

~~POLLUTION CONTROL BOARD~~

~~NOTICE OF PROPOSED RULE~~

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3 CHAPTER I: POLLUTION CONTROL BOARD

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SUBPART D: INSURANCE CLAIMS

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- Section
- 1501.400 General Insurance Provisions
- 1501.410 Eligibility
- 1501.420 Premium and Deductible Requirements
- 1501.430 Coverage Reimbursement Limitations
- 1501.440 Claim Prioritization
- 1501.450 Claim Procedures

AUTHORITY: Implementing and authorized by the Drycleaner Environmental Response Trust Fund Act [415 ILCS 135] and Sections 27 & 28 of the Environmental Protection Act [415 ILCS 5/27 & 28].

SOURCE: Adopted in R 21-19 at 46 Ill. Reg.\_\_\_\_\_, effective \_\_\_\_\_.

SUBPART A: GENERAL PROVISIONS

**Section 1501.100 Scope and Purpose**

The purpose of this Part is to provide rules for the Agency’s administration and implementation of the Drycleaner Environmental Response Trust Fund Act [415 ILCS 135].

**Section 1501.110 Applicability**

This Part applies to owners and operators of drycleaning facilities, as defined in Section 1501.130.

**Section 1501.120 Severability**

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

**Section 1501.130 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 will be the same as that applied to the same words or terms in the Drycleaner Environmental Response Trust Fund Act ~~(~~415 ILCS 135/1 *et. seq.*~~)~~:

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- 83 "Active drycleaning facility" means a drycleaning facility actively engaged in  
84 drycleaning operations and licensed under this Part.  
85
- 86 "Agency" means the Illinois Environmental Protection Agency [415 ILCS 135/5].  
87
- 88 "Board" means the Illinois Pollution Control Board.  
89
- 90 "Chlorine-based solvent" means a drycleaning solvent containing one or more  
91 chlorine atoms in its molecular structure.  
92
- 93 "Claimant" means an owner or operator of a drycleaning facility who has applied  
94 for reimbursement from the remedial account or who has submitted a claim under  
95 the insurance account with respect to a release [415 ILCS 135/5].  
96
- 97 "Council" means the Drycleaner Environmental Response Trust Fund Council,  
98 whose authorities under the DERT Fund Act transferred to the Agency and the  
99 Board on July 1, 2020.  
100
- 101 "DERT Fund Act" means the Drycleaner Environmental Response Trust Fund  
102 Act [415 ILCS 135/5].  
103
- 104 "Drycleaner Environmental Response Trust Fund" or "Fund" means the fund  
105 created under Section 10 of the DERT Fund Act [415 ILCS 135/5].  
106
- 107 "Drycleaning facility" means a facility located in this State that is or has been  
108 engaged in drycleaning operations for the general public, other than:  
109
- 110 ~~(1)~~ a facility located on a United States military base;
  - 111
  - 112 ~~(2)~~ an industrial laundry, commercial laundry, or linen supply facility;
  - 113
  - 114 ~~(3)~~ a prison or other penal institution that engages in drycleaning only as  
115 part of a Correctional Industries program to provide drycleaning to  
116 persons who are incarcerated in a prison or penal institution or to  
117 resident patients of a State-operated mental health facility;
  - 118
  - 119 ~~(4)~~ a not-for-profit hospital or other health care facility; or
  - 120
  - 121 ~~(5)~~ a facility located or formerly located on federal or State property [415  
122 ILCS 135/5].  
123

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124 "Drycleaning machine with a solvent reclaimer" means a drycleaning machine  
125 that uses (i) a petroleum-based or hydrocarbon-based solvent and (ii) a drying  
126 system in which the drycleaning solvent vapors from the drying process are  
127 captured and not emitted into the atmosphere. [415 ILCS 1500/20]  
128

129 "Drycleaning machine without a solvent reclaimer" means a drycleaning machine  
130 that uses (i) a petroleum-based or hydrocarbon-based solvent and (ii) a transfer  
131 process in which the garments are cleaned in one machine and then transferred to  
132 a dryer that does not recapture the drycleaning solvent remaining in the garments.  
133 The dryer emits the solvent vapors directly into the atmosphere. [415 ILCS  
134 1500/20]  
135

136 "Drycleaning operations" *means drycleaning of apparel and household fabrics for*  
137 *the general public, as described in Standard Industrial Classification Industry*  
138 *No. 7215 and No. 7216 in the Standard Industrial Classification Manual (SIC) by*  
139 *the Technical Committee on Industrial Classification [415 ILCS 135/5].*  
140

141 "Drycleaning solvent" *means any and all nonaqueous solvents, including but not*  
142 *limited to a chlorine-based or petroleum-based formulation or product, including*  
143 *green solvents, that are used as a primary cleaning agent in drycleaning*  
144 *operations. [415 ILCS 135/5]*  
145

146 "Emergency" or "emergency action" *means a situation or an immediate response*  
147 *to a situation to protect public health or safety. 'Emergency' or 'emergency*  
148 *action' does not mean removal of contaminated soils, recovery of free product, or*  
149 *financial hardship. An 'emergency' or 'emergency action' would normally be*  
150 *expected to be directly related to a sudden event or discovery and would last until*  
151 *the threat to public health or safety is mitigated [415 ILCS 135/5].*  
152

153 "EPAAct" means the Illinois Environmental Protection Act [415 ILCS 5/1 *et. seq.*].  
154

155 "Green solvent" means a drycleaning solvent evaluated and classified by the  
156 Council or Board as biodegradable and that, if released into the environment,  
157 would not require remedial action under State or federal law or regulations.  
158

159 "Hydrocarbon-based solvent" has the same meaning as the term "petroleum-based  
160 solvent."  
161

162 "Inactive drycleaning facility" *means a drycleaning facility that is not being used*  
163 *for drycleaning operations and is not registered under the DERT Fund Act or*  
164 *licensed under Subpart B of this Part [415 ILCS 1500/20].*

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"Licensed Professional Engineer" (LPE) means a person, corporation or partnership licensed under the laws of the State of Illinois to practice professional engineering [415 ILCS 5/57.2].

"Licensed Professional Geologist" (LPG) means a person licensed under the laws of the State of Illinois to practice as a professional geologist [415 ILCS 5/57.2].

"No Further Remediation Letter" means a letter provided by the Agency pursuant to Section 58.10 of Title XVII of the EPA Act [415 ILCS 135/5].

"Operator" means a person or entity holding a business license to operate a licensed drycleaning facility or the business operation of which the drycleaning facility is a part [415 ILCS 135/5].

"Owner" means (1) a person who owns or has possession or control of a drycleaning facility at the time a release is discovered, regardless of whether the facility remains in operation or (2) a parent corporation of the person under item (1) of this definition [415 ILCS 135/5].

"Parent corporation" means a business entity or other business arrangement that has elements of common ownership or control or that uses a long-term contractual arrangement with a person to avoid direct responsibility for conditions at a drycleaning facility [415 ILCS 135/5].

"Person" means an individual, trust, firm, joint stock company, corporation, consortium, joint venture, or other commercial entity [415 ILCS 135/5].

"Petroleum-based solvent" means a drycleaning solvent containing a hydrocarbon mixture.

"Program year" means the period beginning on July 1 and ending on the following June 30 [415 ILCS 135/5].

"Release" means any spilling, leaking, emitting, discharging, escaping, leaching, or dispersing of drycleaning solvents from a drycleaning facility to groundwater, surface water, or subsurface soils [415 ILCS 135/5].

"Remedial action" means activities taken to comply with Sections 58.6 and 58.7 of the Environmental Protection Act and rules adopted by the Board under those Sections [415 ILCS 135/5].

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207 "Service provider" means a consultant, testing laboratory, monitoring well  
208 installer, soil boring contractor, other contractor, lender, or any other person  
209 who provides a product or service for which a claim for reimbursement has been  
210 or will be filed against the Fund, or a subcontractor of such a person [415 ILCS  
211 135/5].  
212

213 "Site Remediation Program" or "SRP" means Title XVII of the EPA Act and rules  
214 adopted thereunder.  
215

216 **Section 1501.150 Limited Liability**  
217

218 a) *The State, the General Revenue Fund, and any other fund of the State, other than*  
219 *the Drycleaner Environmental Response Trust Fund, shall not be liable for a*  
220 *claim or cause of action in connection with a drycleaning facility not owned or*  
221 *operated by the State or an agency of the State. All expenses incurred by the*  
222 *Fund shall be payable solely from the Fund and no liability or obligation shall be*  
223 *imposed upon the State. The State is not liable for a claim presented against the*  
224 *Fund [415 ILCS 135/10].*  
225

226 b) *The liability of the Fund is limited to the extent of coverage provided by the*  
227 *account under which a claim is submitted, subject to the terms and conditions of*  
228 *that coverage. The liability of the Fund is further limited by the moneys made*  
229 *available to the Fund, and no remedy shall be ordered that would require the*  
230 *Fund to exceed its then current funding limitations to satisfy an award or which*  
231 *would restrict the availability of moneys for higher priority sites [415 ILCS*  
232 *135/10].*  
233

