

TITLE 35: ENVIRONMENTAL PROTECTION
SUBTITLE N: DRYCLEANING
CHAPTER I: POLLUTION CONTROL BOARD

PART 1501
DRYCLEANER ENVIRONMENTAL RESPONSE
TRUST FUND PROGRAM

SUBPART A: GENERAL PROVISIONS

Section	
1501.100	Scope and Purpose
1501.110	Applicability
1501.120	Severability
1501.130	Definitions
1501.150	Limited Liability
1501.160	Recordkeeping and Audits
1501.170	Agency Authority and Inspections
1501.180	Penalties
1501.190	Review of Final Decisions
1501.195	Submissions and Certifications

SUBPART B: LICENSES

Section	
1501.200	General Licensing Provisions
1501.210	Application Procedures
1501.220	Annual License Fee
1501.230	Drycleaning Green Solvents

SUBPART C: REMEDIAL ACTION CLAIMS

Section	
1501.300	General Remedial Action Claims Provisions
1501.310	Eligibility
1501.320	Deductible Requirements
1501.330	Reimbursement Limitations
1501.340	Payment Prioritization
1501.350	Claim Procedures
1501.360	Administrative Assessments for Eligible Inactive Drycleaning Facilities

SUBPART D: INSURANCE CLAIMS

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 47 Ill. Reg.1354, effective January 17, 2023.

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]:

"Active drycleaning facility" means a drycleaning facility actively engaged in drycleaning operations and licensed under this Part.

"Agency" means the Illinois Environmental Protection Agency [415 ILCS 135/5].

"Board" means the Illinois Pollution Control Board.

"Chlorine-based solvent" means a drycleaning solvent containing one or more chlorine atoms in its molecular structure.

"Claimant" means an owner or operator of a drycleaning facility who has applied for reimbursement from the remedial account or who has submitted a claim under the insurance account with respect to a release. [415 ILCS 135/5]

"Council" means the Drycleaner Environmental Response Trust Fund Council, whose authorities under the DERT Fund Act transferred to the Agency and the Board on July 1, 2020.

"DERT Fund Act" means the Drycleaner Environmental Response Trust Fund Act. [415 ILCS 135/5]

"Drycleaner Environmental Response Trust Fund" or "Fund" means the fund created under Section 10 of the DERT Fund Act. [415 ILCS 135/5]

"Drycleaning facility" means a facility located in Illinois that is or has been engaged in drycleaning operations for the general public, other than:

a facility located on a United States military base;

an industrial laundry, commercial laundry, or linen supply facility;

a prison or other penal institution that engages in drycleaning only as part of a Correctional Industries program to provide drycleaning to persons who are incarcerated in a prison or penal institution or to resident patients of a State-operated mental health facility;

a not-for-profit hospital or other health care facility; or

a facility located or formerly located on federal or State property. [415 ILCS 135/5]

"Drycleaning machine with a solvent reclaimer" means a drycleaning machine that uses a petroleum-based or hydrocarbon-based solvent and a drying system in which the drycleaning solvent vapors from the drying process are captured and not emitted into the atmosphere.

"Drycleaning machine without a solvent reclaimer" means a drycleaning machine that uses a petroleum-based or hydrocarbon-based solvent and a transfer process in which the garments are cleaned in one machine and then transferred to a dryer that does not recapture the drycleaning solvent remaining in the garments. The dryer emits the solvent vapors directly into the atmosphere.

"Drycleaning operations" means drycleaning of apparel and household fabrics for the general public, as described in Standard Industrial Classification Industry No. 7215 and

No. 7216 in the Standard Industrial Classification Manual (SIC) by the Technical Committee on Industrial Classification. [415 ILCS 135/5]

"Drycleaning solvent" means any and all nonaqueous solvents, including a chlorine-based or petroleum-based formulation or product, including green solvents, that are used as a primary cleaning agent in drycleaning operations. [415 ILCS 135/5]

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

"EPA Act" means the Illinois Environmental Protection Act [415 ILCS 5].

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

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

"Inactive drycleaning facility" means a drycleaning facility that is not being used for drycleaning operations and is not registered under the DERT Fund Act or licensed under Subpart B. [415 ILCS 135/5]

"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 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 a parent corporation of that person. [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 Title XVII of the Environmental Protection Act and rules adopted by the Board to administer that Title. [415 ILCS 135/5]

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

"Site Remediation Program" or "SRP" means Title XVII of the EPAct and rules adopted thereunder.

