⁷ is intended to exclude appeals if the Agency refuses to accept such documentation.

Sections 740.415 through 740.435 describe the site investigation and related reporting requirements. Two levels of site investigation are provided. The comprehensive site investigation at Section 740.420 is for RA's wishing to identify and remediate all recognized environmental conditions and related contaminants of concern for the remediation site. The focused site investigation at Section 740.430 is for RA's wishing to remediate only specified recognized environmental conditions and related contaminants of concern. These choices reflect the primarily voluntary nature of the Program, the fact that RA's may or may not be legally liable for the remediation, and the belief that limited cleanup is better than no cleanup. Where liable parties are identifiable, enforcement remains an option.

⁷ "Such information may be submitted to the Agency for consideration along with the LPE's written evaluation of suitability, but the Agency shall not be required to accept the information as evidence of compliance with any requirements of the Act or this Part." See Section 740.410(c).

Section 740.420(a) provides that the comprehensive site investigation shall begin with the American Society for Testing and Materials phase I site assessment process ("ASTM phase I") unless an alternative is approved by the Agency. The ASTM phase I is to be supplemented by additional sampling and analysis. Among the phase II provisions at Section 740.420(b), is a requirement for additional sampling and analysis from the Target Compound List at Appendix A. The required sampling from the Target Compound List may be expanded or contracted depending on the results of the phase I assessment. The Agency believes strongly that the phase I alone provides insufficient information upon which to base the assurance required in the NFR Letter that the site does not constitute a threat to human health and the environment. 415 ILCS 5/58.10(b)(4).

The ASTM phase I was intended to guide a user in conducting an inquiry appropriate for the "innocent landowner defense" under the Comprehensive Environmental Response, Compensation and Liability Act ("CERCLA") (42 U.S.C.S. 9601 et seq.). See ASTM E 1527-94, "Standard Practice for Environmental Site Assessments: Phase I Environmental Site Assessment Process," vol. 11.04, § 1.1, approved April 15, 1994. That defense requires only that, at the time of acquisition of a property, a defendant "did not know and had no reason to know" that any hazardous substance that is the subject of a release was disposed of on, in, or at the facility. *Id.* Appendix X1.2.2. In other words, the ASTM phase I is a sufficient level of inquiry to provide the landowner with deniability--no reason to know that the substances involved in a release were at the location. If the comprehensive site investigation is performed, the NFR Letter will require the Agency to affirmatively state that the site is no threat to human health or the environment. This requires a higher level of certainty than that the RA and the

Agency had "no reason to know" that contaminants were on the site. For this reason, no NFR Letter should be issued on the sole basis of an ASTM phase I site assessment.

Section 740.430 establishes the standards for the focused site investigation. The activities required here are essentially a subset of the ASTM phase I process and the phase II requirements -- reduced in scope because of the limited objectives of the investigation. Under this scenario, the RA generally has determined in advance the recognized environmental conditions he expects to find and intends to confirm their presence and define their extent. Other recognized environmental conditions may be present, but, for a variety of reasons, the RA has chosen not to address them at the present time. As discussed further below, when the RA takes this approach, the effect of the NFR Letter is limited accordingly.

Once recognized environmental conditions and related contaminants of concern have been identified, Section 740.440(a) requires the development of remediation objectives in accordance with proposed 35 Ill. Adm. Code 742, "Tiered Approach to Corrective Action Objectives."

Section 740.440(b) provides the compliance points for the Site Remediation Program. The remediation objectives developed under Part 742 must be achieved at these compliance points. Procedures for confirming compliance are those set forth in Part 742.

E. SUBPART E

Subpart E establishes the administrative procedures and the standards for review of plans and reports as well as the conditions for the establishment by rule and the duration of groundwater management zones.

Sections 740.505 through 740.525 contain the administrative provisions and standards for

review of plans and reports. The standards are based primarily on the statutory standards and apply to both the RELPE and the Agency.

Section 740.530 addresses the establishment and duration of groundwater management zones. This is authorized in Section 58.5(e) of the Act. The concept of groundwater management zones ("GMZ") arises from the Groundwater Quality regulations at 35 Ill. Adm. Code 620.250. The GMZ is a three-dimensional region containing groundwater being managed to mitigate impairment caused by the release of contaminants. Once a GMZ is established, the applicable groundwater quality standards or objectives do not apply to released chemical constituents within the GMZ prior to the timely completion of the corrective action.

Consistent with Sections 620.250(a)(1) and (a)(2), the Agency has proposed at Section 740.530(a) that a GMZ by rule does not become effective until a Remedial Action Plan has been approved by the Agency. It is at this point that the scope of the corrective action (and, therefore, the dimensions of the GMZ) have been substantially defined and the corrective action schedule established. The GMZ is automatic once the plan is approved unless it extends across property boundaries. In that case, because the establishment of a GMZ may diminish the rights of affected adjacent property owners, the Agency proposes at Section 740.530(b) requiring the written permission of those adjacent property owners before the GMZ becomes effective.

Section 740.530(c) provides that a GMZ remains in effect until a NFR Letter is issued or the service agreement is terminated. Under Section 740.230(a)(3), a services agreement may be terminated if the RA fails to proceed in a timely manner making the termination consistent with the intent of Section 620.250.

E. SUBPART F

Subpart F describes the content and effect of NFR Letters, the recording requirements, and the circumstances under which the letters may be voidable and establishes a fee for the letters.

Section 740.610(a)(4) contains language limiting the presumption for a "site" provided under Section 58.10(b)(4) of the Act where the RA has chosen to limit the investigation or remediation to specified areas of a site, specified environmental conditions, or specified contaminants of concern. These limitations on the scope of investigation or remediation justify limitation of the NFR Letter by area or specific contaminants of concern.

III. TECHNICAL FEASIBILITY AND ECONOMIC REASONABLENESS

A. TECHNICAL FEASIBILITY

Issues of technical feasibility arise in the Part 740 proposal, if at all, only in the context of the site investigation requirements at Sections 740.415, 740.420 and 740.430. Procedures for development of remediation objectives may raise issues of technical feasibility, but those procedures are contained in the proposed 35 Ill. Adm. Code 742 and are only cross-referenced in Part 740. Therefore, technical feasibility issues related to development of remediation objectives will be addressed separately in the Part 742 proposal.

In addition to visual investigation and research into historic and current activities at the site, the site investigation may include soil and sediment investigations, hydrogeological investigations, and surface water investigations. Completing these investigations may require soil, surface water, and groundwater sampling and analysis. In each case the techniques have been used widely and are well understood. They are the same techniques that have been used in the PNSCP, the Leaking Underground Storage Tank Program, and other state and federal

programs as well as in private investigations.

Section 740.415(d) sets forth the data quality objectives for field and laboratory operations to ensure that all data are scientifically valid and of known precision and accuracy. Specific methods are incorporated by reference to provide standards and guidance in performing the operations. Again, the methods and procedures are widely used.

Although many of the requirements for site investigations are highly technical in nature, they are based on well-established and commonly understood techniques, procedures and methodologies. The activities required already are a part of other state and federal regulatory programs. For these reasons, the Agency concludes that no issues of technical feasibility are raised in the proposed rules.

II. ECONOMIC REASONABLENESS

As stated in Section I. A. above, Title XVII prescribes in substantial detail how the Site Remediation Program is to be structured. As a result, there is little discretion as to the form and content of the Program, and economic issues are greatly diminished for the purposes of this rulemaking. Moreover, the information available to the Agency for making economic projections is extremely limited. However, the economic effects of the Program are thought to occur at two levels: the effect on parties actually performing remediation under the Program and the effect on the society in general from returning abandoned and under-used properties to more productive uses following remediation.

In an attempt to gather additional economic information for this rulemaking, the Agency devised a brief questionnaire asking for any insight or information the members of the Site Remediation Advisory Committee could offer. One response was received and is summarized

below. The questionnaire and the single response are included as Attachments 1 and 2 to this document. The response time for the questionnaire was brief. The Board may be able to gather more information from the Committee members and others during the course of the hearings.

1. Costs under the Site Remediation Program

The first point is that no new regulatory burdens are imposed as a result of this proposal. Participation in the Program is elective, and potential applicants may decide for themselves if the benefits of participation outweigh the costs. In making this decision, applicants may want to consider their potential liability for remediation under other provisions of law, the economic viability of the property to be remediated, the costs of investigation and remediation, the costs of compliance with program administrative requirements, and the liability protection and facilitation of property transfers offered by the NFR Letter.

With regard to the costs of remediation, significant savings are expected when compared with sites cleaning up under the Pre-Notice Site Cleanup Program. Because of the voluntary nature of the PNSCP, the Agency has no data on the cost of remediation for sites cleaning up under that program. However, the adoption of risk-based remediation procedures generally should allow participants to leave more contamination in place while effectively managing risk, and it is widely agreed that this alone will significantly reduce the costs of remediation. The Agency expects that remediation costs may be reduced as much as 50% to 75% for a typical site.

The Illinois Power response to the Agency questionnaire confirms this to some extent. Illinois Power has had extensive experience with remediation at 25 manufactured gas plant ("MGP") sites under the PNSCP. The company has estimated its remediation costs under the old and new formats and "believes that using risk-based remedial objectives would reduce remedial

costs as follows: a mean reduction of 34.4%, a weighted average reduction of 66%, and a range reduction for the 25 sites from 0 - 90%." See Attachment 2, p. 2.

With regard to the administrative costs of participating in the Program, the Agency has no specific projections, but believes the costs may increase in comparison with the PNSCP. As noted in Section I. A. above, the Act has more precisely defined the steps of the Program from application to NFR Letter. The loss of flexibility may result in increases for some participants in the areas of site investigation, preparation of plans and reports, and costs for Agency and RELPE services. The Illinois Power response also indicates this may be the case. "[F]or remediations conducted under the SRP program for the administrative component, the costs will increase but the increase will be insignificant relative to the overall reduction in remedial costs." See Attachment 2, pp. 2-3.

2. Budgetary Effects of the Proposed Rulemaking

The Program is structured so that the Agency recovers all costs for review and evaluation services from the participants. Therefore, the Agency anticipates that expenditures and revenues for Agency oversight will balance. Because of the number of new appeal points, the Agency does anticipate an increase in budgetary costs associated with defending appeals. These changes could begin at any time because the Program has been administered under the statutory framework since its effective date on December 15, 1995. Presumably the Board also will be required to allocate more resources for appeals.

1. Overall Economic Effects

This rulemaking proposal is one of the changes to state environmental policy directed by P.A. 89-431 and P.A. 89-443. These Acts are commonly known as the "brownfields"

legislation. "Brownfields" refers to abandoned or under-used industrial facilities primarily in urban areas. The goal of the federal and state brownfields initiatives has been to increase redevelopment of these industrial sites and to reduce new industrial development at suburban "greenfields" (pristine) sites. It is believed that a series of positive economic and social consequences will follow if this change in development strategy can be implemented.

One of the pieces of the strategy is to revamp government environmental programs to 1) facilitate oversight of brownfields remediation while continuing to protect the public health and safety, 2) implement the use of risk-based cleanup objectives, and 3) provide releases from liability for participants who successfully complete such programs. While they may help, these changes alone cannot guarantee the success of the brownfields initiatives. Other issues beyond the control of public environmental agencies will have an even greater impact than environmental policy changes. Foremost among them are the financing issues such as the willingness of lenders to provide capital for site assessment, remediation, and redevelopment at such properties and the willingness of federal, state and local governments to provide incentives such as loans, grants, and tax abatement. Whether or not the economic benefits of brownfields redevelopment actually accrue to the public at large remains to be seen. The Agency has no special insight with regard to these questions and makes no predictions as to the outcome or estimates as to potential benefits. To the extent changes in environmental policy can contribute to a favorable outcome, the rules proposed today should help to make the anticipated benefits a reality.

IV. AGENCY WITNESSES AND SYNOPSIS OF TESTIMONY

It is currently planned that the Agency will provide five witnesses: Gary King, Larry

Easter, Rick Lucas, Robert O'Hara, and Shirley Baer. Larry Easter, Manager of the Agency's Remedial Project Management Section, will testify in support of Subparts A and F. Rick Lucas, Manager of the Agency's State Sites Unit, will testify in support of Subpart E. Robert O'Hara, Manager of the Site Remediation Program, will testify in support of Subpart D. Shirley Baer, Environmental Protection Specialist, will testify in support of Subparts B and C. Gary King will not present formal testimony, but he will answer questions as part of the panel requested below.

The Agency will submit written testimony in advance of the hearings and respectfully requests that the Board consider allowing the oral testimony of the Agency witnesses in panel form rather than calling each individually. This suggestion should streamline the process and facilitate the inquiry in that questioners will not have to attend the entire hearing waiting for the opportunity to address a narrow area of concern.

Respectfully submitted,

ILLINOIS ENVIRONMENTAL
PROTECTION AGENCY


Mark Wight
Assistant Counsel

DATED: September 13, 1996

2200 Churchill Road
P.O. Box 19276
Springfield, Illinois 62794-9276
(217) 782-5544

[THIS FILING IS SUBMITTED ON RECYCLED PAPER]



State of Illinois

ENVIRONMENTAL PROTECTION AGENCY

Mary A. Gade, Director

2200 Churchill Road, Springfield, IL 62794-9274

(217) 785-9407

August 7, 1996

Marry Walton, Chairman
Site Remediation Advisory Committee
Illinois Power Company
500 South 27th Street
Decatur, Illinois 62525-1805

Re: Site Remediation Program: Economic Justification

Dear Mr. Walton:

Enclosed is a brief questionnaire intended to gather information on the economic impact of the proposed regulations for Tiered Approach to Corrective Action Objectives as implemented by the Site Remediation Program and the Leaking Underground Storage Tank amendments. As explained in the questionnaire, the Pollution Control Board regulations require that information on economic impact be included as part of all regulatory proposals. I am requesting that you distribute copies of the questionnaire to the Site Remediation Advisory Committee so that any information your members may have with regard to the economic benefits or burdens of the regulatory changes may be included in the descriptions of the proposals.

The questionnaire is intended to be simple and self-explanatory. It requests information from published sources and from persons having experience in performing remediations. Where amounts or percentages are requested, estimates are acceptable. Generally, we are looking for trends rather than site-specific numbers, but site-specific numbers provide evidence in support of trends.

Please note the fairly rapid turn-around time requested at the end of the questionnaire. If there are any questions, feel free to contact Mark Night or Kim Robinson at the number provided in the questionnaire. Any information that you or the other members of the committee can provide will be greatly appreciated. Thank you for your cooperation.

Sincerely,

Gary P. King

Gary P. King
Bureau of Land

Enclosure

ATTACHMENT 1

ECONOMIC EFFECTS OF THE PROPOSED TIERED APPROACH TO CORRECTIVE ACTION OBJECTIVES, THE SITE REMEDIATION PROGRAM, AND THE LEAKING UNDERGROUND STORAGE TANK PROGRAM

The purpose of this questionnaire is to gather information regarding the economic effects of the soon-to-be proposed rulemakings, Part 742, Tiered Approach to Corrective Action Objectives (TACO), Part 740, Site Remediation Program (SRP), and proposed amendments to the Leaking Underground Storage Tank (LUST) regulations, Part 732. The proponent in any regulatory proceeding before the Pollution Control Board (Board) must submit a statement of reasons supporting the proposal, including an economic justification for the proposal. 35 Ill. Adm. Code 102.121(b). Although the TACO procedure is being proposed as a separate Part, it will serve several land remediation programs, including the SRP and LUST, as the basis for determining program remediation objectives.

The Illinois Environmental Protection Agency (Illinois EPA) anticipates that the use of risk-based remediation objectives will result in certain economic advantages. The presumed economic advantages will accrue at two levels; the savings to the parties who actually perform site remediation and the benefit to society in general because of the reduced costs of returning contaminated industrial and commercial sites to productive uses. The Illinois EPA is requesting information that applies to either or both of these advantages or any information to the contrary. The types of information that will be useful include published studies or analyses from any source and case-specific estimates or comparisons assembled from actual remediation experience. Thank you in advance for your cooperation.

- I. For parties (including businesses, consultants, contractors, etc.) who have actual remediation experience in Illinois or for trade associations whose members may have such experience (please specify):
1. Have you ever performed a soil and/or groundwater remediation in Illinois?
 2. How were the remediation objectives determined?
 3. In your opinion would there have been a significant difference in the remediation objectives if they had been determined using the TACO procedures?
 4. If the answer to question 3 is "yes," is it your opinion that the overall costs of the remediation would have:
 - A. Decreased?
 - B. Increased?
 - C. Remained about the same?
 5. If the answer to question 4 was "decreased" or

increased, please estimate the amount of decrease or increase using approximate dollar figures or percentages. (Example: Using risk-based remediation objectives would have reduced remediation costs from \$10,000 to \$8000 [by 20%].)