234 c) *An award or reimbursement made from the Fund under the DERT Fund Act shall*  
235 *be the claimant's exclusive method for the recovery of the costs of drycleaning*  
236 *facility remediation [415 ILCS 135/55].*  
237

238 d) *If a person conducts a remedial action activity for a release at a drycleaning*  
239 *facility site, whether or not the person files a claim under the DERT Fund Act or*  
240 *this Part, the claim and remedial action activity conducted are not evidence of*  
241 *liability or an admission of liability for any potential or actual environmental*  
242 *pollution or damage [415 ILCS 135/55].*  
243

244 e) *The Fund, including but not limited to insurance coverage offered under the*  
245 *insurance account, is not subject to the provisions of the Illinois Insurance Code.*  
246 *Notwithstanding any other provision of law, the Fund shall not be considered an*

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247 *insurance company or an insurer under the laws of this State and shall not be a*  
248 *member of nor be entitled to a claim against the Illinois Insurance Guaranty*  
249 *Fund [415 ILCS 135/35].*  
250

251 f) The limitations contained within Section 58.9 of the EPA Act do not apply to this  
252 Part.  
253

254 **Section 1501.160 Recordkeeping and Audits**  
255

256 a) Owners or operators must maintain all information and data used or necessary to  
257 comply with this Part, including information and data used in the preparation of or  
258 to support all applications, licenses, licensing fee payments, solvent invoices,  
259 solvent logs, ownership information, reports, plans, budgets, reimbursement  
260 requests, and insurance claims. All information must be maintained at the  
261 drycleaning facility or at an Illinois location specified in the owner or operator's  
262 license application under Section 1501.210 and in accordance with accepted  
263 business practices and appropriate accounting procedures and practices. The  
264 owner or operator may maintain the information under this subsection in an  
265 electronic format.  
266

267 b) The Agency or its duly authorized representatives must have access to the  
268 information required to be maintained under this Part, during normal business  
269 hours, for the purpose of inspection, audit, and copying. Owners or operators  
270 must provide facilities for such access, inspection and copying.  
271

272 c) Owners or operators must make information maintained under subsection (a)  
273 available to the Agency until the latest of the following:  
274

275 1) The expiration of three (3) years after expiration of the owners' or  
276 operators' final annual license;  
277

278 2) The expiration of three (3) years after expiration of the owners' or  
279 operators' final financial insurance for environmental liability;  
280

281 3) The expiration of three (3) years after the date the owner or operator files  
282 an Agency-issued No Further Remediation Letter under Subpart F of 35  
283 Ill. Adm. Code 740;  
284

285 4) The expiration of three (3) years after the Agency issues approval of the  
286 owners' or operators' final remedial action claim;  
287

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- 288 5) The expiration of three (3) years after the Agency issues approval of the  
289 owners' or operators' final insurance claim;  
290  
291 6) For information relating to an appeal, litigation, or other dispute or legal  
292 claim, the expiration of three (3) years after the date of the final  
293 disposition of any such appeal, litigation, or other dispute or legal claim;  
294 or  
295  
296 7) The expiration of any other applicable record retention period.  
297

298 **Section 1501.170 Agency Authority and Inspections**  
299

- 300 a) *All of the general powers necessary and convenient to implement and administer*  
301 *the DERT Fund Act are, except as otherwise provided in the DERT Fund Act,*  
302 *hereby vested in and may be exercised by the Agency, including, but not limited*  
303 *to, the powers described in Section 25 of the DERT Fund Act [415 ILCS 135/12].*  
304  
305 1) *Except as otherwise provided by law, the Agency may inspect any*  
306 *document in the possession of an owner, operator, service provider, or*  
307 *any other person if the document is relevant to a reimbursement claim or*  
308 *insurance claim, or may inspect a drycleaning facility for which a claim*  
309 *for benefits under the DERT Fund Act has been submitted [415 ILCS*  
310 *135/25(a)(7)].*  
311  
312 2) *The Agency may, in accordance with constitutional limitations, enter at*  
313 *all reasonable times upon any private or public property for the purpose*  
314 *of inspecting and investigating to ascertain possible violations of the*  
315 *DERT Fund Act, any rule adopted under the DERT Fund Act including*  
316 *this Part, or any order entered pursuant to the DERT Fund Act [415 ILCS*  
317 *135/25(f)].*  
318  
319 b) Nothing under the DERT Fund Act or this Part limits or impacts the authorities  
320 granted to the Agency under the EPAct or any other authority of the Agency under  
321 law or statute, including inspection, investigation, and enforcement authorities  
322 related to potential violations of the EPAct, rules, or orders under the EPAct.  
323

324 **Section 1501.180 Penalties**  
325

- 326 a) *Except as otherwise provided in Section 69 of the DERT Fund Act, any person*  
327 *who violates any provision of the DERT Fund Act, this Part, or any license or*  
328 *registration or term of condition thereof, or that violates any Council, Board, or*

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329 *court order entered under the DERT Fund Act, shall be liable for a civil penalty*  
330 *as provided in Section 69 of the DERT Fund Act [415 ILCS 135/69(a)].*  
331

332 b) *In addition to all other civil and criminal penalties provided by law, any person*  
333 *who knowingly makes to the Agency or Department of Revenue an oral or written*  
334 *statement that is false, fictitious, or fraudulent and that is materially related to or*  
335 *required by the DERT Fund Act or this Part commits a Class 4 felony, and each*  
336 *such statement or writing shall be considered a separate Class 4 felony. A*  
337 *person who, after being convicted under Section 69.5 of the DERT Fund Act,*  
338 *violates that Section a second or subsequent time commits a Class 3 felony. [415*  
339 *ILCS 135/69.5]*  
340

341 c) *If the Agency becomes aware of a violation of the DERT Fund Act or this Part, it*  
342 *may refer the matter to the Attorney General for recovery of Fund moneys or*  
343 *enforcement as provided within Sections 50, 69, or 69.5 of the DERT Fund Act.*  
344

345 d) *The Agency will follow the provisions of Section 31 of the EPAct ([415 ILCS*  
346 *5/31]) regarding notice, complaint and hearing. The Agency may utilize any other*  
347 *statutory authority of the EPAct to respond to conditions at a drycleaning facility*  
348 *subject to this Part.*  
349

350 e) *The Attorney General may also, at the request of the Agency, or on his or her own*  
351 *motion, institute a civil action for an injunction, prohibitory or mandatory, to*  
352 *restrain violations of the DERT Fund Act, this Part, any license or term of a*  
353 *license, or any Council, Board, or court order entered pursuant to the DERT*  
354 *Fund Act or this Part, or to require other actions as may be necessary to address*  
355 *violations thereof [415 ILCS 135/69].*  
356

357 **Section 1501.190 Review of Final Decisions**  
358

359 *All final Agency decisions made pursuant to this Part shall be subject to review in the manner*  
360 *provided for the review of permit decisions under Section 40 of the Environmental Protection*  
361 *Act [415 ILCS 135/77(a)].*  
362

363 **Section 1501.195 Submissions and Certifications**  
364

365 a) *All submittals to the Agency ~~under this Part~~ must be in the form and in a format*  
366 *prescribed by the Agency.*  
367

368 b) *All submittals must be mailed or delivered electronically if an electronic form and*  
369 *format is prescribed, to an address designated by the Agency. Submittals are*

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370 considered *received by the Agency on the date of receipt* and the Agency's date of  
371 receipt will be conclusive.  
372

373 c) All budgets and requests for reimbursement submitted must contain the following  
374 certification from a Licensed Professional Engineer or Licensed Professional  
375 Geologist.  
376

377 I certify under penalty of law that all activities that are the subject of this  
378 budget or request for reimbursement were conducted under my  
379 supervision or were conducted under the supervision of another Licensed  
380 Professional Engineer or Licensed Professional Geologist and reviewed by  
381 me; that this budget or request for reimbursement and all attachments were  
382 prepared under my supervision; that, to the best of my knowledge and  
383 belief, the work described in the budget or request for reimbursement has  
384 been completed in accordance with the Drycleaner Environmental  
385 Response Trust Fund Act [415 ILCS 135], 35 Ill. Adm. Code 1501, and  
386 generally accepted standards and practices of my profession; and that the  
387 information presented is accurate and complete. I am aware there are  
388 significant penalties for submitting false statements or representations to  
389 the Agency, including fines, imprisonment, or both as provided in Section  
390 69.5 of the Drycleaner Environmental Response Trust Fund Act [415  
391 ILCS 135/69.5].  
392

393 SUBPART B: LICENSES  
394

395 **Section 1501.200 General Licensing Provisions**  
396

397 a) No person may operate a drycleaning facility in this State without a license issued  
398 by the Agency. Until July 1, 2020, the license required under this subsection shall  
399 be issued by the Council. On or after July 1, 2020, the license required under this  
400 subsection shall be issued by the Agency.  
401

402 b) License renewal applications should be submitted to the Agency at least thirty  
403 (30) calendar days before expiration. The owner or operator of a drycleaning  
404 facility that is obtaining an initial license must submit a license application to the  
405 Agency and obtain a license before the facility begins operations.  
406

407 c) Annual licenses will be issued by the Agency for a calendar year. A license will  
408 expire at the end of the calendar year it was issued unless renewed for the next  
409 calendar year under Section 1501.210.  
410