Section 1501.150 Limited Liability

- a) *The State, the General Revenue Fund, and any other fund of the State, other than the Drycleaner Environmental Response Trust Fund, will not be liable for a claim or cause of action in connection with a drycleaning facility not owned or operated by the State or an agency of the State. All expenses incurred by the Fund will be payable solely from the Fund and no liability or obligation will be imposed upon the State. The State is not liable for a claim presented against the Fund [415 ILCS 135/10(c)].*
- b) *The liability of the Fund is limited to the extent of coverage provided by the account under which a claim is submitted, subject to the terms and conditions of that coverage. The liability of the Fund is further limited by the moneys made available to the Fund, and no remedy may be ordered that would require the Fund to exceed its then current funding limitations to satisfy an award or which*

would restrict the availability of moneys for higher priority sites. [415 ILCS 135/10(d)].

- c) *An award or reimbursement made from the Fund under the DERT Fund Act may be the claimant's exclusive method for the recovery of the costs of drycleaning facility remediation. [415 ILCS 135/55(a)]*
- d) *If a person conducts a remedial action activity for a release at a drycleaning facility site, whether or not the person files a claim under the DERT Fund Act or this Part, the claim and remedial action activity conducted are not evidence of liability or an admission of liability for any potential or actual environmental pollution or damage. [415 ILCS 135/55(b)]*
- e) *The Fund, including insurance coverage offered under the insurance account, is not subject to the provisions of the Illinois Insurance Code. Regardless of any other provision of law, the Fund will not be considered an insurance company or an insurer under the laws of this State and will not be a member of nor be entitled to a claim against the Illinois Insurance Guaranty Fund. [415 ILCS 135/35]*
- f) The limitations contained within Section 58.9 of the EPA Act do not apply to this Part.

Section 1501.160 Recordkeeping and Audits

- a) Owners or operators must maintain all information and data used or necessary to comply with this Part, including information and data used in the preparation of or to support all applications, licenses, licensing fee payments, solvent invoices, solvent logs, ownership information, reports, plans, budgets, reimbursement requests, and insurance claims. All information must be maintained at the drycleaning facility or at an Illinois location specified in the owner or operator's license application under Section 1501.210 and in accordance with accepted business practices and appropriate accounting procedures and practices. The owner or operator may maintain the information under this subsection in an electronic format.
- b) The Agency or its duly authorized representatives must have access to the information required to be maintained under this Part, during normal business hours, for the purpose of inspection, audit, and copying. Owners or operators must provide facilities for such access, inspection and copying.
- c) Owners or operators must make information maintained under subsection (a) available to the Agency until the latest of the following:
 - 1) The expiration of three years after the expiration of the owners' or operators' final annual license;

- 2) The expiration of three years after the expiration of the owners' or operators' final financial insurance for environmental liability;
- 3) The expiration of three years after the date the owner or operator files an Agency-issued No Further Remediation Letter under Subpart F of 35 Ill. Adm. Code 740;
- 4) The expiration of three years after the Agency issues approval of the owners' or operators' final remedial action claim;
- 5) The expiration of three years after the Agency issues approval of the owners' or operators' final insurance claim;
- 6) For information relating to an appeal, litigation, or other dispute or legal claim, the expiration of three years after the date of the final disposition of any such appeal, litigation, or other dispute or legal claim; or
- 7) The expiration of any other applicable record retention period.

Section 1501.170 Agency Authority and Inspections

- a) *All of the general powers necessary and convenient to implement and administer the DERT Fund Act are, except as otherwise provided in the DERT Fund Act, hereby vested in and may be exercised by the Agency, including the powers described in Section 25 of the DERT Fund Act. [415 ILCS 135/12(a)].*
 - 1) *Except as otherwise provided by law, the Agency may inspect any document in the possession of an owner, operator, service provider, or any other person if the document is relevant to a reimbursement claim or insurance claim, or may inspect a drycleaning facility for which a claim for benefits under the DERT Fund Act has been submitted. [415 ILCS 135/25(a)(7)]*
 - 2) *The Agency may, in accordance with constitutional limitations, enter at all reasonable times upon any private or public property for the purpose of inspecting and investigating to ascertain possible violations of the DERT Fund Act, any rule adopted under the DERT Fund Act including this Part, or any order entered pursuant to the DERT Fund Act. [415 ILCS 135/25(f)]*
- b) Nothing under the DERT Fund Act or this Part limits or impacts the authorities granted to the Agency under the EPAct or any other authority of the Agency under law or statute, including inspection, investigation, and enforcement

authorities related to potential violations of the EPAct, rules, or orders under the EPAct.