6. Please specify whether the above answers apply to LUST sites, voluntary sites, or other sites.
- II. Are you aware of any published information that compares the economic impact of using risk-based cleanup objectives as opposed to residential-based cleanup objectives? If so, please attach a copy when you return this document or provide a reference to the information so that it can be located and obtained.
- III. Are you aware of any published information (case studies, general analysis) that addresses the economic impacts for businesses and/or communities of "brownfields" versus "greenfields" development? If so, please attach a copy when you return this document or provide a reference to the information so that it can be located and obtained.
- IV. Will the SRP or LUST rulemakings have an indirect effect that may result in increased or decreased administrative costs? Will there be any change in requirements such as filing, documentation, reporting or completion of forms? Compare to current requirements.
- V. If you have any other information or general comments on the economic effects, positive or negative, of the TACO procedures, how they will affect the implementation of the SRP or the LUST amendments, or regarding other economic effects of the SRP or LUST amendments, please attach them on a separate sheet. (Example: the effect of the SRP or similar programs on commercial/industrial real estate transactions)
- VI. If the respondent represents a business, is the business a "small business" as defined by the Illinois Administrative Procedure Act (IAPA)? [Section 3.10 of the IAPA defines "small business" as a corporation organized under the "General Not For Profit Corporation Act of 1986", as amended, or a concern, including its affiliates, which is independently owned and operated, not dominant in its field and which employs fewer than 50 full-time employees or which has gross annual sales of less than \$4 million.]

Please return completed responses by September 2, 1996, to Mark Wight or Kim Robinson at the following address:

Illinois Environmental Protection Agency
Division of Legal Counsel
2200 Churchill Road
P.O. Box 19279
Springfield, IL 62794-9276
(217) 782-5544



August 29, 1996

Illinois Power Company
500 South 2nd Street
P.O. Box 311
Springfield, Illinois 62768

Mark White
Illinois EPA
Division of Legal Counsel
2200 Churchill Road
P.O. Box 19276
Springfield, Illinois 62794-9276

Dear Mr. White:

**Re: Economic Effects of the Proposed Tiered Approach to Corrective
Action Objectives, the Site Remediation Program,
and the Leaking Underground Storage Tank Program**

Below we have provided response to your questionnaire for the gathering of information on the economic impact of the proposed regulations for the tiered approach to corrective action objectives as implemented by the site remediation program and the leaking underground storage tank amendments. These comments are provided on behalf of Illinois Power Company (Company) and present its experience and expectations for the benefits of risk-based remedial objectives.

1. For parties (including businesses, consultants, contractors, etc.) who have actual remediation experience in Illinois or for trade associations whose members may have such experience (please specify):

1. Have you ever performed a soil and/or groundwater remediation in Illinois?

The Company has completed numerous groundwater and soils remediations.

2. How were the remediation objectives determined?

Previously, the Company reviewed the appropriate regulations and developed its remedial objectives in conformance with the program under which the remediation was required; this includes both state and federal requirements.

3. In your opinion, would there have been a significant difference in the remediation objectives if they had been determined using the TACO procedure?

Yes.

ATTACHMENT 2

4. *If the answer to question 3 is "yes," is it your opinion that the overall costs of the remediation would have:*

Decreased.

5. *If the answer to question 4 was "decreased" or "increased," please estimate the amount of decrease or increase using approximate dollar figures or percentages. (Example: Using risk-based remediation objectives would have reduced remediation costs from \$10,000 to \$8,000 [by 20%.])*

In support of the Company's remedial management program for 25 MGP sites, the Company has developed estimates for remediation under both formats. The Company believes that using risk-based remedial objectives would reduce remedial costs as follows:

- a mean reduction of 34.4%,
- a weighted average reduction of 66%, and
- a range reduction for the 25 sites from 0 - 90%.

6. *Please specify whether the above answers apply to LUST sites, voluntary sites, or other sites.*

Pre-notice sites.

- II. *Are you aware of any published information that compares the economic impact of using risk-based cleanup objectives as opposed to residential-based cleanup objectives? If so, please attach a copy when you return this document or provide a reference to the information so that it can be located and obtained.*

No.

- III. *Are you aware of any published information (case studies, general analysis) that addresses the economic impacts for businesses and/or communities of "brownfields" versus "greenfields" development? If so, please attach a copy when you return this document or provide a reference to the information so that it can be located and obtained.*

No.

- IV. *Will the SRP or LUST rulemakings have an indirect effect that may result in increased or decreased administrative costs? Will there be any change in requirements such as filing, documentation, reporting or completion of forms? Compare to current requirements.*

The Company believes that for the remediations occurring under the LUST program administrative costs will decrease, but not significantly. In addition, for remediations

conducted under the SRP program for the administrative component, the costs will increase but the increase will be insignificant relative to the overall reduction in remedial costs.

- V. *If you have any other information or general comments on the economic effects, positive or negative, of the TACO procedures, how they will affect the implementation of the SRP or the LUST amendments, or regarding other economic effects of the SRP or LUST amendments, please attach them on a separate sheet. (Example: the effect of the SRP or similar programs on commercial/industrial real estate transactions.)*

The Company believes that the risk-based approach to corrective action will have benefits in addition to being cost-effective and still be as protective as the traditional approach to remedial objectives. In fact, total benefits to Illinois will be significant. Not only will remediations be conducted in a very cost-effective manner, the number of remediations should increase significantly since this common-sense approach to remediation will fix problems and not fix perception of problems. The NFA letter will provide certainty to the business community that a site can be returned to a beneficial use without taking on undefinable risk and liabilities. In this context, more properties will be returned to a beneficial use.

- VI. *If the respondent represents a business, is the business a "small business" as defined by the Illinois Administrative Procedure Act (IAPA)? [Section 3.10 of the IAPA defines "small business" as a corporation organized under the "General Not For Profit Corporation Act of 1986," as amended, or a concern, including its affiliates, which is independently owned and operated, not dominant in its field and which employs fewer than 50 full-time employees or which has gross annual sales of less than \$4 million.]*

No.

In light of the rapid turnaround time requested for this questionnaire, Illinois Power Company has provided the above cryptic responses. If you need any clarification or expansion of these issues, please feel free to contact me at 217/424-6832.

Sincerely,

ILLINOIS POWER COMPANY



Harry R. Walton

Environmental Risk Management Group Leader

cc: J. L. Robinson/B. H. Martin/B. J. Irwin/C. L. Turner/File: MGP - General

ORIGINAL

RECEIVED
CLERK'S OFFICE
SEP 16 1996
STATE OF ILLINOIS
POLLUTION CONTROL BOARD

**BEFORE THE POLLUTION CONTROL BOARD
OF THE STATE OF ILLINOIS**

IN THE MATTER OF:)
)
SITE REMEDIATION PROGRAM) R97-1/
35 Ill. Adm. Code 740) (Rulemaking)
)
)

NOTICE

Dorothy Gunn, Clerk
Illinois Pollution Control Board
James R. Thompson Center
100 W. Randolph, Suite 11-500
Chicago, Illinois 60601

Matthew J. Dunn, Chief
Environmental Bureau
Office of the Attorney General
James R. Thompson Center
100 West Randolph, 12th Floor
Chicago, Illinois 60601

Stanley Yonkauski, Jr., Legal Counsel
Dept. Of Energy and Natural Resources
524 South Second Street
Springfield, Illinois 62701-1787

PLEASE TAKE NOTICE that I have today filed with the Office of the Clerk of the Pollution Control Board the Illinois Environmental Protection Agency's Motion for Acceptance, Proposed Regulations, Statement of Reasons, Motion Regarding Incorporations by Reference, Statement Regarding Economic Impact Study, and Appearance of Attorneys, a copy of each of which is herewith served upon you.

Respectfully submitted,
ILLINOIS ENVIRONMENTAL PROTECTION
AGENCY

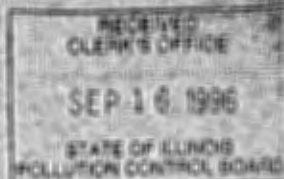
By: Mark Wight
Mark Wight
Assistant Counsel

DATE: September 13, 1996

2200 Churchill Road
P.O. Box 19276
Springfield, IL 62794-9276
(217) 782-5544

THIS FILING IS SUBMITTED ON RECYCLED PAPER

ORIGINAL



BEFORE THE POLLUTION CONTROL BOARD
OF THE STATE OF ILLINOIS

IN THE MATTER OF:)
)
SITE REMEDIATION PROGRAM) R97- 11
35 Ill. Adm. Code 740) (Rulemaking)
)

MOTION FOR ACCEPTANCE

NOW COMES the Illinois Environmental Protection Agency ("Illinois EPA") and, pursuant to 35 Ill. Adm. Code 102.120 and 102.121, moves the Illinois Pollution Control Board ("Board") to accept the Illinois EPA proposal for hearing. This regulatory proposal includes: 1) the proposed regulations; 2) the Statement of Reasons, including a synopsis of testimony for the Illinois EPA's witnesses; 3) a Motion Regarding Incorporations by Reference; 4) copies of material to be incorporated by reference, and 5) a statement regarding an economic impact study.

Respectfully submitted,
ILLINOIS ENVIRONMENTAL PROTECTION
AGENCY

By: Mary A. Glade
Mary A. Glade
Director

DATE: September 13, 1996

2200 Churchill Road
P.O. Box 19276
Springfield, IL 62794-9276
(217) 782-3397

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BEFORE THE POLLUTION CONTROL BOARD
OF THE STATE OF ILLINOIS

RECEIVED
CLERK'S OFFICE

SEP 16 1996

STATE OF ILLINOIS
POLLUTION CONTROL BOARD

IN THE MATTER OF:)

SITE REMEDIATION PROGRAM)
35 Ill. Adm. Code 740)

R97- 11
(Rulemaking)

MOTION REGARDING INCORPORATIONS BY REFERENCE

NOW COMES the Illinois Environmental Protection Agency ("Illinois EPA") and moves the Illinois Pollution Control Board ("Board") to waive the requirement set forth at 35 Ill. Adm. Code 102.121(f) that copies of material to be incorporated by reference be submitted with this regulatory proposal with regard to the material listed below.

In support of this motion, the Illinois EPA states:

1. The Illinois EPA proposal incorporates six sets of reference material.
2. One of the items to be incorporated by reference is:

U.S. Government Printing Office, Superintendent of Documents, Washington D.C.
20402 (202) 783-3238

"Test Methods for Evaluating Solid Wastes, Physical/Chemical Methods,"
EPA Publication No. SW-846 [Third Edition (September, 1986), as
amended by Update I (July 1992)].

3. The item listed above is in the Board's possession. The five remaining items are enclosed with this submittal.

THEREFORE, the Illinois EPA moves the Board to waive the submittal requirement for the publication listed above.

Respectfully submitted,

ILLINOIS ENVIRONMENTAL PROTECTION
AGENCY,

By: Mark Wight
Mark Wight
Assistant Counsel

DATE: September 13, 1996

2200 Churchill Road
P.O. Box 19276
Springfield, Illinois 62794-9276
(217) 782-5544

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RECEIVED
CLERK'S OFFICE
SEP 16 1996
STATE OF ILLINOIS
POLLUTION CONTROL BOARD

BEFORE THE POLLUTION CONTROL BOARD
OF THE STATE OF ILLINOIS

IN THE MATTER OF:

SITE REMEDIATION PROGRAM
35 Ill. Adm. Code 740

)
)
) R97- 11
) (Rulemaking)
)
)

STATEMENT REGARDING ECONOMIC IMPACT STUDY

NOW COMES the Illinois Environmental Protection Agency and states that no recommendation regarding an economic impact study is included in this regulatory proposal, because Section 27 of the Illinois Environmental Protection Act no longer requires such a recommendation.

Respectfully submitted,
ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

By: Mark Wight

Mark Wight
Assistant Counsel

DATE: September 13, 1996

2200 Churchill Road
P.O. Box 19276
Springfield, Illinois 62794-9276
(217) 782-5544

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RECEIVED
CLERK'S OFFICE
SEP 16 1996
STATE OF ILLINOIS
POLLUTION CONTROL BOARD

BEFORE THE POLLUTION CONTROL BOARD
OF THE STATE OF ILLINOIS

IN THE MATTER OF:

SITE REMEDIATION PROGRAM
35 Ill. Adm. Code 740

)
)
) R97-11
) (Rulemaking)
)
)

APPEARANCE

The undersigned, as one of its attorneys, hereby enters his Appearance on behalf of the
Illinois Environmental Protection Agency.

Respectfully submitted,
ILLINOIS ENVIRONMENTAL PROTECTION
AGENCY

By: Mark Wight
Mark Wight
Associate Counsel

DATE: September 13, 1996

2200 Churchill Road
P.O. Box 19276
Springfield, IL 62794-9276
(217) 782-5544

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STATE OF ILLINOIS
POLLUTION CONTROL BOARD

BEFORE THE POLLUTION CONTROL BOARD
OF THE STATE OF ILLINOIS

IN THE MATTER OF:

SITE REMEDIATION PROGRAM
35 Ill. Adm. Code 740.

)
)
)
)
)
)

R97- 11
(Rulemaking)

APPEARANCE

The undersigned, as one of its attorneys, hereby enters his Appearance on behalf of the
Illinois Environmental Protection Agency.

Respectfully submitted,
ILLINOIS ENVIRONMENTAL PROTECTION
AGENCY

By: Todd Rettig
Todd Rettig
Associate Counsel

DATE: September 13, 1996
2200 Churchill Road
P.O. Box 19276
Springfield, IL 62794-9276
(217) 782-5544

THIS FILING IS SUBMITTED ON RECYCLED PAPER

STATE OF ILLINOIS)
)
COUNTY OF SANGAMON)

PROOF OF SERVICE

I, the undersigned, on oath state that I have served the attached Motion for Acceptance, Proposed Regulations, Statement of Reasons, Motion Regarding Incorporations By Reference, Statement Regarding Economic Impact Study, and Appearance of Attorneys upon the person to whom they are directed by placing a copy of each in an envelope addressed to:

Dorothy Gunn, Clerk
Illinois Pollution Control Board
James R. Thompson Center
100 W. Randolph, Suite 11-500
Chicago, Illinois 60601
(FIRST CLASS MAIL)

Matthew J. Dunn, Chief
Environmental Bureau
Office of the Attorney General
James R. Thompson Center
100 West Randolph, 12th Floor
Chicago, Illinois 60601
(FIRST CLASS MAIL)

Stanley Yonkanski, Jr., Legal Counsel
Dept. of Energy and Natural Resources
524 South Second Street
Springfield, Illinois 62701-1787
(FIRST CLASS MAIL)

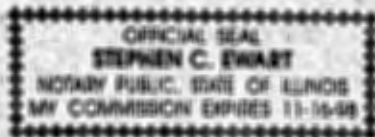
and mailing them from Springfield, Illinois on September 13, 1996 with sufficient postage affixed as indicated above.

Mark Wight

SUBSCRIBED AND SWORN TO BEFORE ME

this 12th day of September, 1996.

Stephen C. Ewart
Notary Public



THIS FILING SUBMITTED ON RECYCLED PAPER

ILLINOIS REGISTER

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED RULES

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY
TITLE 35: ENVIRONMENTAL PROTECTION
SUBTITLE G: WASTE DISPOSAL
CHAPTER 1: POLLUTION CONTROL BOARD

PART 740
SITE REMEDIATION PROGRAM

SUBPART A: GENERAL

Section	
740.100	Purpose
740.105	Applicability
740.110	Permit Waiver
740.115	Agency Authority
740.120	Definitions
740.125	Incorporations by Reference
740.130	Severability

SUBPART B: APPLICATIONS AND AGREEMENTS FOR REVIEW AND EVALUATION SERVICES

Section	
740.200	General
740.205	Submittal of Application and Agreement
740.210	Contents of Application and Agreement
740.215	Approval or Denial of Application and Agreement
740.220	Acceptance and Modification of Agreement
740.225	Termination of Agreement by the Remediation Applicant (RA)
740.230	Termination of Agreement by the Agency
740.235	Use of Review and Evaluation Licensed Professional Engineer (RELPE)

SUBPART C: RECORDKEEPING, BILLING AND PAYMENT

Section	
740.300	General
740.305	Recordkeeping for Agency Services
740.310	Request for Payment
740.315	Submittal of Payment

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POLLUTION CONTROL BOARD

NOTICE OF PROPOSED RULES

740.320 Manner of Payment

SUBPART D: SITE INVESTIGATIONS, DETERMINATION OF REMEDIATION OBJECTIVES, PREPARATION OF PLANS AND REPORTS

Section	
740.400	General
740.405	Conduct of Site Activities and Preparation of Plans and Reports by Licensed Professional Engineer
740.410	Form and Delivery of Plans and Reports, Signatories and Certifications
740.415	Site Investigation -- General
740.420	Comprehensive Site Investigation
740.425	Site Investigation Report -- Comprehensive Site Investigation
740.430	Focused Site Investigation
740.435	Site Investigation Report -- Focused Site Investigation
740.440	Determination of Remediation Objectives
740.445	Remediation Objectives Report
740.450	Remedial Action Plan
740.455	Remedial Action Completion Report

SUBPART E: SUBMITTAL AND REVIEW OF PLANS AND REPORTS

Section	
740.500	General
740.505	Reviews of Plans and Reports
740.510	Standards for Review of Site Investigation Reports and Related Activities
740.515	Standards for Review of Remediation Objectives Reports
740.520	Standards for Review of Remedial Action Plans and Related Activities
740.525	Standards for Review of Remedial Action Completion Reports and Related Activities
740.530	Establishment of Groundwater Management Zones

SUBPART F: NO FURTHER REMEDIATION LETTERS AND RECORDING REQUIREMENTS

Section	
740.600	General
740.605	Issuance of No Further Remediation Letter
740.610	Contents of No Further Remediation Letter

ILLINOIS REGISTER

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED RULES

740.615	Payment of Fees
740.620	Duty to Record No Further Remediation Letter
740.625	Voidance of No Further Remediation Letter
740.Appendix A	Target Compound List
Table A	Volatile Organics Analytical Parameters and Required Quantitation Limits
Table B	Semivolatile Organic Analytical Parameters and Required Quantitation Limits
Table C	Pesticide and Aroclors Organic Analytical Parameters and Required Quantitation Limits
Table D	Inorganic Analytical Parameters and Required Quantitation Limits
740.Appendix B	Review and Evaluation Licensed Professional Engineer Information

AUTHORITY: Implementing Sections 58 - 58.12 and authorized by Sections 58.5, 58.6, 58.7, and 58.11 of the Environmental Protection Act [415 ILCS 5/58 - 58.12, 58.5, 58.6, 58.7, and 58.11]

SOURCE: Adopted in R97-___ at ___ Ill. Reg. ____, effective _____, 19__.