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- 411 d) The Agency may issue an annual license for an active drycleaning facility only  
412 after processing the completed license application and proof of licensing fee  
413 payment as specified in Section 1501.210.  
414
- 415 e) If the facility is enrolled in the SRP, all SRP fees due have been paid.  
416
- 417 f) Any of the following may result in the Agency issuing a license revocation:  
418
- 419 1) Failure of the owner or operator to maintain continuous environmental  
420 liability coverage under Section 1501.300(c).  
421
- 422 2) The Agency determines that the drycleaning facility is not in compliance  
423 with this Part.  
424
- 425 g) License Revocation-  
426
- 427 1) Before revoking a drycleaner license the Agency must provide written  
428 notice of revocation to the owner or operator. The notice must include the  
429 following:  
430
- 431 A) The reasons for the notice of revocation; and  
432
- 433 B) Citations to statutory or regulatory provisions upon which the  
434 notice of revocation is based.  
435
- 436 2) The owner or operator will have forty-five (45) calendar days from receipt  
437 of the notice of revocation to respond in writing. If, after the response  
438 period expires and review of any response submitted by the owner or  
439 operator, the Agency determines revocation is still warranted the Agency  
440 may revoke the license. The revocation must be provided in writing and  
441 include the following:  
442
- 443 A) The reasons for the license revocation; and  
444
- 445 B) Citations to statutory or regulatory provisions that the license  
446 revocation is based.  
447
- 448 3) The burden of proof is on the owner or operator to demonstrate  
449 compliance with this Part and the DERT Fund Act when responding to the  
450 Agency's notice of revocation.  
451

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452 h) A license revocation is effective on the date of the Agency's letter rendering a  
453 final determination on the matter.  
454

455 **Section 1501.210 Application Procedures**  
456

457 a) All owners or operators seeking or renewing a license must apply on forms and in  
458 a format prescribed by the Agency. Applications must include the following:  
459

460 1) Proof of payment of the appropriate annual license fee to the Illinois  
461 Department of Revenue.  
462

463 2) A certification by the license renewal applicant that:  
464

465 A) *All hazardous waste stored at the drycleaning facility is stored in*  
466 *accordance with all applicable federal and state laws and*  
467 *regulations;*  
468

469 B) *All hazardous waste transported from the drycleaning facility is*  
470 *transported in accordance with all applicable federal and state*  
471 *laws and regulations; and*  
472

473 C) *The applicant has successfully completed all continuing education*  
474 *requirements adopted by the Board [415 ILCS 135/60(b)].*  
475

476 3) If the owner or operator of the drycleaning facility has previously received  
477 or is currently receiving reimbursement from the Fund for the costs of a  
478 remedial action, proof of compliance with Section 1501.300(c).  
479

480 **Section 1501.220 Annual License Fee**  
481

482 a) Annual fees will not be refunded or prorated. The annual license fees are as  
483 follows:  
484

485 1) *\$1,500 for a drycleaning facility that uses:*  
486

487 A) *50 gallons or less of chlorine-based or green drycleaning solvents*  
488 *annually;*  
489

490 B) *250 or less gallons annually of hydrocarbon-based solvents in a*  
491 *drycleaning machine equipped with a solvent reclaimer; or*  
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- C) *500 gallons or less annually of hydrocarbon-based drycleaning solvents in a drycleaning machine without a solvent reclaimer. [415 ILCS 35/60(c)(1)]*
  
  - 2) *\$2,250 for a drycleaning facility that uses:*
    - A) *more than 50 gallons but not more than 100 gallons of chlorine-based or green drycleaning solvents annually;*
  
    - B) *more than 250 gallons but not more than 500 gallons annually of hydrocarbon-based solvents in a drycleaning machine equipped with a solvent reclaimer; or*
  
    - C) *more than 500 gallons but not more than 1,000 gallons annually of hydrocarbon-based drycleaning solvents in a drycleaning machine without a solvent reclaimer. [415 ILCS 35/60(c)(2)]*
  
  - 3) *\$3,000 for a drycleaning facility that uses:*
    - A) *more than 100 gallons but not more than 150 gallons of chlorine-based or green drycleaning solvents annually;*
  
    - B) *more than 500 gallons but not more than 750 gallons annually of hydrocarbon-based solvents in a drycleaning machine equipped with a solvent reclaimer; or*
  
    - C) *more than 1,000 gallons but not more than 1,500 gallons annually of hydrocarbon-based drycleaning solvents in a drycleaning machine without a solvent reclaimer. [415 ILCS 35/60(c)(3)]*
  
  - 4) *\$3,750 for a drycleaning facility that uses:*
    - A) *more than 150 gallons but not more than 200 gallons of chlorine-based or green drycleaning solvents annually;*
  
    - B) *more than 750 gallons but not more than 1,000 gallons annually of hydrocarbon-based solvents in a drycleaning machine equipped with a solvent reclaimer; or*

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- 532 C) *more than 1,500 gallons but not more than 2,000 gallons annually*  
533 *of hydrocarbon-based drycleaning solvents in a drycleaning*  
534 *machine without a solvent reclaimer. [415 ILCS 35/60(c)(4)]*  
535
- 536 5) *\$4,500 for a drycleaning facility that uses:*  
537
- 538 A) *more than 200 gallons but not more than 250 gallons of*  
539 *chlorine-based or green drycleaning solvents annually;*  
540
- 541 B) *more than 1,000 gallons but not more than 1,250 gallons annually*  
542 *of hydrocarbon-based solvents in a drycleaning machine equipped*  
543 *with a solvent reclaimer; or*  
544
- 545 C) *more than 2,000 gallons but not more than 2,500 gallons annually*  
546 *of hydrocarbon-based drycleaning solvents in a drycleaning*  
547 *machine without a solvent reclaimer. [415 ILCS 35/60(c)(5)]*  
548
- 549 6) *\$5,000 for a drycleaning facility that uses:*  
550
- 551 A) *more than 250 gallons of chlorine-based or green drycleaning*  
552 *solvents annually;*  
553
- 554 B) *more than 1,250 gallons annually of hydrocarbon-based solvents in*  
555 *a drycleaning machine equipped with a solvent reclaimer; or*  
556
- 557 C) *more than 2,500 gallons annually of hydrocarbon-based*  
558 *drycleaning solvents in a drycleaning machine without a solvent*  
559 *reclaimer. [415 ILCS 35/60(c)(6-17)]*  
560
- 561 b) For this Section, an owner or operator must determine the quantity of drycleaning  
562 solvents per calendar year as follows:  
563
- 564 1) For initial license calendar years, the owner or operator must estimate the  
565 quantity of drycleaning solvents that will be used at the facility during the  
566 initial year. A fee assessed under subsection (b)(1) is subject to audited  
567 adjustment if actual drycleaning solvent use for the initial license calendar  
568 year is greater than estimated.  
569
- 570 2) In the case of renewal, the owner or operator must determine the quantity  
571 of drycleaning solvents used at the drycleaning facility annually based  
572 upon the quantity used at the facility during the preceding calendar year.

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- 3) In the case of an owner or operator who uses both chlorine-based and hydrocarbon-based drycleaning solvents at the drycleaning facility, the quantity of drycleaning solvents used at the drycleaning facility annually must be determined as follows:
    - A) using a multiplier of ten (10) for chlorine-based drycleaning solvents to determine an equivalent value based upon one gallon of chlorine-based drycleaning solvents having an equivalent value of 10 gallons of hydrocarbon-based drycleaning solvents for facilities not using a drycleaning machine equipped with a solvent reclaimer.
    - B) using a multiplier of five (5) for chlorine-based drycleaning solvents to determine an equivalent value based upon one gallon of chlorine-based drycleaning solvents having an equivalent value of 5 gallons of hydrocarbon-based drycleaning solvents for facilities using a drycleaning machine equipped with a solvent reclaimer.
  - 4) In the case of an owner or operator who uses hydrocarbon-based solvents at a drycleaning facility that has both one or more drycleaning machines with a solvent reclaimer and one or more drycleaning machines without a solvent reclaimer, the total usage will be determined by applying the number of drycleaning machines with a solvent reclaimer to the total number of drycleaning machines at the facility to arrive at a percentage of drycleaning machines with a solvent reclaimer. This percentage will be applied to the total gallons of hydrocarbon-based solvent used and multiplied by a factor of two (2) to convert the gallonage to the equivalent of a drycleaning machine without a solvent reclaimer.