Section 1501.180 Penalties

- a) *Except as otherwise provided in Section 69 of the DERT Fund Act, any person who violates any provision of the DERT Fund Act, this Part, or any license or registration or term of condition thereof, or that violates any Council, Board, or court order entered under the DERT Fund Act, will be liable for a civil penalty as provided in Section 69(b) of the DERT Fund Act. [415 ILCS 135/69(b)]*
- b) *In addition to all other civil and criminal penalties provided by law, any person who knowingly makes to the Agency or Department of Revenue an oral or written statement that is false, fictitious, or fraudulent and that is materially related to or required by the DERT Fund Act or this Part commits a Class 4 felony, and each such statement or writing will be considered a separate Class 4 felony. A person who, after being convicted under Section 69.5 of the DERT Fund Act, violates that Section a second or subsequent time commits a Class 3 felony. [415 ILCS 135/69.5]*
- c) *If the Agency becomes aware of a violation of the DERT Fund Act or this Part, it may refer the matter to the Attorney General for recovery of Fund moneys or enforcement as provided within Sections 50, 69, or 69.5 of the DERT Fund Act. [415 ILCS 135/25(g)]*
- d) The Agency must follow the provisions of Section 31 of the EPAct [415 ILCS 5/31] regarding notice, complaint and hearing. The Agency may utilize any other statutory authority of the EPAct to respond to conditions at a drycleaning facility subject to this Part.
- e) *The Attorney General may also, at the request of the Agency or the Department of Revenue, or on the Attorney General's own motion, institute a civil action for an injunction, prohibitory or mandatory, to restrain violations of the DERT Fund Act, this Part, any license or term of a license, or any Council, Board, or court order entered pursuant to the DERT Fund Act or this Part, or to require other actions as may be necessary to address violations thereof. [415 ILCS 135/69(e)].*

Section 1501.190 Review of Final Decisions

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

Section 1501.195 Submissions and Certifications

- a) All submittals to the Agency must use the Agency forms available at <https://www2.illinois.gov/epa/topics/forms/land-forms/pages/drycleaner.aspx>.
- b) All submittals must be mailed to Illinois EPA, Attn: Drycleaner Trust Fund Program, Mail Code 24, P.O. Box 19276, 1021 North Grand Avenue East, Springfield, Illinois 62794-9276. Submittals are considered received by the Agency on the date of receipt and the Agency's date of receipt will be conclusive.
- c) All budgets and requests for reimbursement submitted must contain the following certification from a Licensed Professional Engineer or Licensed Professional Geologist.

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

SUBPART B: LICENSES

Section 1501.200 General Licensing Provisions

- a) No person may operate a drycleaning facility in Illinois without a license issued by the Agency. *Until July 1, 2020, the license required under Section 60(a) of the DERT Fund Act will be issued by the Council. On or after July 1, 2020, the license required under this subsection (a) will be issued by the Agency.* [415 ILCS 135/60(a)]
- b) License renewal applications must be submitted to the Agency by December 2 of each year. The owner or operator of a drycleaning facility that is obtaining an initial license must submit a license application to the Agency and obtain a license before the facility begins operations.

- c) Annual licenses must be issued by the Agency for a calendar year. A license will expire at the end of the calendar year in which it was issued unless renewed for the next calendar year under Section 1501.210.
- d) The Agency may issue an annual license for an active drycleaning facility only after processing the completed license application and proof of licensing fee payment as specified in Section 1501.210.
- e) If the facility is enrolled in the SRP, all SRP fees due have been paid.
- f) The Agency must issue a license revocation when either:
 - 1) The owner or operator fails to maintain continuous environmental liability coverage under Section 1501.300(c); or
 - 2) The Agency determines that the drycleaning facility is not in compliance with this Part.
- g) License Revocation
 - 1) Before revoking a drycleaner license, the Agency must provide written notice of revocation to the owner or operator. The notice must include the following:
 - A) The reasons for the notice of revocation; and
 - B) Citations to statutory or regulatory provisions upon which the notice of revocation is based.
 - 2) The owner or operator will have forty-five calendar days from receipt of the notice of revocation to respond in writing. If, after the response period expires and review of any response submitted by the owner or operator, the Agency determines revocation is still warranted, the Agency must revoke the license. The revocation must be provided in writing and include the following:
 - A) The reasons for the license revocation;
 - B) Citations to statutory or regulatory provisions that the license revocation is based; and
 - C) An explanation of why the response, if submitted, was insufficient to prevent the revocation.

- 3) The burden of proof is on the owner or operator to demonstrate compliance with this Part and the DERT Fund Act when responding to the Agency's notice of revocation.
- h) A license revocation is effective on the date of the Agency's letter rendering a final determination on the matter.