NOTE: Capitalization denotes statutory language.

SUBPART A: GENERAL

Section 740.100 Purpose

The purpose of this Part is to ESTABLISH PROCEDURES FOR INVESTIGATION AND REMEDIATION AT SITES WHERE THERE IS A RELEASE, THREATENED RELEASE, OR SUSPECTED RELEASE OF HAZARDOUS SUBSTANCES, PESTICIDES, OR PETROLEUM AND FOR THE REVIEW AND APPROVAL OF THOSE ACTIVITIES. (Section 58.1(a)(1) of the Act)

Section 740.105 Applicability

- a) The procedures set forth in this Part may be used by any person required under the Act or electing to perform investigative or remedial activities at a site where there is a release, threatened release, or suspected release of hazardous substances, pesticides, or petroleum unless
 - 1) The site is on the National Priorities List (Appendix B of 40 CFR 300);

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POLLUTION CONTROL BOARD

NOTICE OF PROPOSED RULES

- 2) The investigative and remedial activities for which Agency review, evaluation and approval are sought are required under a current state or federal solid or hazardous waste permit or are closure requirements for a solid or hazardous waste treatment, storage or disposal site under applicable state or federal laws and implementing regulations;
 - 3) The investigative and remedial activities for which Agency review, evaluation and approval are requested are required under state or federal underground storage tank laws and implementing regulations; or
 - 4) The investigative and remedial activities for which Agency review, evaluation and approval are requested are required by a federal court order or an order issued by the United States Environmental Protection Agency and compliance with this Part would be contrary to the terms of that order.
- b) Any person whose site is excluded under subsections (a)(1) - (a)(4) above may utilize the provisions of this Part to the extent allowed by federal law, federal authorization, or by other federal approval.
 - c) Any person whose site is otherwise eligible under Title XVII of the Environmental Protection Act ("Act") (415 ILCS 5) and this Part and who has begun but not completed investigative or remedial activities as of the effective date of this Part may elect to use the procedures provided in this Part. In determining compliance with Title XVII of the Act and this Part for activities at such sites, the Agency may accept any documents that are comparable to those required to be submitted under this Part.
 - d) Except for sites excluded under subsection (a) above, investigative or remedial activities at agricultural facilities may be performed under this Part.
 - e) All applicable requirements of this Part, including those for plans and reports, shall be satisfied prior to the issuance of a No Further Remediation Letter.

Section 740.110 Permit Waiver

A STATE PERMIT OR PERMIT REVISION WHICH IS NOT OTHERWISE REQUIRED BY FEDERAL LAW OR REGULATIONS SHALL NOT BE REQUIRED FOR REMEDIAL

ILLINOIS REGISTER

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED RULES

ACTIVITIES UNDERTAKEN PURSUANT TO THE PROVISIONS OF THIS Part THAT OCCUR ENTIRELY ON THE remediation SITE. (Section 58.4 of the Act)

Section 740.115 Agency Authority

NOTHING IN THIS Part SHALL LIMIT THE AUTHORITY OF THE AGENCY TO PROVIDE NOTICE UNDER SUBSECTION (q) OF SECTION 4 of the Act OR TO UNDERTAKE INVESTIGATIVE, PREVENTIVE OR CORRECTIVE ACTION UNDER ANY OTHER APPLICABLE PROVISIONS OF the ACT. (Section 58.9(e) of the Act) The Agency may use the procedures of this Part, as appropriate (e.g. service agreements, determination of remediation objectives), for remediation sites where the RA is seeking a release pursuant to Section 4(y) of the Act.

BOARD NOTE: Under Section 4(y) of the Act, the Agency has the authority to release any person from further responsibility for preventive or corrective action under the Act following the successful completion of preventive or corrective action undertaken by such person upon written request by the person. This release is less extensive than the No Further Remediation Letter available under Section 58.10 of the Act and Subpart F of this Part. However, in some instances, the procedures required to obtain a No Further Remediation Letter are not necessary, and the Remediation Applicant may prefer a more limited approach and the release offered under Section 4(y). This Section offers Remediation Applicants the opportunity, where appropriate, to work with the Agency within the service agreement structure and to use the procedures for determining remediation objectives under 35 Ill. Adm. Code 742. The Act does not provide for the review of decisions under Section 4(y).

Section 740.120 Definitions

Except as stated in this Section, or unless a different meaning of a word or term is clear from the context, the definition of words or terms in this Part shall be the same as that applied to the same words or terms in the Environmental Protection Act.

"Act" means the Environmental Protection Act (415 ILCS 5).

"Agency" means the Illinois Environmental Protection Agency.

"Agency Travel Costs" means costs incurred and documented for travel in accordance with 80 Ill. Adm. Code 2800 and 3000 by individuals employed by the Agency. Such costs include costs for lodging, meals, travel, automobile mileage, vehicle leasing, tolls, taxi fares, parking and miscellaneous items.

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"AGRICHEMICAL FACILITY" MEANS A SITE ON WHICH AGRICULTURAL PESTICIDES ARE STORED OR HANDLED, OR BOTH, IN PREPARATION FOR END USE, OR DISTRIBUTED. THE TERM DOES NOT INCLUDE BASIC MANUFACTURING FACILITY SITES. (Section 58.2 of the Act)

"ASTM" MEANS THE AMERICAN SOCIETY FOR TESTING AND MATERIALS. (Section 58.2 of the Act)

"Board" means the Pollution Control Board.

"Contaminant of concern" or "REGULATED SUBSTANCE OF CONCERN" MEANS ANY CONTAMINANT THAT IS EXPECTED TO BE PRESENT AT THE SITE BASED UPON PAST AND CURRENT LAND USES AND ASSOCIATED RELEASES THAT ARE KNOWN TO THE REMEDIATION APPLICANT BASED UPON REASONABLE INQUIRY. (Section 58.2 of the Act)

"Costs" means all costs incurred by the Agency in providing services pursuant to a Review and Evaluation Services Agreement.

"Duly authorized agent" means a person who is authorized by written consent or by law to act on behalf of an owner, operator, or Remediation Applicant including but not limited to: (1) For corporations, a principal executive officer of at least the level of vice president; (2) For a sole proprietorship or partnership, the proprietor or a general partner, respectively; and (3) For a municipality, state, federal or other public agency, the head of the agency or ranking elected official.

"Indirect costs" means those costs incurred by the Agency which cannot be attributed directly to a specific site but are necessary to support the site-specific activities including but not limited to such expenses as managerial and administrative services, building rent and maintenance, utilities, telephone and other expenses.

"Laboratory costs" means costs for services and materials associated with identifying, analyzing, and quantifying chemical compounds in samples at a laboratory.

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"LICENSED PROFESSIONAL ENGINEER" OR "LPE" MEANS A PERSON, CORPORATION OR PARTNERSHIP LICENSED UNDER THE LAWS OF THIS STATE TO PRACTICE PROFESSIONAL ENGINEERING. (Section 58.2 of the Act)

"Other contractual costs" means costs for contractual services not otherwise specifically identified, including but not limited to, printing, blueprints, photography, film processing, computer services and overnight mail.

"PERSON" MEANS INDIVIDUAL, TRUST, FIRM, JOINT STOCK COMPANY, JOINT VENTURE, CONSORTIUM, COMMERCIAL ENTITY, CORPORATION (INCLUDING A GOVERNMENT CORPORATION), PARTNERSHIP, ASSOCIATION, STATE, MUNICIPALITY, COMMISSION, POLITICAL SUBDIVISION OF A STATE, OR ANY INTERSTATE BODY INCLUDING THE UNITED STATES GOVERNMENT AND EACH DEPARTMENT, AGENCY, AND INSTRUMENTALITY OF THE UNITED STATES. (Section 58.2 of the Act)

"Personal services costs" means costs relative to the employment of individuals by the Agency. Such costs include, but are not limited to, hourly wages and fringe benefits.

"PESTICIDE" MEANS ANY SUBSTANCE OR MIXTURE OF SUBSTANCES INTENDED FOR PREVENTING, DESTROYING, REPELLING, OR MITIGATING ANY PEST OR ANY SUBSTANCE OR MIXTURE OF SUBSTANCES INTENDED FOR USE AS A PLANT REGULATOR, DEFOLIANT OR DESSICANT. (Section 58.2 of the Act; Illinois Pesticide Act, 415 ILCS 60/4)

"Practical Quantitation Limit" or "PQL," or "Estimated Quantitation Limit" means the lowest concentration that can be reliably measured within specified limits of precision and accuracy for a specific laboratory analytical method during routine laboratory operating conditions in accordance with "Test Methods for Evaluating Solid Wastes, Physical/Chemical Methods," EPA Publication No. SW-846, incorporated by reference at Section 740.125 of this Part. For filtered water samples, PQL also means the Method Detection Limit or Estimated Detection Limit in accordance with the applicable method revision in: "Methods for the Determination of Metals in Environmental Samples," EPA Publication No. EPA/600/4-91/010; "Methods for the Determination of Organic Compounds in

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Drinking Water," EPA Publication No. EPA/600/4-88/039; "Methods for the Determination of Organic Compounds in Drinking Water, Supplement II," EPA Publication No. EPA/600/R-92/129; or "Methods for the Determination of Organic Compounds in Drinking Water, Supplement III," EPA Publication No. EPA/600/R-95/131, all of which are incorporated by reference at Section 740.125 of this Part.

"Reasonably obtainable" means that a copy or reasonable facsimile of the record must be obtainable from a private entity or government agency by request and upon payment of a processing fee, if any.

"Recognized environmental condition" means the presence or likely presence of any regulated substance or pesticide under conditions that indicate a release, threatened release or suspected release of any regulated substance or pesticide at, on, to or from a remediation site into structures, surface water, sediments, groundwater, soil, fill or geologic materials.

"REGULATED SUBSTANCE" MEANS ANY HAZARDOUS SUBSTANCE AS DEFINED UNDER SECTION 101(14) OF THE COMPREHENSIVE ENVIRONMENTAL RESPONSE, COMPENSATION, AND LIABILITY ACT OF 1980 (P.L. 96-510) AND PETROLEUM PRODUCTS INCLUDING CRUDE OIL OR ANY FRACTION THEREOF, NATURAL GAS, NATURAL GAS LIQUIDS, LIQUEFIED NATURAL GAS, OR SYNTHETIC GAS USABLE FOR FUEL (OR MIXTURES OF NATURAL GAS AND SUCH SYNTHETIC GAS). (Section 58.2 of the Act)

"REGULATED SUBSTANCE OF CONCERN" or "contaminant of concern" MEANS ANY CONTAMINANT THAT IS EXPECTED TO BE PRESENT AT THE SITE BASED UPON PAST AND CURRENT LAND USES AND ASSOCIATED RELEASES THAT ARE KNOWN TO THE REMEDIATION APPLICANT BASED UPON REASONABLE INQUIRY. (Section 58.2 of the Act)

"RELEASE" MEANS ANY SPILLING, LEAKING, PUMPING, POURING, EMITTING, EMPTYING, DISCHARGING, INJECTING, ESCAPING, LEACHING, DUMPING, OR DISPOSING INTO THE ENVIRONMENT, BUT EXCLUDES (a) ANY RELEASE WHICH RESULTS IN EXPOSURE TO PERSONS SOLELY WITHIN A WORKPLACE, WITH RESPECT TO A CLAIM WHICH SUCH PERSONS MAY ASSERT AGAINST THE

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EMPLOYER OR SUCH PERSONS; (b) EMISSIONS FROM THE ENGINE EXHAUST OF A MOTOR VEHICLE, ROLLING STOCK, AIRCRAFT, VESSEL, OR PIPELINE PUMPING STATION ENGINE; (c) RELEASE OF SOURCE, BYPRODUCT, OR SPECIAL NUCLEAR MATERIAL FROM A NUCLEAR INCIDENT, AS THOSE TERMS ARE DEFINED IN THE ATOMIC ENERGY ACT OF 1954, IF SUCH RELEASE IS SUBJECT TO REQUIREMENTS WITH RESPECT TO FINANCIAL PROTECTION ESTABLISHED BY THE NUCLEAR REGULATORY COMMISSION UNDER SECTION 170 OF SUCH ACT; AND (d) THE NORMAL APPLICATION OF FERTILIZER. (Section 3.3) of the Act)

"REMEDIAL ACTION" MEANS ACTIVITIES ASSOCIATED WITH COMPLIANCE WITH THE PROVISIONS OF SECTIONS 58.6 AND 58.7 of the Act including, but not limited to, the conduct of site investigations, preparation of work plans and reports, removal or treatment of contaminants, construction and maintenance of engineered barriers, and/or implementation of institutional controls. (Section 58.2 of the Act)

"REMEDIAL APPLICANT" OR "RA" MEANS ANY PERSON SEEKING TO PERFORM OR PERFORMING INVESTIGATIVE OR REMEDIAL ACTIVITIES UNDER THIS TITLE INCLUDING THE OWNER OR OPERATOR OF THE SITE OR PERSONS AUTHORIZED BY LAW OR CONSENT TO ACT ON BEHALF OF THE OWNER OR OPERATOR OF THE SITE. (Section 58.2 of the Act)

"Remediation objective" means a goal to be achieved in performing remedial action, including but not limited to, 1) the concentration of a contaminant, 2) an engineered barrier or engineered control, or 3) an institutional control established under Section 58.5 of the Act or Section 740 Subpart D of this Part.

"Remediation site" means the single location, place, tract of land, or parcel of property, including contiguous property separated by a public right-of-way, for which review, evaluation, and approval of any plan or report has been requested by the Remediation Applicant in its application for review and evaluation services. This term also includes, but is not limited to, all buildings and improvements present at that location, place or tract of land.

"RESIDENTIAL PROPERTY" MEANS ANY REAL PROPERTY THAT IS USED FOR HABITATION BY INDIVIDUALS or where children have the

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opportunity for exposure to contaminants through ingestion or inhalation at educational facilities, health care facilities, child care facilities, or playgrounds.

"Review and Evaluation Licensed Professional Engineer" or "RELPE" means the licensed professional engineer with whom a remediation applicant (RA) has contracted to perform review and evaluation services under the direction of the Agency.

"SITE" MEANS ANY SINGLE LOCATION, PLACE, TRACT OF LAND OR PARCEL OF PROPERTY OR PORTION THEREOF, INCLUDING CONTIGUOUS PROPERTY SEPARATED BY A PUBLIC RIGHT-OF-WAY. (Section 58.2 of the Act) This term also includes, but is not limited to, all buildings and improvements present at that location, place or tract of land.

Section 740.125 Incorporations by Reference

The Board incorporates the following material by reference. These incorporations include no later amendments or editions.

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

ASTM E 1527-94, Standard Practice for Environmental Site Assessments: Phase I Environmental Site Assessment Process, vol. 11.04, approved April 15, 1994.

- b) U.S. Government Printing Office, Superintendent of Documents, Washington D.C. 20402. (202) 783-3238

"Test Methods for Evaluating Solid Wastes, Physical/Chemical Methods," EPA Publication No. SW-846 [Third Edition (September, 1986), as amended by Update 1 (July 1992)].

- c) NTIS. National Technical Information Service, 5285 Port Royal Road, Springfield, VA 22161. (703) 487-4600

"Methods for the Determination of Metals in Environmental Samples," EPA Publication No. EPA/600/4-91/010 (June 1991).

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"Methods for the Determination of Organic Compounds in Drinking Water," EPA Publication No. EPA/600/4-88/039 (December 1988) (revised July 1991);

"Methods for the Determination of Organic Compounds in Drinking Water, Supplement II," EPA Publication No. EPA/600/R-92/129 (August 1992);

"Methods for the Determination of Organic Compounds in Drinking Water, Supplement III," EPA Publication No. EPA/600/R-95/131 (August 1995).

Section 740.130 Severability

If any Section, subsection, sentence or clause of this Part is judged invalid, such a judgment shall not affect the validity of this Part as a whole or any section, subsection, sentence or clause thereof not judged invalid.

SUBPART B: APPLICATIONS AND AGREEMENTS FOR REVIEW AND EVALUATION SERVICES

Section 740.200 General

This Subpart sets forth the requirements to be followed by Remediation Applicants (RA) in applying for review and evaluation services from the Agency, provides for approval or denial of applications by the Agency, and sets forth the requirements to be followed in entering into or terminating agreements to provide review and evaluation services and any related services that the RA may request.

Section 740.205 Submittal of Application and Agreement

Site Remediation Program Applications ("Applications") and Review and Evaluation Services Agreements ("Agreements") shall be submitted to the Agency on forms prescribed and provided by the Agency with attachments as necessary. Applications and Agreements may be combined into one form. Applications and Agreements 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.