603 **Section 1501.230 Drycleaning Green Solvent**

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- a) In determining if a drycleaning solvent is a green solvent, the manufacturer and/or distributor of the solvent must present to the Agency the solvent's material safety data sheet, the material safety data sheet of the detergents used in conjunction with the solvent, and other information the Agency considers necessary to determine if the solvent should be classified as a green solvent.
  - b) Under a request for a solvent to be classified as a green solvent, the Agency will review the information submitted under this Section. If the Agency agrees the solvent should be classified as a green solvent, it will file a proposed rulemaking

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614 recommending to the Board the solvent should be classified as a green solvent. If  
615 the Board determines the solvent should be classified as a green solvent it will  
616 amend this Part to list the solvent as a green solvent. The classification will  
617 become effective on the date the amended rule becomes effective.  
618

619 c) Before July 1, 2020 the following solvents were determined by the Council to be  
620 green solvents. These solvents will remain classified as green solvents unless the  
621 Board changes their classification by an amendment to this rule:

- 622
- 623 1) Carbon Dioxide (CO<sub>2</sub>);
  - 624
  - 625 2) Propylene Glycol Ether DPnB; and
  - 626
  - 627 3) Green Earth.
  - 628

629 SUBPART C: REMEDIAL ACTION CLAIMS  
630

631 **Section 1501.300 General Remedial Action Claims Provisions**  
632

- 633 a) The Fund provides reimbursement to eligible claimants for eligible costs of  
634 remedial action incurred in response to releases of drycleaning solvent at their  
635 drycleaning facilities.  
636
- 637 b) Eligible claimants must enroll in the Agency's Site Remediation Program and  
638 conduct remedial action under approval of the Agency in accordance with Title  
639 XVII of the EPAct and regulations adopted thereunder.  
640
- 641 c) *The owner or operator of an active drycleaning facility that has previously*  
642 *received or is currently receiving reimbursement for the costs of a remedial*  
643 *action shall maintain continuous financial assurance for environmental liability*  
644 *coverage in the amount of at least \$500,000 for that facility until January 1,*  
645 *2030. Failure to comply with this requirement will result in the revocation of the*  
646 *drycleaning facility's existing license and in the inability of the drycleaning*  
647 *facility to obtain or renew a license. [415 ILCS 135/40(j)]*  
648

649 **Section 1501.310 Eligibility**  
650

- 651 a) The following persons are eligible for reimbursement from the Fund for eligible  
652 remedial action costs:  
653



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- 693 B) *There is no discharge of wastewater from drycleaning machines,*  
694 *or of drycleaning solvent from drycleaning operations, to a*  
695 *sanitary sewer or septic tank or to the surface or in groundwater.*  
696
- 697 C) *The drycleaning facility has a containment dike or other*  
698 *containment structure around each machine, item of equipment,*  
699 *drycleaning area, and portable waste container in which any*  
700 *drycleaning solvent is utilized, which is capable of containing*  
701 *leaks, spills, or releases of drycleaning solvent from that machine,*  
702 *item, area, or container. The containment dike or other*  
703 *containment structure shall be capable of at least the following:*  
704
- 705 i) *containing a capacity of one hundred and ten percent*  
706 *(110%) of the drycleaning solvent in the largest tank or*  
707 *vessel within the machine;*  
708
- 709 ii) *containing one hundred percent (100%) of the drycleaning*  
710 *solvent of each item of equipment or drycleaning area; and*  
711
- 712 iii) *containing one hundred percent (100%) of the drycleaning*  
713 *solvent of the largest portable waste container or at least*  
714 *ten percent (10%) of the total volume of the portable waste*  
715 *containers stored within the containment dike or structure,*  
716 *whichever is greater.*  
717
- 718 D) *Those portions of diked floor surfaces on which a drycleaning*  
719 *solvent may leak, spill, or otherwise be released are sealed or*  
720 *otherwise impervious.*  
721
- 722 E) *All drycleaning solvent is delivered to drycleaning facilities by*  
723 *means of closed, direct-coupled delivery systems.*  
724
- 725 7) *An active drycleaning facility has maintained continuous financial*  
726 *[insurance] for environmental liability coverage in the amount of at least*  
727 *\$500,000 at least since the date of award of benefits from the Fund or July*  
728 *1, 2000, whichever is earlier [415 ILCS 135/40].*  
729
- 730 A) *An uninsured drycleaning facility that filed an application for*  
731 *insurance with the Fund by January 1, 2004, obtained insurance*  
732 *through that application, and maintained that insurance coverage*  
733 *continuously shall be considered to have conformed with the*

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734 *requirements of this subsection (c)(7). To conform with this*  
735 *requirement the owner or operator must pay the equivalent of the*  
736 *total premiums due for the period beginning June 30, 2000*  
737 *through the date of application plus a 20% penalty of the total*  
738 *premiums due for that period [415 ILCS 135/40].*

739  
740 B) For remedial claim eligibility, an active drycleaning facility that  
741 obtains financial insurance for environmental liability coverage,  
742 provided by Fund insurance coverage, is considered to have  
743 maintained continuous financial insurance for environmental  
744 liability if the owner or operator maintained continuous insurance  
745 coverage throughout each program year, including payment of all  
746 insurance premiums within each calendar year of coverage.  
747 Continuous financial insurance will be considered maintained for  
748 this subsection (7) even when a gap in insurance coverage occurs  
749 due to late renewal, so long as the insurance coverage is renewed  
750 within the coverage year within which the gap appears and all  
751 premiums due were paid during such coverage year.  
752

**Section 1501.320 Deductible Requirements**

753 The following deductibles must apply before any reimbursement from the Fund for eligible costs  
754 relating to a release may be made:  
755

756 a) Active Drycleaning Facility Deductible  
757

758 1) If, by January 1, 2008, an eligible claimant submitting a claim for an  
759 active drycleaning facility completed site investigation and submitted to  
760 the Council a complete remedial action plan for the site, then the eligible  
761 claimant is responsible for the first \$5,000 of eligible investigation costs  
762 and for the first \$10,000 of eligible remedial action costs incurred in  
763 connection with the release from the drycleaning facility and is only  
764 eligible for reimbursement for costs that exceed those amounts, subject to  
765 any other limitations of the DERT Fund Act [415 ILCS 135/40(e)(1)].  
766

767 2) Any eligible claimant submitting any other claim for an active drycleaning  
768 facility is responsible for the first \$5,000 of eligible investigation costs  
769 and for the first \$15,000 of eligible remedial action costs incurred in  
770 connection with the release from the drycleaning facility, and is only  
771 eligible for reimbursement for costs that exceed those amounts, subject to  
772 any other limitations of the DERT Fund Act [415 ILCS 135/40(e)(1)].  
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- b) Inactive Drycleaning Facility Deductible
  - 1) If, by January 1, 2008, an eligible claimant submitting a claim for an inactive drycleaning facility completed site investigation and submitted to the Council a complete remedial action plan for the site, then the claimant is responsible for the first \$10,000 of eligible investigation costs and for the first \$10,000 of eligible remedial action costs incurred in connection with the release from that drycleaning facility, and is only eligible for reimbursement for costs that exceed those amounts, subject to any other limitations of the DERT Fund Act [415 ILCS 135/40(e)(2)].
  - 2) Any eligible claimant submitting any other claim for an inactive drycleaning facility is responsible for the first \$15,000 of eligible investigation costs and for the first \$15,000 of eligible remedial action costs incurred in connection with the release from the drycleaning facility, and is only eligible for reimbursement for costs that exceed those amounts, subject to any other limitations of the DERT Fund Act [415 ILCS 135/40(e)(2)].

**Section 1501.330 Reimbursement Limitations**

- a) Reimbursement must be limited to costs reviewed and approved within budgets submitted and approved in accordance with this Part.
- b) Reimbursement must be paid only for releases discovered on or after July 1, 1997, and on or before June 30, 2006.
- c) Maximum Reimbursement Amounts
  - 1) For each active drycleaning facility, subsequent to meeting the applicable deductible requirements of Section 1501.320, reimbursement must not exceed three hundred thousand dollars (\$300,000) per drycleaner facility.
  - 2) For each inactive drycleaning facility, subsequent to meeting the applicable deductible requirements of Section 1501.320, reimbursement must not exceed fifty thousand dollars (\$50,000) per drycleaner facility.
- d) Reimbursement must be paid based on the availability of funds in the Fund, and on claimant's compliance with the claim procedures in Section 1501.350, as

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- 815 applicable. Reimbursement will not be paid in advance of remedial action work  
816 and Agency approval of such work.  
817
- 818 e) Reimbursement must not be made for any remedial action costs that have not  
819 been approved in a budget by the Council or the Agency prior to the  
820 commencement of work.  
821
- 822 f) Unless an emergency exists, as defined in Section 1501.130, reimbursement is  
823 contingent upon the claimant following all applicable steps and claim procedures  
824 in this Subpart, associated regulations within Title XVII of the EPA Act and  
825 regulations promulgated thereunder.  
826
- 827 g) Reimbursement must not be provided for ineligible costs. Ineligible costs include  
828 the following:  
829
- 830 1) Preparation of claim submittals.  
831
  - 832 2) Removal of soil that is not contaminated.  
833
  - 834 3) Installation, removal, transport, storage or disposal of drycleaning  
835 systems.  
836
  - 837 4) Cleaning, repairs, and maintenance of drycleaning systems.  
838
  - 839 5) Markups on subcontractor costs.  
840
  - 841 6) Legal fees.  
842
  - 843 7) Third party claims other than remediation of soil or groundwater  
844 contamination.  
845
  - 846 8) Deductibles applicable under Section 1501.320.  
847
  - 848 9) Costs not approved by the Council or the Agency prior to the  
849 commencement of work.  
850
- 851 h) *If a claimant has pollution liability insurance coverage other than coverage  
852 provided by the insurance account under the DERT Fund Act and this Part, that  
853 coverage shall be primary. Reimbursement from the remedial account of the  
854 DERT Fund shall be limited to the deductible amounts under the primary  
855 coverage and the amount that exceeds the policy limits of the primary coverage,*