Section 1501.210 Application Procedures

- a) All owners or operators seeking or renewing a license must apply on forms and in a format prescribed by the Agency. Applications must include the following:
 - 1) Proof of payment of the appropriate annual license fee to the Illinois Department of Revenue.
 - 2) *A certification by the license renewal applicant that:*
 - A) *All hazardous waste stored at the drycleaning facility is stored in accordance with all applicable federal and state laws and regulations;*
 - B) *All hazardous waste transported from the drycleaning facility is transported in accordance with all applicable federal and state laws and regulations; and*
 - C) *The applicant has successfully completed all continuing education requirements adopted by the Board. [415 ILCS 135/60(b)]*
 - 3) If the owner or operator of the drycleaning facility has previously received or is currently receiving reimbursement from the Fund for the costs of a remedial action, proof of compliance with Section 1501.300(c).

Section 1501.220 Annual License Fee

- a) Annual fees will not be refunded or prorated. *The annual fees for licensure are as follows:*
 - 1) *\$1,500 for a drycleaning facility that uses:*
 - A) *50 gallons or less of chlorine-based or green drycleaning solvents annually;*
 - B) *250 or less gallons annually of hydrocarbon-based drycleaning solvents in a drycleaning machine equipped with a solvent reclaimer; or*

- C) *500 gallons or less annually of hydrocarbon-based drycleaning solvents in a drycleaning machine without a solvent reclaimer. [415 ILCS 135/60(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 135/60(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 135/60(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*
 - C) *more than 1,500 gallons but not more than 2,000 gallons annually of hydrocarbon-based drycleaning solvents in a drycleaning machine without a solvent reclaimer. [415 ILCS 135/60(c)(4)]*
- 5) *\$4,500 for a drycleaning facility that uses:*

- A) *more than 200 gallons but not more than 250 gallons of chlorine-based or green drycleaning solvents annually;*
 - B) *more than 1,000 gallons but not more than 1,250 gallons annually of hydrocarbon-based solvents in a drycleaning machine equipped with a solvent reclaimer; or*
 - C) *more than 2,000 gallons but not more than 2,500 gallons annually of hydrocarbon-based drycleaning solvents in a drycleaning machine without a solvent reclaimer. [415 ILCS 135/60(c)(5)]*
- 6) *\$5,000 for a drycleaning facility that uses:*
- A) more than 250 gallons of chlorine-based or green drycleaning solvents annually;
 - B) more than 1,250 gallons annually of hydrocarbon-based solvents in a drycleaning machine equipped with a solvent reclaimer; or
 - C) more than 2,500 gallons annually of hydrocarbon-based drycleaning solvents in a drycleaning machine without a solvent reclaimer. [415 ILCS 135/60(c)(6) through (17)]
- b) For this Section, an owner or operator must determine the quantity of drycleaning solvents used per calendar year as follows:
- 1) For initial license calendar years, the owner or operator must estimate the quantity of drycleaning solvents that will be used at the facility during the initial year. A fee assessed under this subsection (b)(1) is subject to audited adjustment if actual drycleaning solvent use for the initial license calendar year is greater than estimated.
 - 2) *In the case of a renewal applicant, the owner or operator must determine the quantity of drycleaning solvents actually purchased in the preceding license year. [415 ILCS 135/60(c)]*
 - 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 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 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 must 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 must be applied to the total gallons of hydrocarbon-based solvent used and multiplied by a factor of two to convert the gallonage to the equivalent of a drycleaning machine without a solvent reclaimer.

Section 1501.230 Drycleaning Green Solvent

- a) For a drycleaning solvent to be classified as a green solvent, the manufacturer 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 any other information requested by the Agency that is relevant to determine if the solvent should be classified as a green solvent.
- b) When it receives a request that a solvent be classified as a green solvent, the Agency must review the information submitted under this Section. If the Agency agrees the solvent should be classified as a green solvent, it must file a proposed rulemaking recommending to the Board that the solvent be classified as a green solvent. If the Board determines the solvent, should be classified as a green solvent it will amend this Part to list the solvent as a green solvent. The classification will become effective on the date the amended rule becomes effective.
- c) Before July 1, 2020 the following solvents were determined by the Council to be green solvents. These solvents will remain classified as green solvents unless the Board changes their classification by an amendment to this rule:
 - 1) Carbon Dioxide (CO₂);
 - 2) Propylene Glycol Ether DPnB; and

- 3) Green Earth.