Section 740.210 Contents of Application and Agreement

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- a) The Application shall, at a minimum, contain the following information:
- 1) The full legal name, address, and telephone number of the RA, the remediation site owner, if different from the RA, and any duly authorized agents acting on behalf of the RA or remediation site owner, and any contact persons to whom inquiries and correspondence must be addressed;
 - 2) The original signature of the RA or of the duly authorized agent acting on behalf of the RA;
 - 3) For applicants other than the remediation site owner, written permission from the owner, or the duly authorized agent of the owner, for conducting investigative and remedial activities:
 - A) Where the remediation site extends across property boundaries, written permission must be obtained from the owner of each affected property;
 - B) The written permission shall clearly identify the remediation site for which services are sought;
 - C) The written permission shall contain the original signature of the owner; and
 - D) Where the RA is authorized by law to act on behalf of the owner of the remediation site, the RA shall provide written documentation of that authority.
 - 4) The remediation site address, site name, the Illinois inventory identification number, if assigned, and the approximate size of the remediation site in acres;
 - 5) A statement of the nature of the No Further Remediation determination requested.
 - A) The statement shall indicate whether the RA is requesting a No Further Remediation determination under Section 58.10 of the Act for:

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- i) A limited number of recognized environmental conditions and related contaminants of concern as specified by the RA and identified by a focused site investigation under Section 740.430 of this Part; or
 - ii) All recognized environmental conditions and related contaminants of concern for the remediation site as identified by a comprehensive site investigation under Section 740.420 of this Part; or
 - B) The statement shall indicate whether the RA is requesting a release under Section 4(y) of the Act.
- 6) A statement identifying the recognized environmental conditions and related contaminants of concern for which the RA is seeking the No Further Remediation determination as follows:
 - A) If the RA is requesting a No Further Remediation determination under subsection (b)(5)(A) above, the RA shall specify, to the extent reasonably possible, the limited recognized environmental conditions to be addressed including the related contaminants of concern; or
 - B) If the RA is requesting a No Further Remediation determination under subsection (b)(5)(B) above, the RA shall generally state that all recognized environmental conditions and related contaminants of concern identified by the comprehensive site investigation to be conducted under Section 740.520 of this Part shall be addressed.
- 7) Site base map(s) of sufficient detail and accuracy to show all of the following:
 - A) A distance of at least 1,000 feet around the remediation site at a scale no smaller than one inch equal to 200 feet;
 - B) Map scale, north arrow orientation, date, and location of the site with respect to township, range and section;

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- C) Remediation site boundary lines, with the owners of property adjacent to the remediation site clearly indicated, if reasonably identifiable;
- D) Surrounding land uses (e.g., residential property, industrial/commercial property, agricultural property, and conservation property);
- 8) Identification of the following:
 - A) Any support services being sought from the Agency in addition to the review and evaluation services;
 - B) Anticipated schedule.
- 9) A statement of the current use of the remediation site and of post-remediation uses;
- 10) A list of all Agency permits pertaining to the remediation site currently held by the owner and operator;
- 11) The Federal Employer Identification Number (FEIN) or social security number (SSN) of the RA;
- 12) The signature of the RA certifying the accuracy and completeness of the application.
- b)
 - 1) The Agreement may include the conditions set forth below, as well as any additional support services to be provided by the Agency, as set forth in subsection (c) below and as may be requested by the RA, and any terms and conditions necessary to accomplish those services.
 - 2) EXCEPT FOR SITES EXCLUDED under Sections 740.105 or 740.215 of this Part, THE AGENCY SHALL, SUBJECT TO AVAILABLE RESOURCES, AGREE TO PROVIDE REVIEW AND EVALUATION SERVICES FOR ACTIVITIES CARRIED OUT PURSUANT TO THIS Part FOR WHICH THE RA REQUESTED THE SERVICES in writing. As a condition for providing services, THE AGENCY MAY REQUIRE THAT THE RA FOR A remediation SITE:

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- A) CONFORM WITH THE PROCEDURES OF the Act and this Part;
- B) ALLOW FOR OR OTHERWISE ARRANGE remediation SITE VISITS OR OTHER remediation SITE EVALUATION BY THE AGENCY WHEN SO REQUESTED;
- C) AGREE TO PERFORM THE Remedial Action PLAN AS APPROVED UNDER THIS Part;
- D) AGREE TO PAY ANY REASONABLE COSTS INCURRED AND DOCUMENTED BY THE AGENCY IN PROVIDING SUCH SERVICES pursuant to this Part;
- E) MAKE AN ADVANCE PARTIAL PAYMENT TO THE AGENCY FOR SUCH ANTICIPATED SERVICES;
 - i) An advance partial payment in the amount of \$500 may be submitted along with the Application and Agreement forms; or
 - ii) The applicant may request on a form provided by the Agency that the Agency estimate the total costs to the Agency of providing the requested services and assess an advance partial payment in an amount acceptable to the Agency but not to exceed \$5,000 or one-half of the total anticipated costs of the Agency, whichever is less;

BOARD NOTE: Statutory restrictions prevent the Agency from refunding payments. Payment under subsection (b)(2)(E)(i) above accelerates the review process but increases the risk of forfeiting the payment if the applicant is ineligible or withdraws. Payment under subsection (b)(2)(E)(ii) above may result in a larger advance partial payment but allows delay of the payment until a final determination is made on the Application.

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F) DEMONSTRATE, IF NECESSARY, AUTHORITY TO ACT ON BEHALF OF OR IN LIEU OF THE OWNER OR OPERATOR.
(Sections 58.7(b)(1)(A)-(F))

- c) In addition to review and evaluation services, the RA may request and the Agency may provide other types of support services under terms and conditions agreed to by the parties and set forth in the Agreement. Additional services offered by the Agency include but are not limited to:
- 1) Sample collection and analyses;
 - 2) Assistance with community relations;
 - 3) Coordination and communication between the RA and other governmental entities.

Section 740.215 Approval or Denial of Application and Agreement

- a) The Agency shall have 30 days from the receipt of an Application to approve or deny the Application. The Agency's record of the date of receipt of an Application shall be deemed conclusive unless a contrary date is proved by a dated, signed receipt from the Agency or certified or registered mail. Reasons for denial of an Application shall include, but not be limited to, the following:
- 1) The application is deemed incomplete;
 - 2) The remediation site or the investigative and remedial activities requested by the RA do not satisfy the applicability requirements set forth at Section 740.105 of this Part;
 - 3) The Agency does not have the resources available to provide review and evaluation services as requested in the Application.
- b) The Agency shall notify the RA in writing whether the Application is approved or denied. The notification shall be made by certified or registered mail postmarked with a date stamp and with return receipt requested. The Agency's final determination shall be deemed to have taken place on the post-marked date that the notice is mailed. If the Agency denies an application for services, the notice of denial shall state the reasons for the denial.

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- c) The RA may agree to waive the review deadline under this Section at the request of the Agency or on its own discretion.
- d) Except for denials under subsection (a)(3) above, if the Agency denies an Application, the RA may, within 35 days after receipt of the final determination, 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.

Section 740.220 Acceptance and Modification of Agreement

- a) A signed Agreement shall become effective upon approval by the Agency of the Application and the receipt of the advance partial payment in an amount determined under subsection 740.210(b) of this Part.
- b) Upon approval of the Application and receipt of the signed Agreement and advance partial payment, recordkeeping for services conducted by the Agency shall be initiated as provided in Subpart C of this Part.
- c) Modifications to the Agreement shall be by mutual agreement of the parties and may be initiated by the RA or the Agency at any time. All modifications to the Agreement shall be in writing and shall become effective upon signing by the RA and acceptance by the Agency unless another date is provided in the modification.

Section 740.225 Termination of Agreement by the Remedial Applicant (RA)

- a) AN RA REQUESTING SERVICES UNDER this Part MAY, AT ANY TIME, NOTIFY THE AGENCY, IN WRITING, THAT AGENCY SERVICES PREVIOUSLY REQUESTED ARE NO LONGER WANTED. WITHIN 180 DAYS AFTER RECEIPT OF THE NOTICE, THE AGENCY SHALL PROVIDE THE RA WITH A FINAL INVOICE FOR SERVICES PROVIDED UNTIL THE DATE OF receipt of SUCH NOTIFICATION. (Section 58.7(b)(3) of the Act)
- b) Within 45 days of the receipt of a final invoice prepared under subsection (a) above and Section 740.310 of this Part, the RA shall submit full payment to the Agency for any unpaid oversight costs the Agency has identified in the invoice. Submittal and manner of payment shall be as provided under Sections 740.315 and 740.320 of this Part.

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Upon finding that the RA has paid all oversight costs, the Agency shall notify the RA in writing by certified mail, return receipt requested, that the Agreement is terminated.

Section 740.230 Termination of Agreement by the Agency

- a) The Agency may terminate the Review and Evaluation Services Agreement if the RA:
 - 1) Fails to comply with the requirements of Title XVII of the Act or this Part;
 - 2) Violates any terms or conditions or fails to fulfill any obligations of the Agreement;
 - 3) Fails to proceed in a timely and appropriate manner consistent with the schedule set forth in the Application, Remedial Action Plan, or as subsequently modified by agreement with the Agency; or
 - 4) Fails to address an imminent and substantial threat to human life, health or the environment in a timely and effective manner.
- b) Prior to termination of an Agreement the Agency shall notify the RA in writing of its intention to terminate the Agreement and the reasons for the intended termination. The Agency may provide the RA with a reasonable opportunity to correct deficiencies.
- c) The Agency shall notify the RA in writing of its final decision to terminate the Agreement. The notice of termination shall be made in accordance with Section 740.215(b) of this Part. The notice of termination shall state the reasons for the termination.
- d) Except for terminations under subsection (a)(4) above, if the Agency terminates an Agreement, the RA may, within 35 days after receipt of the final determination, 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.
- e) A request for payment for all unpaid costs incurred by the Agency under the Agreement to the date of termination may be included with the notice of termination or may be sent as soon thereafter as practicable, but no later than 180

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days after the Agency's issuance of the notice of termination. The request for payment shall comply with Section 740.310 of this Part. Within 45 days of the receipt of the request for payment the RA shall submit full payment to the Agency. Submittal and manner of payment shall be as provided in Sections 740.315 and 740.320 of this Part.

Section 740.235 Use of Review and Evaluation Licensed Professional Engineer

AN RA MAY ELECT TO CONTRACT WITH A LICENSED PROFESSIONAL ENGINEER WHO WILL PERFORM REVIEW AND EVALUATION SERVICES ON BEHALF OF AND UNDER THE DIRECTION OF THE AGENCY RELATIVE TO THE SITE ACTIVITIES. (Section 58.7(c) of the Act)

- a) Prior to entering into a contract with a RA under this Part, the Review and Evaluation Licensed Professional Engineer ("RELPE") shall provide the RA with the information detailed in Part 740. Appendix B.
- b) PRIOR TO ENTERING INTO THE CONTRACT WITH THE RELPE, THE RA SHALL NOTIFY THE AGENCY OF THE RELPE TO BE SELECTED. In making the notification, the RA shall submit the information detailed in Part 740. Appendix B as provided by the RELPE. THE AGENCY AND THE RA SHALL DISCUSS THE POTENTIAL TERMS OF THE CONTRACT. (Section 58.7(c)(1) of the Act)
- c) AT A MINIMUM, THE CONTRACT WITH THE RELPE SHALL PROVIDE THAT THE RELPE WILL SUBMIT ANY plans or REPORTS DIRECTLY TO THE AGENCY, WILL TAKE HIS OR HER DIRECTIONS FOR WORK ASSIGNMENTS FROM THE AGENCY, AND WILL PERFORM THE ASSIGNED WORK ON BEHALF OF THE AGENCY. (Section 58.7(c)(2) of the Act)
 - 1) The contract with the RELPE shall set forth the scope of work for which the RA has engaged the RELPE and the effective date of the contract.
 - 2) Costs incurred by the RELPE shall be paid directly to the RELPE by the RA as provided in the contractual agreement between the RA and the RELPE.

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- 3) The Agency shall not be liable for any activities conducted by the RELPE or for any costs incurred by the RELPE.
- d) REASONABLE COSTS INCURRED BY THE AGENCY for oversight of the RELPE and its review and evaluation services SHALL BE PAID BY THE RA DIRECTLY TO THE AGENCY IN ACCORDANCE WITH THE TERMS OF THE REVIEW AND EVALUATION SERVICES AGREEMENT ENTERED INTO UNDER this Part. (Section 58.7(c)(3) of the Act)
- e) IN NO EVENT SHALL THE RELPE ACTING ON BEHALF OF THE AGENCY BE AN EMPLOYEE OF THE RA OR THE OWNER OR OPERATOR OF THE SITE OR BE AN EMPLOYEE OF ANY OTHER PERSON THE RA HAS CONTRACTED TO PROVIDE SERVICES RELATIVE TO THE SITE. (Section 58.7(c)(4) of the Act)

SUBPART C: RECORDKEEPING, BILLING AND PAYMENT

Section 740.300 General

This Subpart sets forth the requirements to be followed in requesting and submitting payments for Agency costs incurred under this Part.

Section 740.305 Recordkeeping for Agency Services

- a) Costs incurred by the Agency shall be tracked within the Agency by the use of site-specific codes. The following types of costs shall be documented as applicable:
 - 1) Personal services costs and indirect costs;
 - 2) Agency travel costs;
 - 3) Professional and artistic services contractual costs;
 - 4) Laboratory costs;
 - 5) Other contractual costs; and
 - 6) Other costs as agreed.

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- b) Vouchers associated with review and evaluation services for sites under this Part shall be identified by the assigned site-specific codes.
- c) All Agency personnel performing review and evaluation services or other support services for a site under this Part shall allocate their time to that site using the assigned site-specific codes.

Section 740.310 Request for Payment

- a) The Agency shall prepare a written request for payment for costs incurred for services provided under the Agreement. Costs shall be documented, and the documentation shall be made available to the RA upon written request. Requests for payment shall be submitted to the RA no more than quarterly unless the request is at the conclusion or termination of an Agreement.
- b) The first request for payment shall reflect the deduction of any advance partial payment from the costs incurred. A request for payment shall not be sent until the advance partial payment has been depleted.
- c) Within 35 days of the receipt of a request for payment, the RA may appeal the request only on the grounds that the services on which the request is based were not actually performed. Appeals to the Board shall be in the manner provided for the review of permit decisions in Section 40 of the Act.

Section 740.315 Submittal of Payment

Unless appealed in accordance with Section 740.310(c) of this Part, payments for costs incurred by the Agency for the performance of services under this Part shall be submitted to the Agency within 45 days after receipt of the request for payment, except for advance partial payments, which may be submitted along with the Application and Agreement or subsequent to the receipt of the Agency's determination under Section 740.210(b)(2)(E)(ii) of this Part.

Section 740.320 Manner of Payment

Payment shall be made by check or money order made payable to "Treasurer - State of Illinois, For Deposit in the Hazardous Waste Fund." The check or money order shall include the Illinois

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inventory identification number and the federal employer identification number or social security number of the RA entering into an Agreement under this Part. Payment shall be mailed or delivered to the address designated by the Agency in the request for payment. Payments that are hand-delivered shall be delivered during the Agency's normal business hours.

SUBPART D: SITE INVESTIGATIONS, DETERMINATION OF REMEDIATION OBJECTIVES, PREPARATION OF PLANS AND REPORTS

Section 740.400 General

This Subpart sets forth the requirements for site investigations, the determination of remediation objectives, and for the form and content of plans and reports submitted to the Agency under this Part.

Section 740.405 Conduct of Site Activities and Preparation of Plans and Reports by Licensed Professional Engineer

All remediation site activities shall be conducted by, or under the supervision of, a licensed professional engineer (LPE). All plans and reports submitted for review and evaluation shall be prepared by, or under the supervision of, a LPE.

Section 740.410 Form and Delivery of Plans and Reports, Signatories and Certifications

- a) All plans and reports prepared under this Part shall be submitted to the Agency on forms prescribed and provided by the Agency with attachments and accompanying documentation as necessary. Plans and reports shall be mailed or delivered to the address designated by the Agency on the forms. Plans and reports that are hand-delivered to the Agency shall be delivered during the Agency's normal business hours.
- b) All plans and reports submitted to the Agency shall include:
 - 1) The full legal name, address and telephone number of the Remediation Applicant (RA) or any duly authorized agent acting on behalf of the RA, and any contact persons to whom inquiries and correspondence must be addressed.
 - 2) The original signature of the RA or of any duly authorized agent acting on behalf of the RA.

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- 3) The names of licensed professional engineers responsible for site activities and preparation of the plan or report, the date of preparation, registration numbers, license expiration dates, and professional seals; and
- 4) Except as provided in subsection (c) below, the LPE(s) responsible for the site investigations, remedial activities and preparation of the plans or reports shall affirm by original signature as follows:

I attest that all site investigations and remedial activities were performed under my direction and this document and all attachments were prepared under my direction or reviewed by me, and to the best of my knowledge and belief, the work described in the plan or report has been designed or completed in accordance with the Act, 35 Ill. Adm. Code 740, and generally accepted engineering practices, and the information presented is accurate and complete. (Derived from Section 58.7(f) of the Act)

- c) If the investigation relies in whole or in part upon investigations or remedial activities conducted before the affirming LPE's assumption of responsibility for site activities, then the LPE is not required to affirm that those portions of the investigation or remedial activities were carried out under his or her direction. However, the LPE shall review the documentation of the prior investigations or remedial activities and evaluate their suitability for compliance with Title XVII of the Act and this Part. Such information may be submitted to the Agency for consideration along with the LPE's written evaluation of suitability, but the Agency shall not be required to accept the information as evidence of compliance with any requirements of the Act or this Part.
- d) The RA MAY ELECT TO PREPARE AND SUBMIT FOR REVIEW AND APPROVAL ANY AND ALL REPORTS AND PLANS REQUIRED UNDER THIS Part INDIVIDUALLY FOLLOWING THE COMPLETION OF EACH SUCH ACTIVITY or CONCURRENTLY FOLLOWING THE COMPLETION OF ALL ACTIVITIES, OR IN ANY OTHER COMBINATION. (Section 58.6(f) of the Act)

Section 740.415 Site Investigation -- General

A site investigation shall be performed under this Part to identify, as indicated within the RA's application for review and evaluation services, all or specified recognized environmental

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conditions existing at the remediation site, the related contaminants of concern, and associated factors that will aid in the identification of risks to human health, safety and the environment, the determination of remediation objectives, and the design and implementation of a Remedial Action Plan.