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856 *subject to the deductible amounts established under the DERT Fund Act and this*  
857 *Part. [415 ILCS 135/(f)(9)]*  
858

859 i) *Costs of corrective action or indemnification incurred by a claimant which have*  
860 *been paid to a claimant under a policy of insurance other than the insurance*  
861 *provided under Subpart D, another written agreement, or a court order are not*  
862 *eligible for reimbursement. A claimant who receives payment under such a*  
863 *policy, written agreement, or court order shall reimburse the State to the extent*  
864 *such payment covers costs for which payment was received from the Fund. Any*  
865 *moneys received by the State under this subsection shall be deposited into the*  
866 *Fund [415 ILCS 135/40].*  
867

**Section 1501.340 Payment Prioritization**

868  
869  
870 a) The Agency will prioritize approved claims for reimbursement from the Fund  
871 whenever it determines there are not sufficient funds to pay all approved  
872 reimbursement claims. In prioritizing approved claims for reimbursement, the  
873 Agency will consider, at a minimum, the following:  
874

- 875 1) the degree to which human health and the environment is impacted by the
- 876 release;
- 877
- 878 2) the reduction of risk to human health and environment derived from
- 879 remedial action compared to the cost of the remedial action;
- 880
- 881 3) the present and planned uses of the impacted property;
- 882
- 883 4) whether the facility is currently licensed, insured, and all fees and
- 884 premiums due under this Part have been paid; and
- 885
- 886 5) whether the claimant failed to provide requested information or
- 887 documentation after being notified under Section 1501. 340(b).
- 888

889 b) If the Agency prioritizes approved claims for reimbursement under subsection (a),  
890 the Agency will post an approved reimbursement claims prioritization list on its  
891 website.  
892

**Section 1501.350 Claim Procedures**

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894  
895 ~~a)~~a) All claims for reimbursement received by the Agency on or after the effective  
896 date of this Part must be reviewed in accordance with this Part. Claims received

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897 before the effective date of this Part must be reviewed in accordance with the  
898 rules in effect at the time of claim submission under 35 Ill. Adm. Code 1500.  
899 Except as provided in Section 77 of the DERT Fund Act, the Agency must not  
900 review or modify a final determination made by the Council or the Council's  
901 contractor before July 1, 2020.  
902

903 b) Budgets  
904

905 1) To obtain approval of reimbursable remedial action costs a claimant must  
906 submit a budget to the Agency for review and approval before beginning  
907 work. The Agency will not accept a budget unless a corresponding SRP  
908 plan has been submitted with the budget in compliance with 35 Ill. Adm.  
909 Code 740.  
910

911 2) The budget must be submitted on forms and in a format prescribed by the  
912 Agency and must include, at a minimum, the following:  
913

914 A) Identification of the claimant and the remediation site, including  
915 the following:  
916

917 i) The full legal name, address and telephone number of the  
918 claimant, and any contact person to whom inquiries and  
919 correspondence should be addressed;  
920

921 ii) The address, site name, tax parcel identification number(s),  
922 and Agency-issued site identification number for the  
923 remediation site and the date of acceptance into the SRP;  
924 and  
925

926 iii) The Federal Employer Identification Number (FEIN) or  
927 Social Security Number (SSN) of the claimant.  
928

929 B) Line item estimates of the eligible remedial action costs the  
930 claimant will seek reimbursement including the following:  
931

932 i) Site investigation activities: drilling costs; physical soil  
933 analysis; monitoring well installation; soil and/or water  
934 disposal costs from drilling activities; and soil gas  
935 sampling.  
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- ii) Sampling and analysis activities: soil analysis costs; groundwater analysis costs; soil gas analysis costs; and groundwater purge water disposal costs.
  - iii) Remedial activities: groundwater remediation costs; soil excavation and soil disposal costs; soil remediation costs; backfill costs; groundwater remediation costs; and installation of building control technologies.
  - iv) SRP plan and report preparation costs.
- 3) The original budget and one copy, both in paper form, must be mailed to the address designated by the Agency on the forms.
- 4) If, following the approval of a budget, the corresponding SRP plan is amended or the budget needs to be amended, the claimant must submit an amended budget for review in accordance with this Part.
- 5) The Agency must review the budget in conjunction with the corresponding SRP plan to determine whether the estimated costs submitted are eligible remedial action costs and whether the costs estimated for the activities are reasonable.
- A) *To be eligible for eventual reimbursement from the Fund, costs must be within the range of usual and customary rates for similar or equivalent goods or services, incurred in performance of remediation work approved by the Agency, and necessary to respond to the release for which the claimant is seeking reimbursement from the Fund [415 ILCS 135/40].*
  - B) The Agency’s budget review must consist of a detailed review of the costs associated with each element necessary to accomplish the response to the identified release under the EPAct and 35 Ill. Adm Code 740. Items to be reviewed must include costs associated with any materials, activities, or services that are included in the SRP plan. The claimant must demonstrate that all costs are within the range of usual and customary rates for similar or equivalent goods or services, incurred in performance of remediation work approved by the Agency, and necessary to respond to the release for which the claimant is seeking reimbursement from the Fund.

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- 6) Upon completion of the review, the Agency must issue a letter to the claimant approving, disapproving, or modifying the remedial action costs submitted in the budget. The following procedures, at a minimum, apply regarding Agency determinations:
    - A) The Agency's budget determination must be provided in writing.
    - B) The Agency may combine the notification of its budget determination with the notification of its final determination on the corresponding SRP plan.
    - C) If costs in a budget are disapproved or approved with modification, the written notification of the Agency's budget determination must contain the following:
      - i) An explanation of the specific type of information or documentation, if any, that the Agency finds the claimant did not provide;
      - ii) The reasons for the disapproval or modification; and
      - iii) Citations to statutory or regulatory provisions upon which the determination is based.
    - D) If the Agency disapproves an SRP plan or approves an SRP plan with conditions, in accordance with 35 Ill. Adm. Code 740, the Agency may return the corresponding budget to the claimant without review. If an amended SRP plan is submitted in response to the Agency's action, the claimant may submit an amended budget for review. A claimant may also submit an amended budget in response to the Agency's approval of an SRP plan with conditions.
    - E) The burden of proof is on the claimant in any review.
  - 7) The Agency must not reimburse a cost from the Fund unless the corresponding work has been approved in an SRP plan in accordance with 35 Ill. Adm. Code Part 740 and the cost has been approved in a budget in accordance with the requirements of this Part.
    - c) Reimbursement Requests

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- 1) After completing the work approved in an SRP plan with a corresponding approved budget, a claimant may submit a reimbursement request to the Agency for the work.
- 2) The reimbursement request must be submitted on forms and in a format prescribed by the Agency and must include, at a minimum, the following information:
- A) Identification of the claimant and the remediation site, including:
    - i) The full legal name, address and telephone number of the claimant and any contact person to whom inquiries and correspondence should be addressed;
    - ii) The address, site name, tax parcel identification number(s), and Agency-issued site identification number for the remediation site and the date of acceptance of the site into the SRP; and
    - iii) The Federal Employer Identification Number (FEIN) or Social Security Number (SSN) of the claimant.
  - B) Line item costs that the claimant incurred for the development and implementation of the SRP plan, including:
    - i) Site investigation activities: drilling costs; physical soil analysis; monitoring well installation; soil and/or water disposal costs from drilling activities; and soil gas sampling.
    - ii) Sampling and analysis activities: soil analysis costs; groundwater analysis costs; soil gas analysis costs; and groundwater purge water disposal costs.
    - iii) Remedial activities: groundwater remediation costs; soil excavation and soil disposal costs; soil remediation costs; backfill costs; groundwater remediation costs; and installation of building control technologies.
    - iv) SRP plan and report preparation costs.