- a) If the RA has elected under the application for review and evaluation services to obtain a No Further Remediation Letter covering all recognized environmental conditions and related contaminants of concern for the remediation site, then the procedures provided under Sections 740.420 and 740.425 of this Part shall be followed.
- b) If the RA has elected under the application for review and evaluation services to obtain a No Further Remediation Letter covering a limited number of recognized environmental conditions and related contaminants of concern as specified by the RA, then the procedures at Sections 740.430 and 740.435 of this Part shall be followed.
- c) The RA may revise an election at anytime by initiating a modification of the Review and Evaluation Services Agreement under Section 740.220 of this Part and performing the appropriate site investigation, if necessary.
- d) Site investigations shall satisfy the following data quality objectives for field and laboratory operations to ensure that all data is scientifically valid and of known precision and accuracy:
 - 1) All field sampling activities relative to (i) sample collection, documentation, preparation, labeling, storage, shipment and security, (ii) quality assurance and quality control, (iii) acceptance criteria, (iv) corrective action, and (v) decontamination procedures shall be conducted in accordance with "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods" (SW-846), Vol. One, Ch. One (Quality Control) and Vol. Two (Field Manual), incorporated by reference at Section 740.125 of this Part. Such activities also may be conducted in accordance with ASTM standards or other procedures as approved by the Agency.
 - 2) All field measurement activities relative to (i) equipment and instrument operation, (ii) calibration and maintenance, (iii) corrective action, and (iv) data handling shall be conducted in accordance with "Test Methods for

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Evaluating Solid Waste, Physical/Chemical Methods" (SW-846), Vol. One, Ch. One (Quality Control), incorporated by reference at Section 740.125 of this Part, or with an equipment or instrument manufacturer's or vendor's published standard operating procedures.

- 3) All laboratory quantitative analysis of samples to determine concentrations of regulated substances or pesticides shall be conducted fully in accordance with "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods" (SW-846), incorporated by reference at Section 740.125 of this Part, relative to all (i) facilities, (ii) equipment and instrumentation, (iii) operating procedures, (iv) sample management, (v) test methods, (vi) equipment calibration and maintenance, (vii) quality assurance and quality control, (viii) corrective action, (ix) data reduction and validation, (x) reporting, and (xi) records management. The practical quantitation limit (PQL) of the test methods selected must be less than or equal to the PQL for the Target Compound List at Section 740. Appendix A of this Part, or, if the site remediation objective concentrations have been determined, the PQL must be less than or equal to the remediation objective concentrations for the site.
- 4) All field or laboratory measurements of samples to determine physical or geophysical characteristics shall be conducted in accordance with ASTM standards or other procedures as approved by the Agency.
- 5) All laboratory quantitative analyses of samples to determine concentrations of any regulated substances or pesticides that require more exacting detection limits or cannot be analyzed by standard methods identified in "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods" (SW-846), incorporated by reference at Section 740.125 of this Part, shall be conducted in accordance with analytical protocols developed in consultation with and approved by the Agency.

Section 740.420 Comprehensive Site Investigation

The comprehensive site investigation is designed to identify all recognized environmental conditions and all related contaminants of concern that may be expected to exist at a remediation site. The comprehensive site investigation shall be performed in two phases as set forth below.

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- a) Unless an alternative is approved by the Agency, the phase I environmental site assessment shall be designed and implemented in accordance with the procedures for such assessments set forth in "Standard Practice for Environmental Site Assessments: Phase I Environmental Site Assessment Process" (ASTM E 1527-94), incorporated by reference at Section 740.125 of this Part.
- b) The phase II environmental site assessment shall determine the nature, concentration, direction and rate of movement, and extent of the contaminants of concern at the remediation site and the significant physical features of the remediation site and vicinity that may affect contaminant fate and transport and risk to human health, safety and the environment. At a minimum, the phase II environmental site assessment shall include:
 - 1) Sampling, analyses, and field screening measurements indicating the concentrations of contaminants, if any, from the Target Compound List at Section 740.Appendix A of this Part and any other contaminants whose presence has been indicated by the phase I environmental site assessment. Based on the phase I environmental site assessment, the Agency may add or delete contaminants from the Target Compound List for sampling, analyses, and field screening measurements.
 - 2) Characterization of sources and potential sources of recognized environmental conditions and the related contaminants of concern, identifying:
 - A) The sources or potential sources of contamination;
 - B) The contaminants of concern;
 - C) Statutory or regulatory classification of the contaminants of concern and contaminated materials (e.g. hazardous waste, hazardous substance, special waste).
 - 3) Characterization of the extent of contaminants of concern, identifying:
 - A) The actual contaminated medium or media;
 - B) The three-dimensional configuration of contaminants of concern with concentrations delineated; and

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- C) The nature, direction, and rate of movement of the contaminants of concern;
- 4) Characterization of present and post-remediation exposure routes, identifying:
 - A) All natural and man-made pathways that are on the remediation site, in rights-of-way attached to the remediation site, or in any areas surrounding the remediation site that may be adversely affected as a result of a release from the recognized environmental conditions and whether there is evidence of migration of contaminants of concern, in either solution or vapors, along such pathways that may potentially threaten human or environmental receptors or that may cause explosions in basements, crawl spaces, utility conduits, storm or sanitary sewers, vaults or other spaces;
 - B) The locations of any human and environmental receptors and receptor exposure routes; and
 - C) Current and post-remediation uses of affected or potentially affected land, groundwater, surface water, and sensitive habitats.
- 5) Characterization of significant physical features of the remediation site and vicinity that may affect contaminant fate and transport and risk to human health, safety and the environment.

Section 740.425 Site Investigation Report -- Comprehensive Site Investigation

- a) Site investigation results for both phase I and phase II of the comprehensive site investigation shall be combined into one Site Investigation Report.
- b) A Site Investigation Report for a comprehensive site investigation shall include, but not be limited to, the following:
 - 1) Executive Summary. This chapter shall identify the objectives of the site investigation and the technical approach utilized to meet such objectives. It shall state whether recognized environmental conditions were identified and the data limitations in the assessment;

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- 2) **Site characterization.** This chapter shall include the compilation of all sources reviewed and information obtained as a result of the site investigation under Section 740.420 of this Part, including but not limited to:
- A) **Sources consulted or reviewed.** This subchapter shall contain a list of reference documents used in completing the site investigation;
 - B) **Site history.** This subchapter shall present a chronological summary of the historic uses of the remediation site as prescribed by "Standard Practice for Environmental Site Assessments: Phase I Environmental Site Assessment Process" (ASTM E 1527-94), incorporated by reference at Section 740.125 of this Part; and
 - C) **Site description.** This subchapter shall describe the regional location, pertinent boundary features, general facility physiography, hydrogeology, existing and potential migration pathways and exposure routes, and current and post-remediation uses of the remediation site and surrounding areas that are immediately adjacent to the remediation site.
 - D) **Site base map(s) meeting the requirements of Section 740.210(a)(7) and including the following:**
 - i) **The sources or potential sources of the contaminants of concern, spill areas, and other suspected areas for any or all contaminants of concern;**
 - ii) **On-site and off-site injection and withdrawal wells; and**
 - iii) **All buildings, tanks, piles, utilities, paved areas, easements, rights-of-way and other features, including all known past and current product and waste underground tanks or piping;**
 - E) **A legal description or reference to a plat showing the boundaries of the remediation site.**

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- 3) **Site-specific sampling plan.** This chapter shall indicate those applicable physical and chemical methods utilized for contaminant source investigations, soil and sediment investigations, hydrogeological investigations, surface water investigations, and potential receptor investigations;
- 4) **Documentation of field activities.** This chapter shall include the results of the field activities to determine physical characteristics. At a minimum, this chapter shall include the following elements:
 - A) **Narrative description of the field activities conducted during the investigation;**
 - B) **The quality assurance project plan utilized to document all monitoring procedures (e.g., sampling, field measurements and sample analyses) performed during the investigation, so as to ensure that all information, data and resulting decisions are technically sound, statistically valid, and properly documented; and**
 - C) **Presentation of the data in an appropriate format (e.g., tabular and graphical displays) such that all information is organized and presented logically and that relationships between the different investigations for each medium are apparent;**
- 5) **Endangerment Assessment.** This chapter shall analyze the results of the field activities and characterize the extent of contamination (qualitative and quantitative) for contaminants of concern and compare the remediation site information with the applicable provisions of 35 Ill. Adm. Code 742. This chapter shall:
 - A) **Describe any recognized environmental conditions, evaluate exposure routes, including threatened releases, and evaluate exposure routes excluded under 35 Ill. Adm. Code 742.**
 - B) **Describe the nature, concentration and extent of contaminants of concern within all environmental media at the remediation site and assess the observed and potential contaminant fate and transport;**

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- C) Describe the significant physical features of the remediation site and vicinity that may affect contaminant transport and risk to human health, safety and the environment;
- D) Compare the concentrations of the contaminants of concern with the applicable Tier 1 remediation objectives under 35 Ill. Adm. Code 742.
- 6) Conclusion. This chapter shall assess the sufficiency of the data in the report and recommend future steps.
- 7) Appendices. References and data sources including but not limited to field logs, well logs, and reports of laboratory analyses, shall be incorporated into the appendices.
- 8) Licensed Professional Engineer affirmation in accordance with Section 740.410 of this Part.

Section 740.430 Focused Site Investigation

The focused site investigation shall be performed where the RA has specified limitations on the recognized environmental conditions or contaminants of concern to be covered by the No Further Remediation Letter. At a minimum the focused site investigation shall include:

- a) A remediation site evaluation to identify the following features as relevant to the focus of the investigation:
 - 1) Current and post-remediation use(s) of the remediation site and surrounding areas that are immediately adjacent to the remediation site;
 - 2) Physical setting including features relevant to geologic, hydrogeologic, hydrologic, and topographic conditions; structures or other improvements on the remediation site; public thoroughfares adjoining the remediation site, as well any roads, streets, and parking facilities on the remediation site; utilities located on or adjacent to the remediation site; source of potable water supply; and sewage disposal system;

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- 3) The presence of containers and storage tanks containing the selected contaminants of concern, including contents, and assessment of leakage or potential for leakage; and
 - 4) Any other environmental, geologic, geographic, hydrologic or physical conditions of concern at the remediation site and surrounding areas immediately adjacent to the remediation site; and
- b) Review of reasonably obtainable records relevant to the recognized environmental conditions and the related contaminants of concern for the remediation site and areas immediately adjacent to the remediation site, records of environmental enforcement actions and their subsequent responses, any previous response actions conducted by either local, state, federal or private parties, and a list of documents and studies prepared for the remediation site;
 - c) Characterization of sources and potential sources of recognized environmental conditions and the related contaminants of concern, identifying:
 - 1) The sources or potential sources of the contaminants of concern;
 - 2) The sampling, analyses, and field screening measurements indicating the concentrations of the contaminants of concern;
 - 3) The statutory or regulatory classification of the contaminants of concern and contaminated materials (e.g. hazardous waste, hazardous substance, special waste);
 - d) Characterization of the extent of the contaminants of concern, identifying:
 - 1) The actual contaminated medium or media of concern;
 - 2) The three-dimensional configuration of the contaminants of concern with concentrations delineated; and
 - 3) The nature, direction, and rate of movement of the contaminants of concern and degradation products.
 - e) Characterization of current and post-remediation exposure routes, identifying:

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- 1) All natural and man-made pathways that are on the remediation site, in rights-of-way attached to the remediation site, or in any areas surrounding the remediation site that may be adversely affected as a result of a release from the recognized environmental conditions and whether there is evidence of migration of contaminants of concern, in either solution or vapors, along such pathways that may potentially threaten human or environmental receptors or that may cause explosions in basements, crawl spaces, utility conduits, storm or sanitary sewers, vaults or other spaces;
 - 2) The locations of any human and environmental receptors and receptor exposure routes; and
 - 3) Current and post-remediation uses of affected or potentially affected land, groundwater, surface water, and sensitive habitats.
- f) Characterization of significant physical features of the site and vicinity that may affect contaminant transport and risk to human health, safety and the environment.

Section 740.435 Site Investigation Report -- Focused Site Investigation

- a) Data and results from the focused site investigation shall be combined into one Site Investigation Report.
- b) A Site Investigation Report for the focused site investigation shall include the results and methodologies of the investigation performed pursuant to Section 740.430 of this Part and the following:
 - 1) Executive Summary. This chapter shall identify the objectives of the site investigation and the technical approach utilized to meet such objectives. It shall state the recognized environmental conditions and related contaminants of concern specified by the RA and the data limitations in the assessment;
 - 2) Site description.
 - A) If a phase I environmental site assessment has been completed in accordance with Section 740.420(a) of this Part, then the results may be submitted in accordance with Section 740.425 of this Part; or

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- B) This subchapter shall state the method used for the evaluation of the remediation site and areas immediately adjacent to the remediation site and document the observations obtained (e.g., grid patterns or other systematic approaches used for large properties). It shall describe the regional location, pertinent boundary features, general facility physiography, hydrogeology, and current and post-remediation uses of the remediation site and areas immediately adjacent to the remediation site;
- C) Site base map(s) meeting the requirements of Section 740.210(a)(7) and including the following:
- i) The sources or potential sources of the contaminants of concern, spill areas, and other suspected areas for the specified contaminants of concern;
 - ii) On-site and off-site injection and withdrawal wells; and
 - iii) All buildings, tanks, piles, utilities, paved areas, easements, rights-of-way and other features, including all known past and current product and waste underground tanks or piping.
- D) A legal description or reference to a plat showing the boundaries of the remediation site.
- 3) Enforcement or response actions. This chapter shall include the following information as relevant to the recognized environmental conditions:
- A) A summary of environmental enforcement actions for the remediation site and areas immediately adjacent to the remediation site and their subsequent responses;
 - B) Any previous response actions conducted by either local, state, federal or private parties at those sites; and
 - C) A list of documents and studies prepared for those sites.

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- 4) **Site-specific sampling plan.** This chapter shall indicate those applicable physical and chemical methods utilized for contaminant source investigations, soil and sediment investigations, hydrogeological investigations, surface water investigations, and potential receptor investigations;
- 5) **Documentation of field activities.** This chapter shall include the results of the field activities to determine physical characteristics. At a minimum, this chapter shall include the following elements:
 - A) **Narrative description of the field activities conducted during the investigation;**
 - B) **The quality assurance project plan utilized to document all monitoring procedures (e.g., sampling, field measurements and sample analysis) performed during the investigation, so as to ensure that all information, data and resulting decisions are technically sound, statistically valid, and properly documented; and**
 - C) **Presentation of the data in an appropriate format (e.g., tabular and graphical displays) such that all information is organized and presented logically and that relationships between the different investigations for each medium are apparent;**
- 6) **Endangerment Assessment.** This chapter shall analyze the results of the field activities and characterize the extent of contamination (qualitative and quantitative) for contaminants of concern related to the recognized environmental conditions and compare the site information with the applicable provisions of 35 Ill. Adm. Code 742. This chapter shall:
 - A) **Describe any recognized environmental conditions, evaluate exposure routes, including threatened releases, and evaluate exposure routes excluded under 35 Ill. Adm. Code 742.Subpart C;**
 - B) **Describe the nature, concentration and extent of contaminants of concern within all environmental media at the remediation site and assess the observed and potential contaminant fate and transport;**

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- C) Describe the significant physical features of the remediation site and vicinity that may affect contaminant transport and risk to human health, safety and the environment;
 - D) Compare the concentrations of the contaminants of concern with the applicable Tier 1 remediation objectives under 35 Ill. Adm. Code 742.
- 7) Conclusion. This chapter shall assess the sufficiency of the data in the report and recommend future steps.
- 8) Appendices. Supporting documentation, references and data sources including, but not limited to, field logs, well logs, and reports of laboratory analyses, shall be incorporated into the appendices.
- 9) Licensed Professional Engineer affirmation in accordance with Section 740.410 of this Part.

Section 740.440 Determination of Remediation Objectives

- a) If the site investigation reveals evidence of the existence of one or more recognized environmental conditions, the RA shall develop remediation objectives in accordance with 35 Ill. Adm. Code 742 or other remediation objectives as appropriate.
- b) Where exposure routes have not been excluded from consideration under 35 Ill. Adm. Code 742 or where there has been no reliance on an engineered barrier to achieve compliance, compliance with remediation objectives shall be demonstrated as follows:
 - 1) For groundwater remediation objectives:
 - A) Except as provided in subsection (B) below, sampling points shall be located on the remediation site in areas where, following site investigation under Subpart D of this Part, concentrations of contaminants of concern exceeded remediation objectives.
 - B) If an institutional control prohibiting the use of groundwater as a potable water supply is obtained under 35 Ill. Adm. Code

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742. Subpart J, sampling points shall be located at the boundary of the remediation site.

- C) Compliance with groundwater remediation objectives at applicable sampling points shall be determined in accordance with 35 Ill. Adm. Code 742.225.
- 2) For soil remediation objectives:
 - A) Sampling points shall be located on the remediation site in areas where, following site investigation under Subpart E of this Part, concentrations of concern exceeded remediation objectives.
 - B) Compliance with soil remediation objectives at applicable sampling points shall be determined in accordance with 35 Ill. Adm. Code 742.225.
- c) Where exposure routes have been excluded from consideration under 35 Ill. Adm. Code 742 or where an engineered barrier has been relied upon to achieve compliance, compliance shall be determined based on approval by the Agency of the exposure route exclusion or the sufficiency of the engineered barrier.
- d) Upon completing the determination of remediation objectives, the RA shall compile the information into a Remediation Objectives Report meeting the requirements of Section 740.445 of this Part for submittal to the Agency.

Section 740.445 Remediation Objectives Report

The Remediation Objectives Report shall address the recognized environmental condition(s) and related contaminants of concern that were identified in the Site Investigation conducted pursuant to this Part.

- a) If an exposure route has been excluded under 35 Ill. Adm. Code 742. Subpart C, the RA may prepare a Remediation Objectives report showing the appropriateness of the exclusion.
- b) If the RA elects to use the Tier 1 remediation objectives under 35 Ill. Adm. Code 742, the RA shall prepare a Remediation Objectives Report stating the applicable remediation objectives for the contaminants of concern.

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- c) If the RA elects to develop remediation objectives appropriate for the remediation site using Tier 2 or Tier 3 procedures under 35 Ill. Adm. Code 742, the RA shall prepare a Remediation Objectives Report demonstrating compliance with those procedures.
- d) If the RA elects to develop remediation objectives appropriate for the remediation site using the area background procedures under 35 Ill. Adm. Code 742, the RA shall prepare a Remediation Objectives Report demonstrating compliance with those procedures.
- e) If the recognized environmental condition requires remediation measures other than, or in addition to, remediation objectives determined under 35 Ill. Adm. Code 742 (e.g. removal of drums threatening a release), the Remediation Objectives Report shall describe those measures and demonstrate their appropriateness for remediating the recognized environmental condition.
- f) IN THE EVENT THAT THE AGENCY HAS DETERMINED IN WRITING THAT THE BACKGROUND LEVEL FOR A REGULATED SUBSTANCE or pesticide POSES AN ACUTE THREAT TO HUMAN HEALTH OR THE ENVIRONMENT AT THE SITE WHEN CONSIDERING THE POST-REMEDIAL ACTION LAND USE, THE RA SHALL DEVELOP APPROPRIATE RISK-BASED REMEDIATION OBJECTIVES IN ACCORDANCE WITH subsections (a), (b) and/or (c) above. (Section 58.5(b)(3) of the Act)
- g) The Remediation Objectives Report shall contain the affirmation of a Licensed Professional Engineer(s) in accordance with Section 740.410 of this Part.

Section 740.450 Remedial Action Plan

IF THE APPROVED REMEDIATION OBJECTIVES FOR ANY REGULATED SUBSTANCE of concern ESTABLISHED UNDER Sections 740.440 and 740.445 of this Part ARE LESS THAN THE LEVELS AT THE remediation SITE PRIOR TO ANY REMEDIAL ACTION, THE RA SHALL PREPARE A REMEDIAL ACTION PLAN. THE PLAN SHALL DESCRIBE THE proposed REMEDY AND EVALUATE ITS ABILITY AND EFFECTIVENESS TO ACHIEVE THE REMEDIATION OBJECTIVES APPROVED FOR THE remediation SITE, including but not limited to: (Section 58.6(d) of the Act)

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- a) **Executive summary.** This chapter shall identify the objectives of the Remedial Action Plan and the technical approach utilized to meet such objectives. At a minimum, this chapter shall include the following elements:
 - 1) **The major components (e.g., treatment, containment, removal actions) of the Remedial Action Plan;**
 - 2) **The scope of the problems to be addressed by the proposed remedial action(s) including the specific contaminants of concern and the physical area to be addressed by the Remedial Action Plan;**
 - 3) **Schedule of activities.**
- b) **Statement of remediation objectives or reference to Remediation Objectives Report.**
- c) **Remedial technologies selected.** This chapter shall describe how each major remedial technology identified in the Remedial Action Plan fits into the overall strategy for addressing the recognized environmental conditions at the remediation site, including but not limited to:
 - 1) **Feasibility of implementation;**
 - 2) **Whether the technologies will perform satisfactorily and reliably until the remediation objectives are achieved; and**
 - 3) **Whether remediation objectives will be achieved within a reasonable period of time;**
- d) **Confirmation sampling plan.** This chapter shall describe how the effectiveness of the remedial action will be measured. At a minimum, a site-specific sampling plan and quality assurance project plan must be prepared in accordance with the provisions set forth in Section 740.415(d) of this Part.
- e) **Current and post-remediation use of the property.**
- f) **Applicable engineered barriers, institutional controls, and groundwater monitoring.** This chapter shall describe any such controls selected or relied upon

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in determining or achieving remediation objectives including long-term reliability, operating and maintenance plans, and monitoring procedures.

- g) Appendices. References and other informational sources should be incorporated into the appendices.
- h) Licensed Professional Engineer affirmation in accordance with Section 740.410 of this Part.

Section 740.455 Remedial Action Completion Report

- a) Except as provided in subsection (b) below, UPON COMPLETION OF THE REMEDIAL ACTION PLAN, THE RA SHALL PREPARE A REMEDIAL ACTION COMPLETION REPORT. THE REPORT SHALL DEMONSTRATE WHETHER THE REMEDIAL ACTION WAS COMPLETED IN ACCORDANCE WITH THE APPROVED REMEDIAL ACTION PLAN AND WHETHER THE REMEDIATION OBJECTIVES, AS WELL AS ANY OTHER REQUIREMENTS OF THE PLAN, HAVE BEEN ATTAINED. (Section 58.6(e)(1) of the Act) The report shall include but not be limited to:
 - 1) Executive Summary. This chapter shall identify the overall objectives of the remedial action and the technical approach utilized to meet those objectives including:
 - A) A brief description of the remediation site, including the recognized environmental conditions the contaminants of concern, the contaminated media, and the extent of contamination;
 - B) The major components of the remedial action report;
 - C) The scope of the problems corrected or mitigated by the proposed remedial action(s); and
 - D) The anticipated post-remediation uses of the remediation site and areas immediately adjacent to the remediation site.
 - 2) Field Activities. This chapter shall provide a narrative description of the:
 - A) Field activities conducted during the investigation;

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- B) Remedial actions implemented at the remediation site and the performance of each remedial technology utilized;**
- 3) Special Conditions. This chapter shall provide a description of any:**

 - A) Engineered barriers utilized in accordance with 35 Ill. Adm. Code 742 to achieve the approved remediation objectives;**
 - B) Institutional controls accompanying engineered barriers or industrial/commercial property uses in accordance with Section 740.450 of this Part and 35 Ill. Adm. Code 742, including a legible copy of any such controls, as appropriate;**
 - C) Post-remedial monitoring, including:**

 - i) Conditions to be monitored;**
 - ii) Purpose;**
 - iii) Locations;**
 - iv) Frequency;**
 - v) Contingencies in the event of an exceedence.**
 - D) Other conditions appropriate for the issuance of a No Further Remediation Letter.**
- 4) Results. This chapter shall analyze the effectiveness of the remedial actions by comparing the results of the confirmation sampling with the remediation objectives prescribed in the Agency-approved Remedial Action Plan. The data shall state the remediation objectives or reference the Remediation Objectives Report and be presented in an appropriate format (e.g., tabular and graphical displays) such that all information is organized and presented logically and that relationships between the different investigations for each medium are apparent.**

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- 5) **Conclusion.** This chapter shall identify the success of the remedial action in meeting objectives. This chapter shall assess the accuracy and completeness of the data in the report and, if applicable, future work.
 - 6) **Appendices.** References, data sources, and a completed environmental notice form as provided by the Agency shall be incorporated into the appendices. Field logs, well logs and reports of laboratory analyses shall be organized and presented logically;
 - 7) **Licensed Professional Engineer affirmation in accordance with Section 740.410 of this Part.**
- b) **IF THE APPROVED REMEDIATION OBJECTIVES FOR THE REGULATED SUBSTANCES OF CONCERN ESTABLISHED UNDER SECTIONS 740.440 AND 740.445 of this Part ARE EQUAL TO OR ABOVE THE LEVELS EXISTING AT THE SITE PRIOR TO ANY REMEDIAL ACTION, NOTIFICATION AND DOCUMENTATION OF SUCH, including a description of any engineered barriers, institutional controls, and post-remedial monitoring, SHALL CONSTITUTE THE ENTIRE REMEDIAL ACTION COMPLETION REPORT FOR PURPOSES OF THIS Part. (Section 58.6(e)(2) of the Act)**

SUBPART E: SUBMITTAL AND REVIEW OF PLANS AND REPORTS

Section 740.500 General

This Subpart sets forth the requirements for the review of plans and reports submitted under this Part. All plans and reports shall satisfy the requirements for form and delivery set forth in Section 740.410 of this Part.

Section 740.505 Reviews of Plans and Reports

- a) **ALL REVIEWS CARRIED OUT UNDER THIS Part SHALL BE CARRIED OUT BY THE AGENCY OR A RELPE (Review and Evaluation Licensed Professional Engineer), BOTH UNDER THE DIRECTION OF A LICENSED PROFESSIONAL ENGINEER. (Section 58.7(d) of the Act)**
- b) **PLANS, REPORTS AND RELATED ACTIVITIES WHICH THE AGENCY OR A RELPE MAY REVIEW INCLUDE, but are not limited to:**

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- 1) SITE INVESTIGATION REPORTS AND RELATED ACTIVITIES;
 - 2) REMEDIATION OBJECTIVES REPORTS;
 - 3) REMEDIAL ACTION PLANS AND RELATED ACTIVITIES; AND
 - 4) REMEDIAL ACTION COMPLETION REPORTS AND RELATED ACTIVITIES. (Section 58.7(d)(2) of the Act)
- c) ONLY THE AGENCY SHALL HAVE THE AUTHORITY TO APPROVE, DISAPPROVE, OR APPROVE WITH CONDITIONS A PLAN OR REPORT AS A RESULT OF THE REVIEW PROCESS, INCLUDING THOSE PLANS OR REPORTS REVIEWED BY A RELPE. (Section 58.7(d)(3) of the Act)
- d) Except as provided in subsection (d)(5) below, the Agency shall have 60 days from the receipt of any plan or report to conduct a review and make a final determination to approve or disapprove the plan or report, or approve the plan or report with conditions. All reviews shall be based on the standards set forth in this Subpart E.
- 1) The Agency's record of the date of receipt of a plan or report shall be deemed conclusive unless a contrary date is proven by a dated, signed receipt from the Agency or certified or registered mail.
 - 2) Submittal of an amended plan or report restarts the time for review.
 - 3) The RA may waive the time line for review upon a request from the Agency or at the RA's discretion.
 - 4) The Agency shall not be required to review any plan or report submitted out of the sequence for plans and reports set forth in this Part.
 - 5) If any plans or reports are submitted concurrently, the Agency's timeline for review shall increase to a total of 90 days for all plans or reports so submitted.
- e) Upon completion of the review, the Agency shall notify the RA in writing of its final determination on the plan or report. The Agency's notification shall be made in accordance with Section 740.215(b) of this Part. If the Agency disapproves a

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plan or report or approves a plan or report with conditions, the written notification shall contain the following information, as applicable:

- 1) An explanation of the specific type of information or documentation, if any, that the Agency deems the RA did not provide;
 - 2) A listing of the sections of Title XVII of the Act or this Part that may be violated if the plan or report is approved as submitted;
 - 3) A statement of the specific reasons why Title XVII of the Act or this Part may be violated if the plan or report is approved as submitted;
 - 4) A statement of the reasons for conditions if conditions are required.
- f) The Agency may, to the extent consistent with review deadlines, provide the RA with a reasonable opportunity to correct deficiencies prior to sending a disapproval. However, the correction of such deficiencies by the submittal of additional information may, in the sole discretion of the Agency, restart the time for review.
- g) If the RA has entered into a contract with a RELPE under Subpart B of this Part, the Agency shall assign plans and reports submitted by the RA to the RELPE for initial review.
- 1) The RELPE's review shall be conducted in accordance with this Subpart E.
 - 2) Upon completion of the review, the RELPE shall recommend to the Agency approval or disapproval of the plan or report or approval of the plan or report with conditions.
 - 3) Unless otherwise approved by the Agency, the RELPE shall have 30 days to complete the review of a plan or report and forward the recommendation to the Agency. If any plans or reports have been submitted concurrently to the Agency, the RELPE shall have a total of 45 days to complete the review of all plans or reports so submitted, unless otherwise approved by the Agency.

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- 4) The recommendation of the RELPE shall be in writing, shall include reasons supporting the RELPE's recommendation, and shall be accompanied by all documents submitted by the RA and any other information relied upon by the RELPE in reaching a decision.
- b) IF THE AGENCY DISAPPROVES OR APPROVES WITH CONDITIONS A PLAN OR REPORT OR FAILS TO ISSUE A FINAL DETERMINATION WITHIN THE applicable review PERIOD AND THE RA HAS NOT AGREED TO A WAIVER OF THE DEADLINE, THE RA MAY, WITHIN 35 DAYS after receipt of the final determination or expiration of the deadline, FILE AN APPEAL TO THE BOARD. APPEALS TO THE BOARD SHALL BE IN THE MANNER PROVIDED FOR THE REVIEW OF PERMIT DECISIONS IN SECTION 40 OF THE ACT. (Section 58.7(d)(5) of the Act)

Section 740.510 Standards for Review of Site Investigation Reports and Related Activities

When reviewing Site Investigation Reports and related activities, the Agency or the RELPE shall consider:

- a) Whether the report is complete and has been accompanied by the information and supporting documentation necessary to evaluate the site investigation activities;
- b) Whether the site investigation has been conducted in accordance with the procedures set forth in Title XVII of the Act and Subpart E of this Part, including but not limited to:
 - 1) THE ADEQUACY OF THE DESCRIPTION OF THE remediation SITE AND SITE CHARACTERISTICS THAT WERE USED TO EVALUATE THE remediation SITE; (Section 58.7(e)(1)(A) of the Act)
 - 2) THE ADEQUACY OF THE INVESTIGATION OF THE POTENTIAL PATHWAYS AND RISKS TO RECEPTORS IDENTIFIED AT THE remediation SITE; (Section 58.7(e)(1)(B) of the Act)
 - 3) THE APPROPRIATENESS OF THE SAMPLING AND ANALYSIS USED to define the nature and extent of the contamination at the remediation site. (Section 58.7(e)(1)(B) of the Act)

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- c) **WHETHER THE INTERPRETATIONS AND CONCLUSIONS REACHED ARE SUPPORTED BY THE INFORMATION GATHERED.** (Section 58.7(e)(1) of the Act)

Section 740.515 Standards for Review of Remediation Objectives Reports

When reviewing Remediation Objectives Reports, the Agency or the RELPE shall consider:

- a) Whether the report is complete and has been accompanied by the information and supporting documentation necessary to determine whether the remediation objectives have been determined in accordance with 35 Ill. Adm. Code 742 and whether any other remediation objectives are appropriate for the recognized environmental conditions;
- b) **WHETHER THE REMEDIATION OBJECTIVES ARE CONSISTENT WITH THE REQUIREMENTS OF THE APPLICABLE METHOD FOR SELECTING OR DETERMINING REMEDIATION OBJECTIVES, including but not limited to:**
- 1) If exposure routes have been excluded under 35 Ill. Adm. Code 742.Subpart C:
- A) Whether the requirements for the exclusion of exposure routes under 35 Ill. Adm. Code 742 have been satisfied; and
- B) Whether engineered barriers and institutional controls, if relied on for the exclusion of exposure routes, satisfy the requirements of 35 Ill. Adm. Code 742.
- 2) **IF THE remediation OBJECTIVES WERE BASED ON THE DETERMINATION OF AREA BACKGROUND LEVELS UNDER 35 Ill. Adm. Code 742.Subpart D:**
- A) **WHETHER THE REVIEW OF CURRENT AND HISTORIC CONDITIONS AT THE remediation SITE OR IN THE IMMEDIATE VICINITY OF THE SITE has been thorough;** (Section 58.7(e)(2)(A) of the Act)

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- B) WHETHER THE remediation SITE SAMPLING AND ANALYSIS HAVE BEEN PERFORMED IN A MANNER RESULTING IN ACCURATE DETERMINATIONS as provided in 35 Ill. Adm. Code 742 and Section 740.415(d) of this Part; (Section 58.7(e)(2)(A) of the Act)
 - C) Whether the requirements for determining area background concentrations under 35 Ill. Adm. Code have been satisfied; and
 - D) Whether an area background level for a regulated substance of concern poses an acute threat to human health or the environment at the remediation site when considering the post-remediation property uses.
- 3) If the remediation objectives were determined under 35 Ill. Adm. Code 742.Subpart E:
- A) Whether the requirements for the use of Tier 1 under 35 Ill. Adm. Code 742 have been satisfied;
 - B) Whether the comparison of the concentrations of regulated substances of concern and the Tier 1 remediation objectives has been performed and the appropriate remediation objectives selected for the remediation site in accordance with 35 Ill. Adm. Code 742; and
 - C) Whether engineered barriers and institutional controls, if relied on in the determination of remediation objectives or for industrial/commercial property uses, satisfy the requirements of 35 Ill. Adm. Code 742.
- 4) If the remediation objectives were determined under 35 Ill. Adm. Code 742.Subparts F, G, and H:
- A) Whether the requirements for the use of Tier 2 under 35 Ill. Adm. Code 742 have been satisfied;

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- B) WHETHER THE CALCULATIONS performed under 35 Ill. Adm. Code 742 WERE ACCURATELY PERFORMED; (Section 58.7(e)(2)(B) of the Act)
 - C) WHETHER THE SITE SPECIFIC DATA REFLECT ACTUAL remediation SITE CONDITIONS; (Section 58.7(e)(2)(B) of the Act)
 - D) Whether engineered barriers and institutional controls, if relied on in the determination of remediation objectives or for industrial/commercial property uses, satisfy the requirements of 35 Ill. Adm. Code 742.
- 5) If the remediation objectives were determined under 35 Ill. Adm. Code 742.Subpart 1:
- A) Whether the requirements for the use of Tier 3 under 35 Ill. Adm. Code 742 have been satisfied;
 - B) WHETHER THE CALCULATIONS performed under 35 Ill. Adm. Code 742 WERE ACCURATELY PERFORMED; (Section 58.7(e)(2)(C) of the Act)
 - C) WHETHER THE SITE SPECIFIC DATA REFLECT ACTUAL remediation SITE CONDITIONS; (Section 58.7(e)(2)(C) of the Act)
 - D) Whether engineered barriers and institutional controls, if relied on in the determination of remediation objectives or for industrial/commercial property uses, satisfy the requirements of 35 Ill. Adm. Code 742.
- 6) A) If a recognized environmental condition requires remediation measures other than, or in addition to, remediation objectives determined under 35 Ill. Adm. Code 742, the appropriateness of the remediation measures selected for addressing the recognized environmental condition.