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- C) All invoices, bills, and payment documentation related to the incurred line item costs, above.
  - D) An IRS Form W-9 completed by the claimant.
  - E) A designation of the claimant’s address to which payment, if approved, and notice of final action on the request are to be sent.
- 3) The Agency must review the reimbursement request to determine whether the submitted actual costs fall within the previously approved budget, and otherwise comply with this Part, 35 Ill. Adm. Code 740, the EPAct, and the DERT Fund Act.
- A) *To be eligible for reimbursement from the Fund, costs must be within the range of usual and customary rates for similar or equivalent goods or services, incurred in performance of remediation work approved by the Agency, and necessary to respond to the release for which the claimant is seeking reimbursement from the Fund [415 ILCS 135/40].*
  - B) The Agency's review may include a review of any or all elements and supporting documentation relied upon by the claimant in developing the reimbursement request, including a review of invoices or receipts supporting all claims. The review also may include the review of any plans, budgets, or reports previously submitted for the site to ensure that the request is consistent with work proposed and actually performed in conjunction with the site.
  - C) Costs must be less than or equal to the costs approved in the corresponding budget. The Agency must not reimburse for costs in excess of approved eligible costs.
  - D) Work crossing multiple line items, as well as transferring funds between line items, is prohibited.
- 4) Upon completion of the review, the Agency must issue a letter to the claimant approving, denying, or modifying the remedial action costs submitted in the reimbursement request. The following considerations apply regarding Agency determinations:

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- 1101 A) The Agency's reimbursement request determination must be
- 1102 provided in writing. The Agency's determination will be
- 1103 considered to have been made on the postmarked date that the
- 1104 written determination is mailed.
- 1105
- 1106 B) If a reimbursement request is denied or approved with
- 1107 modification, the written notification must contain the following:
- 1108
- 1109 i) An explanation of the specific type of information or
- 1110 documentation, if any, that the Agency finds the claimant
- 1111 did not provide;
- 1112
- 1113 ii) The reasons for the disapproval or modification of the
- 1114 remedial action costs requested; and
- 1115
- 1116 iii) Citations to statutory or regulatory provisions upon which
- 1117 the determination is based.
- 1118
- 1119 C) The burden of proof is on the claimant in any review.
- 1120
- 1121 5) All reimbursement requests must be submitted to the Agency within one
- 1122 (1) calendar year following the date the Agency issues a No Further
- 1123 Remediation Letter for the release. In no case will the Agency pay
- 1124 reimbursement requests submitted more than one (1) calendar year after
- 1125 the date the Agency issues a No Further Remediation Letter under Subpart
- 1126 F of 35 Ill. Adm. Code 740.
- 1127
- 1128 d) Payment
- 1129
- 1130 1) After issuing a letter approving or approving with conditions a
- 1131 reimbursement request the Agency must forward a voucher to the Illinois
- 1132 Office of the Comptroller for payment.
- 1133
- 1134 2) The Agency must not forward a voucher to the Illinois Office of the
- 1135 Comptroller unless sufficient funds are available to issue reimbursement
- 1136 in the full amount of the voucher.
- 1137
- 1138 3) If the Agency determines that insufficient funds remain to issue full
- 1139 reimbursement, the Agency will prioritize the approved reimbursement
- 1140 according to Section 1501.340 and notify affected claimants in writing.
- 1141

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- 1142 4) When the Agency determines that full funds are available for  
1143 reimbursement, the Agency will prepare vouchers for payment as follows:  
1144  
1145 A) Any deductible, under Section 1501.320, must be subtracted from  
1146 any amount approved for payment by the Agency.  
1147  
1148 B) The Agency will request that the Illinois Office of the Comptroller  
1149 issue payment to the claimant at the address designated in  
1150 accordance with Section 1501.350(c)(2)(E). In no case must the  
1151 Agency authorize the Illinois Office of the Comptroller to issue  
1152 payment to an agent, designee, or entity that has conducted  
1153 remedial action activities for the claimant.  
1154

1155 **Section 1501.360 Administrative Assessments for Eligible Inactive Drycleaning Facilities**  
1156

1157 *Owners and operators of inactive drycleaning facilities that are eligible for reimbursement from*  
1158 *the Fund shall, through calendar year 2029, pay an annual \$3,000 administrative assessment*  
1159 *each calendar year to the Agency for the facility. The annual assessment is due on or before*  
1160 *February 1 of the applicable calendar year. Administrative assessments collected by the Agency*  
1161 *under this Section shall be deposited into the Fund [415 ILCS 135/40]. This section applies to*  
1162 *inactive drycleaning facilities that are eligible for reimbursement, irrespective of whether the*  
1163 *drycleaning facility has filed a claim.*  
1164

1165 SUBPART D: INSURANCE CLAIMS  
1166

1167 **Section 1501.400 General Insurance Provisions**  
1168

- 1169 a) An owner or operator may purchase environmental liability coverage under the  
1170 Fund of up to five hundred thousand dollars (\$500,000) per drycleaning facility,  
1171 subject to the terms and conditions of the DERT Fund Act and this Part.  
1172 Coverage must be limited to approved *remedial action costs associated with soil*  
1173 *and groundwater contamination resulting from a release of drycleaning solvent*  
1174 *at a covered drycleaning facility, including third-party liability for soil and*  
1175 *groundwater contamination. Coverage is not provided for a release that*  
1176 *occurred before the date of coverage [415 ILCS 135/45].*  
1177  
1178 b) Coverage may be provided to either the owner or the operator of a drycleaning  
1179 facility. However, total coverage for an individual facility is limited to five  
1180 hundred thousand dollars (\$500,000). The Agency is not required to resolve  
1181 whether the owner or operator, or both, are responsible for a release under the  
1182 terms of an agreement between the owner and operator.

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- 1183  
1184 c) Covered claimants must enroll in the Agency’s Site Remediation Program and  
1185 conduct remedial action under approval of the Agency in accordance with Title  
1186 XVII of the EPAct and regulations adopted thereunder.  
1187  
1188 d) *The owner or operator of an active drycleaning facility that has previously*  
1189 *received or is currently receiving reimbursement for the costs of a remedial*  
1190 *action, shall maintain continuous financial insurance for environmental liability*  
1191 *coverage in the amount of at least \$500,000 for that facility until January 1,*  
1192 *2030. Failure to comply with this requirement will result in the revocation of the*  
1193 *drycleaning facility's existing license, potential civil penalties, and in the inability*  
1194 *of the drycleaning facility to obtain or renew a license [415 ILCS 135/40]. Failure*  
1195 *to maintain insurance will also result in ineligibility for reimbursement from the*  
1196 *Fund for remedial action claims.*  
1197  
1198 e) The owner or operator of a drycleaning facility that has a release must provide  
1199 notice of any release within twenty-four (24) hours after the release. A notice of  
1200 claim must be submitted in writing to the Agency as soon as is reasonably  
1201 possible after a notice of a release.  
1202

1203 **Section 1501.410 Eligibility**  
1204

- 1205 a) An owner or operator, subject to the terms and conditions of DERT Fund Act and  
1206 this Part, may purchase environmental liability coverage under the Fund provided  
1207 that:  
1208  
1209 1) *a site investigation designed to identify soil or groundwater contamination*  
1210 *resulting from the release of a drycleaning solvent has been completed for*  
1211 *the drycleaning facility to be insured and the site investigation has been*  
1212 *found adequate by the Council before July 1, 2020 or by the Agency on or*  
1213 *after that date;*  
1214  
1215 2) *the drycleaning facility is participating in and meet all drycleaning*  
1216 *compliance program requirements adopted by the Board pursuant to*  
1217 *Section 12 of the DERT Fund Act;*  
1218  
1219 3) *the drycleaning facility to be insured is licensed under Subpart B and all*  
1220 *fees due under that Subpart have been paid;*  
1221  
1222 4) *the owner or operator of the drycleaning facility to be insured provides*  
1223 *proof to the Agency that:*

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- A) *All drycleaning solvent wastes generated at the drycleaning facility are managed in accordance with applicable State waste management laws and rule;*
- B) *There is no discharge of wastewater from drycleaning machines, or of drycleaning solvent from drycleaning operations, to a sanitary sewer or septic tank, to the surface, or in groundwater;*
- C) *The facility has a containment dike or other containment structure around each machine, item of equipment, drycleaning area, and portable waste container in which any drycleaning solvent is utilized, that is capable of containing leaks, spills, or releases of drycleaning solvent from that machine, item, area, or container, including:*
- i) *One hundred and ten percent (110%) of the drycleaning solvent in the largest tank or vessel;*
  - ii) *One hundred percent (100%) of the drycleaning solvent of each item of equipment; and*
  - iii) *One hundred percent (100%) of the drycleaning solvent of the largest portable waste container or at least ten percent (10%) of the total volume of the portable waste containers stored within the containment dike or structure, whichever is greater;*
- D) *Those portions of diked floor surfaces on which a drycleaning solvent may leak, spill, or otherwise be released are sealed or otherwise impervious;*
- E) *All drycleaning solvent is delivered to the facility by means of closed, direct-coupled delivery systems; and*
- 5) *The owner or operator of the drycleaning facility to be insured has paid all insurance premiums for insurance covered provided under the Fund. [415 ILCS 135/45(d)]*

1263 Board Note: As of the enactment of Section 1501.410(a)(2) above, the Board has not adopted  
1264 drycleaning compliance program requirements under Section 12 of the DERT Fund Act.

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- b) Application for Environmental Liability Coverage
    - 1) All eligible owners or operators seeking or renewing insurance coverage from the Fund must apply for annual insurance coverage on forms and in a format prescribed by the Agency.
    - 2) Annual insurance coverage applications and premium payments should be submitted to the Agency at least ninety (90) calendar days before the expiration of the current coverage to allow sufficient time for Agency review and processing.
    - 3) The Agency will process an annual insurance coverage application upon receipt of:
      - A) a properly completed insurance coverage application form, including any required attachments or certification(s); and
      - B) payment of the annual premium or the first semi-annual premium under Section 1501.420.
    - 4) The Agency must not process an annual insurance coverage application unless payment of the annual premium or the first semi-annual premium has been received.
    - 5) A grace period of sixty (60) calendar days will be allowed for payment of the annual premium or the first semi-annual premium. The grace period will begin on the due date for the annual premium or the first semi-annual premium as stated in Section 1501.420(a)(3). Full payment of the annual premium or the first semi-annual premium due is required regardless of the date the premium is paid.
      - A) If the annual premium or the first semi-annual premium is paid within the grace period above, insurance coverage must be issued retroactive to the due date for the annual premium or the first semi-annual premium stated in 1501.420(a)(3).
      - B) If the annual premium or the first semi-annual premium is not paid within the grace period above, insurance coverage must not begin until the date the annual premium or the first semi-annual premium payment is received by the Agency.