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- B) The potential for any remaining recognized environmental conditions not addressed in the determination of remediation objectives to pose a significant threat to human health or the environment.

Section 740.520 Standards for Review of Remedial Action Plans and Related Activities

When reviewing Remedial Action Plans and related activities, the Agency or the RELPE shall consider:

- a) Whether the plan is complete and has been accompanied by the information and supporting documentation necessary to evaluate the effectiveness of the plan;
- b) WHETHER THE PLAN WILL RESULT IN COMPLIANCE WITH Title XVII of the Act and this Part, including but not limited to:
- 1) THE LIKELIHOOD THAT THE PLAN WILL RESULT IN THE ATTAINMENT OF THE APPLICABLE REMEDIATION OBJECTIVES; (Section 58.7(e)(3)(A) of the Act)
 - 2) WHETHER THE ACTIVITIES PROPOSED ARE CONSISTENT WITH GENERALLY ACCEPTED ENGINEERING PRACTICES; (Section 58.7(e)(3)(B) of the Act) and
 - 3) THE MANAGEMENT OF RISK RELATIVE TO ANY REMAINING CONTAMINATION, INCLUDING BUT NOT LIMITED TO, PROVISIONS FOR THE LONG-TERM ENFORCEMENT, OPERATION, AND MAINTENANCE OF INSTITUTIONAL AND ENGINEERING CONTROLS, IF RELIED ON. (Section 58.7(e)(3)(C) of the Act)

Section 740.525 Standards for Review of Remedial Action Completion Reports and Related Activities

When reviewing Remedial Action Completion Reports and related activities, the Agency or the RELPE shall consider:

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- a) Whether the report is complete and has been accompanied by the information and supporting documentation necessary to evaluate the implementation of the Remedial Action Plan and the attainment of the applicable remediation objectives;
- b) WHETHER THE REMEDIAL ACTIVITIES HAVE BEEN COMPLETED IN ACCORDANCE WITH THE APPROVED REMEDIAL ACTION PLAN AND WHETHER THE APPLICABLE REMEDIATION OBJECTIVES HAVE BEEN ATTAINED; Section 58.7(e)(4) of the Act) and
- c) If engineered barriers and institutional controls have been relied on, or if monitoring is required, whether the long-term maintenance, operation and enforcement provisions have been established.

Section 740.530 Establishment of Groundwater Management Zones

- a) Except as provided in subsection (b) below, upon approval by the Agency of a Remedial Action Plan under Subpart E of this Part, groundwater that may be impacted by the recognized environmental conditions and related contaminants of concern shall automatically be classified as a groundwater management zone for the specified recognized environmental conditions and related contaminants of concern.
- b) The three dimensional area of the groundwater management zone shall be deemed to be coextensive with the remediation site or with the groundwater remediation to be performed as specified by the RA in the Remedial Action Plan. The size of the groundwater management zone may be modified where new information warrants. Where the groundwater management zone extends across property boundaries, the written permission of the owners of the affected properties shall be obtained before the groundwater management zone becomes effective.
- c) Groundwater management zones designated under this Section shall remain in effect until a No Further Remediation Letter becomes effective under this Part or an Agreement is terminated.
- d) Unless specifically provided otherwise in this Part or 35 Ill. Adm. Code 742, requirements for review, reporting and listing relative to groundwater remediation that may otherwise be applicable under 35 Ill. Adm. Code 620 shall not apply to any area of a remediation site and any contaminants of concern for which a groundwater management zone is in effect under this Section.

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**SUBPART F: NO FURTHER REMEDIATION LETTERS AND
RECORDING REQUIREMENTS**

Section 740.600 General

Subpart F provides for the issuance of No Further Remediation Letters following the satisfactory completion of investigative and remedial activities in accordance with Title XVII of the Act and this Part. Subpart F also sets forth the fee for the No Further Remediation Letter, the recording requirements, and the circumstances under which the letter may be voidable.

Section 740.605 Issuance of a No Further Remediation Letter

- a) Except as provided in Section 740.615 below, WITHIN 30 DAYS OF THE AGENCY'S APPROVAL OF A REMEDIAL ACTION COMPLETION REPORT, THE AGENCY SHALL ISSUE A NO FURTHER REMEDIATION LETTER APPLICABLE TO THE remediation SITE. IN THE EVENT THAT THE AGENCY FAILS TO ISSUE THE NO FURTHER REMEDIATION LETTER WITHIN 30 DAYS AFTER APPROVAL OF THE REMEDIAL ACTION COMPLETION REPORT, THE NO FURTHER REMEDIATION LETTER SHALL ISSUE BY OPERATION OF LAW. (Section 58.10(b) of the Act) The No Further Remediation Letter shall have the legal effect prescribed in Section 58.10 of the Act.
- b) The No Further Remediation Letter shall be issued only to Remediation Applicants who have completed all requirements and received final approval of the Remedial Action Completion Report by the Agency or on appeal.
- c) The Agency shall mail the No Further Remediation Letter by registered or certified mail, post-marked with a date stamp and with return receipt requested. Final action shall be deemed to have taken place on the post-marked date that the letter is mailed.

Section 740.610 Contents of a No Further Remediation Letter

- a) Except as provided in subsection (b) below, A NO FURTHER REMEDIATION LETTER ISSUED PURSUANT TO Section 58.10 of the Act SHALL BE LIMITED TO AND INCLUDE ALL OF THE FOLLOWING:

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- 1) AN ACKNOWLEDGMENT THAT THE REQUIREMENTS OF THE REMEDIAL ACTION PLAN AND THE REMEDIAL ACTION COMPLETION REPORT WERE SATISFIED;
- 2) A DESCRIPTION OF THE remediation site BY ADEQUATE LEGAL DESCRIPTION OR BY REFERENCE TO A PLAT SHOWING THE BOUNDARIES;
- 3) THE LEVEL OF THE REMEDIATION OBJECTIVES, SPECIFYING, AS APPROPRIATE, ANY LAND USE LIMITATION IMPOSED AS A RESULT OF SUCH REMEDIATION EFFORTS;
- 4) A STATEMENT THAT THE AGENCY'S ISSUANCE OF THE NO FURTHER REMEDIATION LETTER SIGNIFIES A RELEASE FROM FURTHER RESPONSIBILITIES UNDER THE ACT IN PERFORMING THE APPROVED REMEDIAL ACTION AND SHALL BE CONSIDERED PRIMA FACIE EVIDENCE THAT THE SITE DOES NOT CONSTITUTE A THREAT TO HUMAN HEALTH AND THE ENVIRONMENT AND DOES NOT REQUIRE FURTHER REMEDIATION UNDER THE ACT IF UTILIZED IN ACCORDANCE WITH THE TERMS OF THE NO FURTHER REMEDIATION LETTER. If the remediation site includes a portion of a larger parcel of property or if the RA has elected to limit the recognized environmental conditions and related contaminants of concern to be remediated, or both, the No Further Remediation Letter shall be limited accordingly by its terms;
- 5) THE PROHIBITION AGAINST THE USE OF ANY remediation SITE IN A MANNER INCONSISTENT WITH ANY LAND USE LIMITATION IMPOSED AS A RESULT OF SUCH REMEDIATION EFFORTS WITHOUT ADDITIONAL APPROPRIATE REMEDIAL ACTIVITIES;
- 6) A DESCRIPTION OF ANY PREVENTIVE, ENGINEERING, AND INSTITUTIONAL CONTROLS or monitoring REQUIRED IN THE APPROVED REMEDIAL ACTION PLAN AND NOTIFICATION THAT FAILURE TO MANAGE THE CONTROLS or monitoring IN FULL COMPLIANCE WITH THE TERMS OF THE REMEDIAL ACTION PLAN MAY RESULT IN VOIDANCE OF THE NO FURTHER REMEDIATION LETTER;

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- 1) AN ACKNOWLEDGMENT THAT THE REQUIREMENTS OF THE REMEDIAL ACTION PLAN AND THE REMEDIAL ACTION COMPLETION REPORT WERE SATISFIED;
- 2) A DESCRIPTION OF THE remediation site BY ADEQUATE LEGAL DESCRIPTION OR BY REFERENCE TO A PLAT SHOWING the BOUNDARIES;
- 3) THE LEVEL OF THE REMEDIATION OBJECTIVES, SPECIFYING, AS APPROPRIATE, ANY LAND USE LIMITATION IMPOSED AS A RESULT OF SUCH REMEDIATION EFFORTS;
- 4) A STATEMENT THAT THE AGENCY'S ISSUANCE OF THE NO FURTHER REMEDIATION LETTER SIGNIFIES A RELEASE FROM FURTHER RESPONSIBILITIES UNDER the ACT IN PERFORMING THE APPROVED REMEDIAL ACTION AND SHALL BE CONSIDERED PRIMA FACIE EVIDENCE THAT THE SITE DOES NOT CONSTITUTE A THREAT TO HUMAN HEALTH AND THE ENVIRONMENT AND DOES NOT REQUIRE FURTHER REMEDIATION UNDER THE ACT if UTILIZED IN ACCORDANCE WITH THE TERMS OF THE NO FURTHER REMEDIATION LETTER. If the remediation site includes a portion of a larger parcel of property or if the RA has elected to limit the recognized environmental conditions and related contaminants of concern to be remediated, or both, the No Further Remediation Letter shall be limited accordingly by its terms;
- 5) THE PROHIBITION AGAINST THE USE OF ANY remediation SITE IN A MANNER INCONSISTENT WITH ANY LAND USE LIMITATION IMPOSED AS A RESULT OF SUCH REMEDIATION EFFORTS WITHOUT ADDITIONAL APPROPRIATE REMEDIAL ACTIVITIES;
- 6) A DESCRIPTION OF ANY PREVENTIVE, ENGINEERING, AND INSTITUTIONAL CONTROLS or monitoring REQUIRED IN THE APPROVED REMEDIAL ACTION PLAN AND NOTIFICATION THAT FAILURE TO MANAGE THE CONTROLS or monitoring IN FULL COMPLIANCE WITH THE TERMS OF THE REMEDIAL ACTION PLAN MAY RESULT IN VOIDANCE OF THE NO FURTHER REMEDIATION LETTER;

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- 7) THE RECORDING OBLIGATIONS PURSUANT TO Title XVII of the Act and Section 740.620 of this Part;
 - 8) THE OPPORTUNITY TO REQUEST A CHANGE IN THE RECORDED LAND USE PURSUANT TO Title XVII of the Act AND Section 740.620(c) of this Part;
 - 9) NOTIFICATION THAT FURTHER INFORMATION REGARDING THE remediation SITE CAN BE OBTAINED FROM THE AGENCY THROUGH A REQUEST UNDER THE FREEDOM OF INFORMATION ACT (5 ILCS 140). (Sections 58.10 (b)(1) - (9) of the Act)
- b) IF ONLY A PORTION OF THE SITE OR ONLY SELECTED REGULATED SUBSTANCES or pesticides AT A SITE WERE THE SUBJECT OF CORRECTIVE ACTION, the NFR Letter may contain ANY OTHER PROVISIONS AGREED TO BY THE AGENCY AND THE RA. (Section 58.10(b)(10) of the Act)

Section 740.615 Payment of Fees

- a) THE AGENCY MAY DENY A NO FURTHER REMEDIATION LETTER IF FEES APPLICABLE UNDER THE REVIEW AND EVALUATION SERVICES AGREEMENT HAVE NOT BEEN PAID IN FULL. (Section 58.10(c) of the Act) The manner of payment shall be in accordance with Section 740.320 of this Part.
- b) In addition to the fees applicable under the Review and Evaluation Services Agreement, THE RECIPIENT OF THE No Further Remediation LETTER SHALL FORWARD TO THE AGENCY A NO FURTHER REMEDIATION ASSESSMENT IN THE AMOUNT OF THE LESSER OF \$2500 OR AN AMOUNT EQUAL TO THE COSTS INCURRED FOR THE SITE BY THE AGENCY UNDER THE Agreement. (Section 58.10(g) of the Act)
 - 1) The No Further Remediation Assessment shall be mailed or delivered to the Agency at the address designated by the Agency on the request for payment service forms no later than 45 days following the receipt of the

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request for payment. Payments that are hand-delivered shall be delivered during the Agency's normal business hours.

- 2) The No Further Remediation Assessment shall be made by check or money order payable to "Treasurer - State of Illinois for Deposit in the Hazardous Waste Fund." The check or money order shall include the Illinois inventory identification number as assigned and the federal employer identification number or social security number of the RA.
- 3) The No Further Remediation Letter shall be voidable in accordance with Section 740.625 if the No Further Remediation Assessment is not paid within 45 days of the receipt of the request for payment.

Section 740.620 Duty to Record a No Further Remediation Letter

- a) THE RA RECEIVING A NO FURTHER REMEDIATION LETTER FROM THE AGENCY PURSUANT TO Title XVII of the Act and this Subpart F SHALL SUBMIT THE LETTER TO THE OFFICE OF THE RECORDER OR THE REGISTRAR OF TITLES OF THE COUNTY IN WHICH THE remediation SITE IS LOCATED WITHIN 45 DAYS OF RECEIPT OF THE LETTER. (Section 58.8(a) of the Act)
 - 1) THE OFFICE OF THE RECORDER OR THE REGISTRAR OF TITLES SHALL ACCEPT AND RECORD THAT LETTER IN ACCORDANCE WITH ILLINOIS LAW SO THAT IT FORMS A PERMANENT PART OF THE CHAIN OF TITLE FOR THE SITE. (Section 58.8(a) of the Act)
 - 2) IN THE EVENT THAT A NO FURTHER REMEDIATION LETTER ISSUES BY OPERATION OF LAW PURSUANT TO Title XVII of the Act and this Subpart F, THE RA MAY record AN AFFIDAVIT STATING THAT THE LETTER ISSUED BY OPERATION OF LAW. (Section 58.8(d) of the Act) Attached to the affidavit shall be the following information:
 - A) An acknowledgment that the requirements of the remedial action plan and the remedial action completion report were satisfied;
 - B) A description of the location of the remediation site by adequate legal description or by reference to a plat showing its boundaries;

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- C) The level of the remediation objectives, specifying, as appropriate, any land use limitation imposed as a result of such remediation efforts;
- D) A statement that the No Further Remediation Letter signifies a release from further responsibilities under the Act in performing the approved remedial action and shall be considered prima facie evidence that the following, as identified in the scope of work and the approved Remedial Action Plan, does not constitute a threat to human health and the environment and does not require further remediation under the Act if utilized in accordance with the terms of the No Further Remediation Letter:
 - i) The remediation site;
 - ii) Selected recognized environmental conditions and related contaminants of concern at the remediation site;
 - iii) Any combination of (D)(i) or (D)(ii) above.
- E) The prohibition against the use of any remediation site in a manner inconsistent with any property use limitation imposed as a result of such remediation efforts without additional appropriate remedial activities;
- F) A description of any preventive, engineering, and institutional controls or monitoring required in the approved Remedial Action Plan and notification that failure to manage the controls or monitoring in full compliance with the terms of the Remedial Action Plan may result in voidance of the No Further Remediation Letter;
- G) The opportunity to request a change in the recorded land use pursuant to Title XVII of the Act and subsection (c) below; and
- H) Notification that further information regarding the remediation site can be obtained from the Agency through a request under the Freedom of Information Act (5 ILCS 140).