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- 6) A grace period of sixty (60) calendar days will be allowed for payment of second semi-annual premiums. The grace period will begin on the due date for the second semi-annual premium as stated in Section 1501.420(a)(3). Full payment of the second semi-annual premium due is required regardless of the date the premium is paid.
  - A) If the second semi-annual premium is paid within the grace period above, insurance coverage for the second six (6) calendar months of coverage will continue retroactive to the due date for the second semi-annual premium specified in 1501.420(a)(3).
  - B) If the second semi-annual premium is not paid within the grace period above, insurance coverage during the second six (6) calendar months of coverage will not begin until the date the second semi-annual premium payment is received by the Agency.
- 7) After processing the insurance coverage application, the Agency will send a letter to the owner or operator acknowledging coverage and providing the dates of coverage.
- 8) The Agency must not authorize payments for costs relating to any release that occurs outside the dates of coverage.

**Section 1501.420 Premium and Deductible Requirements**

a) Premiums

- 1) The annual premium for insurance coverage must be:
  - A) For the year July 1, 2020 through June 30, 2021, and for subsequent years through June 30, 2029, one thousand five hundred dollars (\$1,500) per drycleaning facility per coverage year.
  - B) For July 1, 2029 through January 1, 2030, seven hundred fifty dollars (\$750) per drycleaning facility per coverage year.
- ~~2)~~2) Premiums will not be prorated. If coverage is purchased for any part of a coverage year, the purchaser must pay the full annual premium.

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1346 3) Premiums may be paid annually or semi-annually. Payment of premiums  
1347 on an annual basis are due on the first day of the first month of coverage.  
1348 For premiums paid semiannually, payment of the first semi-annual  
1349 premium is due on the first day of the first six (6) calendar months of  
1350 coverage and payment of the second semi-annual premium is due on the  
1351 first day of the second six (6) calendar months of coverage.  
1352

1353 b) Any insurance coverage provided under this Section will be subject to a ten  
1354 thousand-dollar (\$10,000) deductible on eligible costs.  
1355

1356 **Section 1501.430 Coverage Limitations**  
1357

1358 a) Coverage must be limited to approved remedial action costs associated with soil  
1359 or groundwater contamination resulting from a release of drycleaning solvent at  
1360 an insured drycleaning facility, including owner or operator liability to third  
1361 parties for soil or groundwater contamination.  
1362

1363 b) Coverage must not be provided for a release that occurred outside the dates of  
1364 coverage.  
1365

1366 c) Insurance purchased by an eligible owner or operator and issued by the Agency  
1367 must provide coverage up to five hundred thousand dollars (\$500,000) per insured  
1368 drycleaning facility subject to the limitations, conditions, and procedures of the  
1369 DERT Fund Act and this Part.  
1370

1371 d) Coverage provides reimbursement of eligible costs to claimants following the  
1372 claim procedures as specified in Section 1501.450.  
1373

1374 e) Reimbursement must not be made for any remedial action costs that have not  
1375 been approved by the Agency in a SRP plan and a budget prior to the  
1376 commencement of work.  
1377

1378 f) Unless an emergency exists, as defined in Section 1501.130, reimbursement is  
1379 contingent upon the claimant following all steps and claim procedures in this  
1380 Subpart.  
1381

1382 g) Coverage and reimbursement will be provided only for eligible costs. Ineligible  
1383 costs include:  
1384

1385 1) Preparation of claim submittals.  
1386

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- 1387                    2)     Removal of soil that is not contaminated as within an approved plan.
- 1388
- 1389                    3)     Installation, removal, transport, storage or disposal of drycleaning
- 1390    systems.
- 1391
- 1392                    4)     Cleaning, repairs, and maintenance of drycleaning systems.
- 1393
- 1394                    5)     Markup on subcontractor costs.
- 1395
- 1396                    6)     Legal fees.
- 1397
- 1398                    7)     Third party claims other than remediation of soil or groundwater
- 1399    contamination.
- 1400
- 1401                    8)     Any deductibles applicable under Section 1501.420.
- 1402
- 1403                    9)     Costs not approved by the Council or the Agency before starting the work.
- 1404
- 1405                    h)     If a claimant has pollution liability insurance coverage other than insurance
- 1406    coverage provided by the Fund, that other coverage will be primary. In such
- 1407    instances, insurance coverage from the Fund will be limited to the deductible
- 1408    amounts under the primary coverage and the amount that exceeds the policy limits
- 1409    of the primary coverage, subject to the deductible amounts established under this
- 1410    Subpart.
- 1411

**Section 1501.440 Claim Prioritization**

- 1412
- 1413
- 1414                    a)     The Agency must prioritize insurance coverage payments from the Fund
- 1415    whenever the Agency, in its sole discretion, determines that there are not
- 1416    sufficient funds to pay all vouchers to be forwarded to the Comptroller under
- 1417    Sections 1501.350(d) and 1501.450(d).
- 1418
- 1419                    b)     If the Agency prioritizes insurance coverage payments under subsection (a) ~~of this~~
- 1420    ~~Section~~, the Agency must assign priority for payment based on the date order the
- 1421    payments are approved under Section 1501.450(d). Insurance coverage payments
- 1422    prioritized under this Section must take precedence over approved payments
- 1423    prioritized under Section 1501.340.
- 1424

**Section 1501.450 Claim Procedures**

- 1425
- 1426
- 1427                    ~~a)~~a)     General

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- 1) Claimants seeking reimbursement under insurance coverage must follow all applicable claim procedures in this Section. Except as provided in Section 77 of the DERT Fund Act, the Agency cannot review or modify final decisions made by the Council or its contractors.
  - 2) New Claims
    - A) On and after the effective date of this Part, an owner or operator of an insured drycleaning facility, under Section 1501.410, may submit an insurance coverage claim to the Agency.
    - B) The insurance coverage claim must be on forms prescribed and provided by the Agency and must include, at a minimum, the following:
      - i) Identification of the claimant, including each person’s full legal name, address, and telephone number; and the affected drycleaning facility and other site, if any, including the address and tax parcel identification number(s); and
      - ii) A written summary of the basis of the claim, including a description of the release of drycleaning solvent and any investigation into soil or groundwater contamination possibly resulting from the release.
    - C) The insurance coverage claim in paper form, one original and one copy, must be mailed to the address designated by the Agency on the forms.
    - D) The Agency will review the insurance coverage claim to determine whether it is complete, in compliance with the limitations, conditions, and procedures of this Subpart, and eligible for further claim processing under this Section.
    - E) Upon completion of the review, the Agency will issue a determination of eligibility, or ineligibility, for further claim processing under this Section. The following rules apply regarding an Agency determination of ineligibility:

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- 1468 i) The Agency's determination of ineligibility shall be  
1469 provided in writing.  
1470
- 1471 ii) The written notification must contain, as applicable: an  
1472 explanation of the specific type of information or  
1473 documentation, if any, that the Agency finds the claimant  
1474 did not provide; the reasons for the determination of  
1475 ineligibility; and citations to statutory or regulatory  
1476 provisions upon which the determination is based.  
1477
- 1478 iii) The burden of proof is on the claimant in the proceeding.  
1479
- 1480 F) If the Agency's determination of ineligibility is based on the  
1481 incompleteness of the insurance coverage claim, the claimant may  
1482 correct any deficiencies and resubmit the claim to the Agency.  
1483
- 1484 b) Budgets  
1485
- 1486 1) After receiving a determination of eligibility from the Agency under  
1487 Section 1501.450(a)(2)(E), a claimant may submit a budget along with its  
1488 corresponding SRP plan [35 Ill. Adm. Code 740, Subparts D & E]. The  
1489 Agency will not accept a budget unless a corresponding SRP plan,  
1490 satisfying the requirements of 35 Ill. Adm. Code 740, has also been  
1491 submitted.  
1492
- 1493 2) The budget must be set forth on forms prescribed and provided by the  
1494 Agency and must include the following information:  
1495
- 1496 A) Identification of the claimant, the remediation site, including:  
1497
- 1498 i) The full legal name, address and telephone number of the  
1499 claimant, and any contact persons to whom inquiries and  
1500 correspondence must be addressed;  
1501
- 1502 ii) The address, site name, tax parcel identification number(s),  
1503 and Agency-issued identification number for the  
1504 remediation site and the date of acceptance of the site into  
1505 the Site Remediation Program; and  
1506
- 1507 iii) The Federal Employer Identification Number (FEIN) or  
1508 Social Security Number (SSN) of the claimant.