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- b) A NO FURTHER REMEDIATION LETTER or the affidavit filed under subsection (a)(2) above SHALL NOT BECOME EFFECTIVE UNTIL OFFICIALLY RECORDED IN ACCORDANCE WITH subsection (a) above. (Section 58.8(b) of the Act) The owner shall obtain and submit to the Agency within 30 days of recording a copy of the letter or affidavit demonstrating that the letter has been recorded.
- c) AT NO TIME SHALL ANY remediation SITE FOR WHICH A LAND USE LIMITATION HAS BEEN IMPOSED AS A RESULT OF REMEDIATION ACTIVITIES UNDER THIS TITLE BE USED IN A MANNER INCONSISTENT WITH THE LAND USE LIMITATION UNLESS FURTHER INVESTIGATION OR REMEDIAL ACTION HAS BEEN CONDUCTED THAT DOCUMENTS THE ATTAINMENT OF OBJECTIVES APPROPRIATE FOR THE NEW LAND USE AND A NEW No Further Remediation LETTER OBTAINED AND RECORDED IN ACCORDANCE WITH Title XVII of the Act and this Part. (Section 58.8(c) of the Act)

Section 740.625 Voidance of No Further Remediation Letter

- a) THE NO FURTHER REMEDIATION LETTER SHALL BE VOIDABLE IF THE remediation SITE ACTIVITIES ARE NOT MANAGED IN FULL COMPLIANCE WITH THE PROVISIONS OF Title XVII of the Act, this Part, OR THE APPROVED REMEDIAL ACTION PLAN OR REMEDIATION OBJECTIVES UPON WHICH THE ISSUANCE OF THE NO FURTHER REMEDIATION LETTER WAS BASED. SPECIFIC ACTS OR OMISSIONS THAT MAY RESULT IN VOIDANCE OF THE NO FURTHER REMEDIATION LETTER INCLUDE, BUT SHALL NOT BE LIMITED TO:
- 1) ANY VIOLATION OF INSTITUTIONAL CONTROLS OR LAND USE RESTRICTIONS, IF APPLICABLE;
 - 2) THE FAILURE OF THE OWNER, OPERATOR, RA, OR ANY SUBSEQUENT TRANSFEREE TO OPERATE AND MAINTAIN PREVENTIVE OR ENGINEERING CONTROLS OR TO COMPLY WITH A GROUNDWATER MONITORING PLAN, IF APPLICABLE;
 - 3) THE DISTURBANCE OR REMOVAL OF CONTAMINATION THAT HAS BEEN LEFT IN PLACE IN ACCORDANCE WITH THE

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REMEDIAL ACTION PLAN. Access to soil contamination may be allowed if, during and after any access, public health and the environment are protected consistent with the Remedial Action Plan;

- 4) THE FAILURE TO COMPLY WITH THE RECORDING REQUIREMENTS OF Title XVII of the Act and Section 740.620 of this Part;
 - 5) OBTAINING THE NO FURTHER REMEDIATION LETTER BY FRAUD OR MISREPRESENTATION;
 - 6) SUBSEQUENT DISCOVERY OF CONTAMINANTS, NOT IDENTIFIED AS PART OF THE INVESTIGATIVE OR REMEDIAL ACTIVITIES UPON WHICH THE ISSUANCE OF THE NO FURTHER REMEDIATION LETTER WAS BASED, THAT POSE A THREAT TO HUMAN HEALTH OR THE ENVIRONMENT;
 - 7) THE FAILURE TO PAY THE NO FURTHER REMEDIATION ASSESSMENT REQUIRED UNDER Section 740.615(b) of this Part. (Section 58.10(e) of the Act)
 - 8) The failure to pay in full the applicable fees under the Review and Evaluation Services Agreement within 45 days after receiving a request for final payment under Section 740.310 of this Part.
- b) IF THE AGENCY SEEKS TO VOID A NO FURTHER REMEDIATION LETTER, IT SHALL PROVIDE NOTICE TO THE CURRENT TITLE HOLDER OF THE remediation SITE AND TO THE RA AT HIS OR HER LAST KNOWN ADDRESS. (Section 58.10(f) of the Act)
- 1) THE NOTICE SHALL SPECIFY THE CAUSE FOR THE VOIDANCE AND DESCRIBE FACTS IN SUPPORT OF THAT CAUSE. (Section 58.10(f) of the Act)
 - 2) The Agency shall mail notices of voidance by registered or certified mail, date stamped with return receipt requested.
- c) WITHIN 35 DAYS OF THE RECEIPT OF THE NOTICE OF VOIDANCE, THE RA OR CURRENT TITLE HOLDER of the remediation site MAY APPEAL.

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THE AGENCY'S DECISION TO THE BOARD IN THE MANNER PROVIDED FOR THE REVIEW OF PERMITS IN SECTION 40 OF THIS ACT. IF THE BOARD FAILS TO TAKE FINAL ACTION WITHIN 120 DAYS, UNLESS SUCH TIME PERIOD IS WAIVED BY THE PETITIONER, THE PETITION SHALL BE DEEMED DENIED AND THE PETITIONER SHALL BE ENTITLED TO AN APPELLATE COURT ORDER PURSUANT TO SUBSECTION (d) OF SECTION 41 OF THE ACT. THE AGENCY SHALL HAVE THE BURDEN OF PROOF IN ANY SUCH ACTION. (Section 58.10(f)(1) of the Act)

- 1) IF THE AGENCY'S ACTION IS APPEALED, THE ACTION SHALL NOT BECOME EFFECTIVE UNTIL THE APPEAL PROCESS HAS BEEN EXHAUSTED AND A FINAL DECISION REACHED BY THE BOARD OR COURTS. (Section 58.10(f)(3) of the Act)
 - A) UPON RECEIVING A NOTICE OF APPEAL, THE AGENCY SHALL FILE A NOTICE OF LIS PENDENS WITH THE OFFICE OF THE RECORDER OR THE REGISTRAR OF TITLES FOR THE COUNTY IN WHICH THE remediation SITE IS LOCATED. THE NOTICE SHALL BE FILED IN ACCORDANCE WITH ILLINOIS LAW SO THAT IT BECOMES A PART OF THE CHAIN OF TITLE FOR THE SITE. (Section 58.10(f)(4) of the Act)
 - B) IF THE AGENCY'S ACTION IS NOT UPHELD ON APPEAL, THE NOTICE OF LIS PENDENS SHALL BE REMOVED IN ACCORDANCE WITH ILLINOIS LAW WITHIN 45 DAYS OF RECEIPT OF THE FINAL DECISION OF THE BOARD OR THE COURTS. (Section 58.10(f)(4) of the Act)
- 2) IF THE AGENCY'S ACTION IS NOT APPEALED, THE AGENCY SHALL SUBMIT THE NOTICE OF VOIDANCE TO THE OFFICE OF THE RECORDER OR THE REGISTRAR OF TITLES FOR THE COUNTY IN WHICH THE SITE IS LOCATED. THE NOTICE SHALL BE FILED IN ACCORDANCE WITH ILLINOIS LAW SO THAT IT FORMS A PERMANENT PART OF THE CHAIN OF TITLE FOR THE SITE. (Section 58.10(f)(2) of the Act)

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Section 740.APPENDIX A

Target Compound List

Section 740, Table A

Volatile Organics Analytical Parameters and Required Quantitation Limits			
Compound	Water (ug/L)	Soil (ug/kg)	Method
Chloroethane	10	10	ESMIA
Bromoethane	10	10	ESMIA
Vinyl Chloride	10	10	ESMIA
Chloroethane	10	10	ESMIA
Methylene Chloride	10	10	ESMIA
Acetone	10	10	ESMIA
Carbon Disulfide	10	10	ESMIA
1,1-Dichloroethane	10	10	ESMIA
1,1,1-Trichloroethane	10	10	ESMIA
1,1,2-Dichloroethane (total)	10	10	ESMIA
Chloroform	10	10	ESMIA
1,2-Dichloroethane	10	10	ESMIA
2-Butanone	10	10	ESMIA
1,1,1-Trichloroethane	10	10	ESMIA
Carbon Tetrachloride	10	10	ESMIA
Bromodichloroethane	10	10	ESMIA
1,2-Dichloropropane	10	10	ESMIA
cis-1,2-Dichloropropane	10	10	ESMIA
Trichloroethane	10	10	ESMIA
Dibromodichloroethane	10	10	ESMIA
1,1,2-Trichloroethane	10	10	ESMIA
Benzene	10	10	ESMIA
trans-1,2-Dichloropropane	10	10	ESMIA
Bromodane	10	10	ESMIA
4-Methyl-2-pentanone	10	10	ESMIA
2-Hexanone	10	10	ESMIA
Tetrachloroethane	10	10	ESMIA
Toluene	10	10	ESMIA
1,1,2,2-Tetrachloroethane	10	10	ESMIA
Chlorobenzene	10	10	ESMIA
Ethyle Benzene	10	10	ESMIA
Styrene	10	10	ESMIA
Xylenes (total)	10	10	ESMIA

Required Quantitation Limits for soil are based on wet weight. Normally data is reported on a dry weight basis; therefore, Reporting Limits will be higher, based on the percent dry weight in each sample. The laboratory shall report nonvolatile components, tentatively identified by library search conducted per the guidelines contained in the analytical method.

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POLLUTION CONTROL BOARD

NOTICE OF PROPOSED RULES

Section 740.APPENDIX A Table B

Semivolatile Organic Analytical Parameters and Required Quantitation Limits			
Compound	Water (ug/L)	Soil (ug/kg)	Method
Phenol	10	600	E270A
Hex 2-Chloroethyl ether	10	600	E270A
2-Chlorophenol	10	600	E270A
1,2-Dichlorobenzene	10	600	E270A
1,3-Dichlorobenzene	10	600	E270A
1,4-Dichlorobenzene	10	600	E270A
2-Methylphenol	10	600	E270A
2,7-dioxin (1-chloropropane)	10	600	E270A
4-Methylphenol	10	600	E270A
N-Nitroso di-n-propylamine	10	600	E270A
Hexachloroethane	10	600	E270A
Nitrobenzene	10	600	E270A
Naphthalene	10	600	E270A
2-Nitrophenol	10	600	E270A
2,4-Dimethylphenol	10	600	E270A
Hex 2-Chloroethyl ether methane	10	600	E270A
2,4-Dichlorophenol	10	600	E270A
1,2,4-Trichlorobenzene	10	600	E270A
Naphthalene	10	600	E270A
4-Chloroaniline	10	600	E270A
Hexachlorobutadiene	10	600	E270A
4-Chloro-3-methylphenol	10	600	E270A
2-Methyl-naphthalene	10	600	E270A
Hexachlorocyclopentadiene	10	600	E270A
2,4,6-Trichlorophenol	10	600	E270A
2,4,5-Trichlorophenol	25	1600	E270A
2-Chloronaphthalene	10	600	E270A
2-Nitroaniline	25	1600	E270A
Dimethylphthalate	10	600	E270A
Acenaphthene	10	600	E270A
2,6-Dinitrotoluene	10	600	E270A
3-Nitroaniline	25	1600	E270A
Acenaphthene	10	600	E270A
2,4-Dinitrophenol	25	1600	E270A
4-Nitrophenol	25	1600	E270A

Required Quantitation Limits for soil are based on wet weight. Normally data is reported on a dry weight basis, therefore, Reporting Limits will be higher, based on the percent solids in each sample. This is based on a 20-gram sample and GPC cleanup. The laboratory shall report nonvolatile components, tentatively identified by litmus search, conducted per the guidelines contained in the analytical method.

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Section 740.APPENDIX A Table B (cont.)

Semivolatile Organic Analytical Parameters and Required Quantitation Limits			
Compound	Water (µg/L)	Soil (µg/Kg)	Method
Dibenzofuran	10	330	8270A
2,4-Dinitrochlorene	10	330	8270A
Diethylphthalate	10	330	8270A
4-Chlorophenyl-phenyl ether	10	330	8270A
Flourene	10	330	8270A
4-Nitroaniline	25	1600	8270A
4,6-Dinitro-2-methylphenol	25	1600	8270A
N-nitrosodiphenylamine	10	330	8270A
4-Bromophenyl-phenyl ether	10	330	8270A
Hexachlorobenzene	10	330	8270A
pentachlorophenol	25	1600	8270A
Phenanthrene	10	660	8270A
Anthracene	10	660	8270A
Carbazole	10	660	8270A
Di-n-butylphthalate	10	660	8270A
Fluoranthene	10	660	8270A
Pyrene	10	660	8270A
Butylbenzylphthalate	10	660	8270A
3,3'-Dichlorobenzidine	10	660	8270A
Benzo(a)anthracene	10	660	8270A
Chrysene	10	660	8270A
bis(2-Ethylhexyl)phthalate	10	660	8270A
Di-n-octylphthalate	10	660	8270A
Benzo(b)fluoranthene	10	660	8270A
Benzo(k)fluoranthene	10	660	8270A
Benzo(a)pyrene	10	660	8270A
Indeno(1,2,3-cd)pyrene	10	660	8270A
Dibenz(a,h)anthracene	10	660	8270A
Benzo(g,h,i)perylene	10	660	8270A

Required Quantitation Limits for soil are based on wet weight. Normally data is reported on a dry weight basis; therefore, Reporting Limits will be higher, based on the percent solids in each sample. This is based on a 30-gram sample and GPC cleanup. The laboratory shall report non surrogate components, tentatively identified by library search conducted per the guidelines contained in the analytical method.

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Section 740.APPENDIX A Table C

Pesticide and Annelors Organic Analytical Parameters and Required Quantitation Limits			
Compound	Water (ug/L)	Soil (ug/Kg)	Method
alpha-BHC	0.05	1.0	8101
beta-BHC	0.05	1.0	8101
delta-BHC	0.05	1.0	8101
gamma-BHC	0.05	1.0	8101
Dieldrin	0.05	1.0	8101
Aldrin	0.05	1.0	8101
Dieldrin epoxide	0.05	1.0	8101
Endosulfan I	0.05	1.0	8101
Dactin	0.10	16.0	8101
4,4'-DDE	0.10	16.0	8101
Endrin	0.10	16.0	8101
Endosulfan II	0.10	16.0	8101
4,4'-DDD	0.10	16.0	8101
Endosulfan sulfate	0.10	16.0	8101
4,4'-DDT	0.10	16.0	8101
Methoxychlor	0.50	80.0	8101
Endrin ketone	0.10	16.0	8101
endrin aldehyde	0.10	16.0	8101
alpha-Chlordane	0.50	80.0	8101
gamma-Chlordane	0.50	80.0	8101
Toxaphene	1.0	160.0	8101
Annelor - 1154	0.50	80.0	8101
Annelor - 1221	0.50	80.0	8101
Annelor - 1232	0.50	80.0	8101
Annelor - 1242	0.50	80.0	8101
Annelor - 1248	0.50	80.0	8101
Annelor - 1254	1.0	160.0	8101
Annelor - 1260	1.0	160.0	8101

Required Quantitation Limits for soil are based on wet weight. Normally data is reported on a dry weight basis; therefore, Reporting Limits will be higher, based on the percent solids in each sample.

See Section 1.4 for description of circumstances for the analyses of these compounds at these detection limits.

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NOTICE OF PROPOSED RULES

Section 740.APPENDIX A Table D

Inorganic Analytical Parameters and Required Quantitation Limits			
Analyte	Water ($\mu\text{g/L}$)	Soil (mg/Kg)	Method
Aluminum	200	40	6010A
Antimony	60	12	6010A
Arsenic	10	2	7060A/7061 A/ 7062
Barium	200	40	6010A
Beryllium	5	1	6010A
Cadmium	5	1	6010A
Calcium	5000	1000	6010A
Chromium	10	2	6010A
Cobalt	50	10	6010A
Copper	25	5	6010A
Iron	100	20	6010A
Lead	3	0.6	7421
Magnesium	5000	1000	6010A
Manganese	15	3	6010A
Mercury	0.2	0.04	7470A/7471 A
Nickel	40	8	6010A
Potassium	5000	1000	6010A
Selenium	5	1	7740A/7741 A/ 7742
Silver	10	2	6010A
Sodium	5000	1000	6010A
Thallium	10	2	7841
Vanadium	50	10	6010A
Zinc	20	4	6010A
Cyanide	10	2	9012

Required Quantitation Limits for soil are based on wet weight. Normally data is reported on a dry weight basis; therefore, Reporting Limits will be higher, based on the percent dry weight in each sample.

See Section 1.4 for description of appropriate circumstances for the analyses of these analytes at these detection limits.

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NOTICE OF PROPOSED RULES

Section 740.APPENDIX B

Review and Evaluation Licensed Professional Engineer Information

- Firm name.
- Address.
- Telephone/fax.
- Principal officials and titles.
- Number of full-time employees.
- Business structure (corporation, partnership, LLP, LLC, PSC)
- Licensed by Secretary of State? # _____
- Licensed by Dept. of Professional Regulation? # _____
- Name of Illinois Registered Managing Agent.
- Names of insurance carriers and amount of coverage:
 - Worker's Compensation: _____
 - General Liability: _____
 - Professional Liability: _____
- Does the stated professional liability policy include coverage for "environmental" claims related to release of Pollutants? If not covered, or covered by a different carrier or in a different amount, so state.
- Has the firm or owners ever filed bankruptcy? If "yes," state when and explain.
- Is the firm an outgrowth, result, continuation or organization of a former business? If "yes," explain background.
- List RELPE's and other key full-time employees that will participate on this project with the RELPE. Provide resumes for each, including Illinois P.E. License #, certifications, project role, years of experience in related work and education.
- List five projects similar in nature and identify the role of the RELPE.
- Are employees to be assigned to the project in compliance with 29 CFR 1910.120 (HAZWOPER training and medical surveillance) as applicable to their role on the project?