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- B) Line item estimates of the costs that the claimant anticipates and for which the claimant will seek insurance coverage, including the following:
    - i) Site investigation activities: drilling costs; physical soil analysis; monitoring well installation; soil and/or water disposal costs from drilling activities; and soil gas sampling.
    - ii) Sampling and analysis activities: soil analysis costs; groundwater analysis costs; soil gas analysis costs; and groundwater purge water disposal costs.
    - iii) Remedial activities: groundwater remediation costs; soil excavation and soil disposal costs; soil remediation costs; backfill costs; groundwater remediation costs; and installation of building control technologies.
    - iv) Report preparation costs.
  - 3) The budget in written form, one original and one copy, must be mailed to the address designated by the Agency on the forms.
  - 4) If the SRP plan is amended by the claimant, or as a result of Agency action, the corresponding budget may be revised accordingly and resubmitted if the claimant wishes for any additional costs, resulting from the amendment, to be eligible for insurance coverage.
  - 5) The Agency must review the budget in conjunction with the SRP plan to determine whether the estimated costs submitted are eligible remedial action costs and whether the costs estimated for the activities are reasonable.
- A) *To be eligible for eventual reimbursement from the Fund, costs must be within the range of usual and customary rates for similar or equivalent goods or services, incurred in performance of remediation work approved by the Agency, and necessary to respond to the release for which the claimant is seeking reimbursement from the Fund [415 ILCS 135/45].*

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- 1550 B) The Agency's budget review must consist of a detailed review of  
1551 the costs associated with each element necessary to accomplish the  
1552 goals of the SRP plan as required under the EPAct and 35 Ill.  
1553 Adm. Code 740. Items to be reviewed must include, costs  
1554 associated with any materials, activities, or services that are  
1555 included in the budget. The overall goal of the review must be to  
1556 assure that costs associated with materials, activities, and services  
1557 must be reasonable, must be consistent with the associated SRP  
1558 plan, must be incurred in the performance of remedial action  
1559 activities, must not be used for remedial action activities in excess  
1560 of those necessary to meet the associated SRP plan.  
1561
- 1562 6) Upon completion of the review, the Agency must issue a letter to the  
1563 claimant approving, denying, or approving with modification the  
1564 estimated remedial action costs submitted in the budget. Agency  
1565 determinations will apply the following:  
1566
- 1567 A) The Agency's budget determination must be provided in writing.  
1568
- 1569 B) The Agency may combine the notification of its budget  
1570 determination with the notification of its final determination on the  
1571 corresponding SRP plan.  
1572
- 1573 C) If a budget is denied or approved with modification of estimated  
1574 remedial action costs, the written notification must contain, at a  
1575 minimum, the following information as applicable:  
1576
- 1577 i) An explanation of the specific type of information or  
1578 documentation, if any, that the Agency finds the claimant  
1579 did not provide;  
1580
- 1581 ii) The reasons for the disapproval or modification of  
1582 estimated remedial action costs; and  
1583
- 1584 iii) Citations to statutory or regulatory provisions upon which  
1585 the determination is based.  
1586
- 1587 D) If the Agency denies an SRP plan or approves an SRP plan with  
1588 conditions, in accordance with Part 740, the Agency may return the  
1589 corresponding budget to the claimant without review. If the SRP

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- 1590 plan is amended in response to Agency action, the claimant may  
1591 submit a revised budget for review.  
1592  
1593 E) The burden of proof is on the claimant in any review.  
1594  
1595 7) The Agency-approved budget should form the basis of a claimant's  
1596 subsequent remedial action, as the Agency will not reimburse remedial  
1597 action costs above or beyond the approved budget.  
1598  
1599 c) Coverage for Insurance Coverage claims for reimbursement.  
1600  
1601 1) After completing a phase of remedial action under an approved SRP plan  
1602 and its corresponding approved budget, a claimant may submit a  
1603 reimbursement claim for insurance coverage to the Agency. The Agency  
1604 will not accept a reimbursement claim for insurance coverage request  
1605 unless it is accompanied by an SRP determination that the applicable  
1606 phase of remedial action was completed under 35 Ill Adm. Code 740.  
1607  
1608 2) The reimbursement claim for insurance coverage must be on forms  
1609 prescribed and provided by the Agency and must include, the following:  
1610  
1611 A) The Agency-approved budget.  
1612  
1613 B) The SRP determination that an applicable phase of remedial action  
1614 was completed under 35 Ill. Adm. Code 740.  
1615  
1616 C) Line item costs that the claimant incurred for the development and  
1617 implementation of the SRP plan, including:  
1618  
1619 i) Site investigation activities: drilling costs; physical soil  
1620 analysis; monitoring well installation; soil and/or water  
1621 disposal costs from drilling activities; and soil gas  
1622 sampling.  
1623  
1624 ii) Sampling and analysis activities: soil analysis costs;  
1625 groundwater analysis costs; soil gas analysis costs; and  
1626 groundwater purge water disposal costs.  
1627  
1628 iii) Remedial activities: groundwater remediation costs; soil  
1629 excavation and soil disposal costs; soil remediation costs;

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- 1630 backfill costs; groundwater remediation costs; and  
1631 installation of building control technologies.  
1632  
1633 iv) Report preparation costs.  
1634  
1635 D) All invoices, bills, and payment documentation related to the  
1636 incurred line item costs, above.  
1637  
1638 E) An IRS Form W-9 completed by the claimant.  
1639  
1640 F) A designation of the claimant's address to which payment, if  
1641 approved, and notice of final action on the request are to be sent.  
1642  
1643 3) The reimbursement request in written form, one original and one copy,  
1644 must be mailed to the address designated by the Agency on the forms.  
1645  
1646 4) The Agency must review the reimbursement request to determine whether  
1647 the submitted actual costs fall within the previously approved budget, and  
1648 are otherwise consistent with this Part, 35 Ill. Adm. Code 740, the EPAct,  
1649 and the DERT Fund Act.  
1650  
1651 A) *To be eligible for reimbursement from the Fund, costs must be*  
1652 *within the range of usual and customary rates for similar or*  
1653 *equivalent goods or services, incurred in performance of*  
1654 *remediation work approved by the Agency, and necessary to*  
1655 *respond to the release for which the claimant is seeking*  
1656 *reimbursement from the Fund [415 ILCS 135/45].*  
1657  
1658 B) The Agency's review may include a review of any or all elements  
1659 and supporting documentation relied upon by the claimant in  
1660 developing the reimbursement request, including a review of  
1661 invoices or receipts supporting all claims. The review also may  
1662 include the review of any plans, budgets, or reports previously  
1663 submitted for the site to ensure that the request is consistent with  
1664 work proposed and performed in conjunction with the site.  
1665  
1666 C) Line item costs must be less than or equal to their corresponding  
1667 estimates in the Agency-approved budget. If an actual cost  
1668 exceeds the amount approved in the budget, the claimant will not  
1669 be reimbursed for the difference.  
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~~POLLUTION CONTROL BOARD  
NOTICE OF PROPOSED RULE~~

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- D) Work crossing multiple line items, as well as transferring funds between line items, is prohibited.
  - 5) Upon completion of the review, the Agency must issue a letter to the claimant approving, denying, or modifying the remedial action costs submitted in the reimbursement request. The following criteria apply regarding Agency determinations:
    - A) The Agency's reimbursement request determination must be provided in writing.
    - B) If a reimbursement request is denied or approved with modification of remedial action costs, the written notification must contain the following information:
      - i) An explanation of the specific type of information or documentation, if any, that the Agency finds the claimant did not provide;
      - ii) The reasons for the disapproval or modification of remedial action costs; and
      - iii) Citations to statutory or regulatory provisions sha the determination is based.
    - C) The burden of proof is on the claimant in the proceeding.
  - 6) All reimbursement requests must be submitted within one (1) calendar year after the date the Agency issues a No Further Remediation Letter under Subpart F of 35 Ill. Adm. Code 740.
  - d) Payment
    - 1) After issuing a letter approving payment the Agency must forward a voucher to the Illinois Office of the Comptroller for payment.
    - 2) The Agency must not forward vouchers to the Illinois Office of the Comptroller until full funds are available to issue reimbursement.
    - 3) If the Agency determines that insufficient funds remain to issue full reimbursement, the Agency will prioritize the reimbursement claim for

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1712 insurance coverage claim according to Section 1501.440 and notify the  
1713 affected claimants in writing.  
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1715 4) When the Agency determines that funds are available to issue full  
1716 reimbursement of an insurance coverage claim, the Agency will prepare  
1717 vouchers for payment as follows:  
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1719 A) Any deductible, under Section 1501.420, must be subtracted from  
1720 any amount approved for payment by the Agency.  
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1722 B) The Agency must instruct the Illinois Office of the Comptroller to  
1723 issue payment to the claimant at the address designated in  
1724 accordance with Section 1501.450(c)(2)(G). In no case must the  
1725 Agency authorize the Illinois Office of the State Comptroller to  
1726 issue payment to an agent, designee, or entity that has conducted  
1727 remedial action activities for the claimant.  
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<b>Summary report:</b>	
<b>Litera Compare for Word 11.2.0.54 Document comparison done on 7/8/2022 09:54:37</b>	
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<b>Modified filename:</b> 35-1501-JCAR r01.docx	
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<u>Move To</u>	0
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<u>Table moves to</u>	0
<del>Table moves from</del>	0
Embedded Graphics (Visio, ChemDraw, Images etc.)	0
Embedded Excel	0
Format changes	0
<b>Total Changes:</b>	<b>33</b>