SUBPART C: REMEDIAL ACTION CLAIMS

Section 1501.300 General Remedial Action Claims Provisions

- a) The Fund reimburses eligible claimants for eligible costs of remedial action incurred in response to releases of drycleaning solvent at their drycleaning facilities.
- b) Eligible claimants must enroll in the Agency's Site Remediation Program and conduct remedial action under approval of the Agency in accordance with Title XVII of the EPA Act and 35 Ill. Adm. Code 740.
- c) *The owner or operator of an active drycleaning facility that has previously received or is currently receiving reimbursement for the costs of a remedial action must maintain continuous financial assurance for environmental liability coverage in the amount of at least \$500,000 for that facility until January 1, 2030. Failure to comply with this requirement will result in the revocation of the drycleaning facility's existing license and in the inability of the drycleaning facility to obtain or renew a license. [415 ILCS 135/40(j)]*

Section 1501.310 Eligibility

- a) The following persons are eligible for reimbursement from the Fund for eligible remedial action costs:
 - 1) For a facility that is an active drycleaning facility licensed at the time a remedial claim is submitted, the owner or operator of the drycleaning facility.
 - 2) For a facility that is an inactive drycleaning facility at the time a remedial claim is submitted, an owner or operator of the inactive facility who was also the licensed owner or operator of the facility when it was an active drycleaning facility.
- b) *A completed application for remedial action benefits must have been submitted to the Council on or before June 30, 2005. [415 ILCS 135/40(d)]*
- c) *In addition to the requirements of subsections (a) and (b), an eligible claimant requesting reimbursement of eligible costs from the Fund must meet all of the following requirements:*

- 1) *The release was discovered on or after July 1, 1997 and before July 1, 2006.*
- 2) *The claimant demonstrates that the source of the release is from the claimant's drycleaning facility.*
- 3) *At the time the release was discovered by the claimant, the claimant and the drycleaning facility were in compliance with Agency reporting and technical operating requirements.*
- 4) *The claimant reported the release in a timely manner in accordance with State law.*
- 5) *The drycleaning facility site is enrolled in the Site Remediation Program established under Title XVII of the EPAct.*
- 6) *If the claimant is the owner or operator of an active drycleaning facility, the claimant must ensure the following:*
 - A) *All drycleaning solvent wastes generated at the drycleaning facility are managed in accordance with applicable State waste management laws and rules.*
 - B) *There is no discharge of wastewater from drycleaning machines, or of drycleaning solvent from drycleaning operations, to a sanitary sewer or septic tank or to the surface or in groundwater.*
 - C) *The drycleaning 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, which is capable of containing leaks, spills, or releases of drycleaning solvent from that machine, item, area, or container. The containment dike or other containment structure must be capable of at least the following:*
 - i) *containing a capacity of 110% of the drycleaning solvent in the largest tank or vessel within the machine;*
 - ii) *containing 100% of the drycleaning solvent of each item of equipment or drycleaning area; and*
 - iii) *containing 100% of the drycleaning solvent of the largest portable waste container or at least 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 drycleaning facilities by means of closed, direct-coupled delivery systems. [415 ILCS 135/40(c)]*
- 7) *An active drycleaning facility has maintained continuous financial assurance for environmental liability coverage in the amount of at least \$500,000 at least since the date of award of benefits from the Fund or July 1, 2000, whichever is earlier.*
- A) *An uninsured drycleaning facility that filed an application for insurance with the Fund by January 1, 2004, obtained insurance through that application, and maintained that insurance coverage continuously will be considered to have conformed with the requirements of this subsection (c)(7). To conform with this requirement the owner or operator must pay the equivalent of the total premiums due for the period beginning June 30, 2000 through the date of application plus a 20% penalty of the total premiums due for that period. [415 ILCS 135/40(c)(6)]*
 - B) For remedial claim eligibility, an active drycleaning facility that obtains financial insurance for environmental liability, provided by Fund insurance coverage is considered to have maintained continuous financial insurance for environmental liability if the owner or operator maintained continuous insurance coverage throughout each program year, including payment of all insurance premiums within each calendar year of coverage. Continuous financial insurance will be considered maintained for this subsection (c)(7), even when a gap in insurance coverage occurs due to late renewal, if the insurance coverage is renewed within the coverage year within which the gap appears and all premiums due were paid during such coverage year.

Section 1501.320 Deductible Requirements

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

- a) Active Drycleaning Facility Deductible

- 1) *If, by January 1, 2008, an eligible claimant submitting a claim for an active drycleaning facility completed site investigation and submitted to the Council a complete remedial action plan for the site, then the eligible claimant is responsible for the first \$5,000 of eligible investigation costs and for the first \$10,000 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.*
 - 2) *Any eligible claimant submitting any other claim for an active drycleaning facility is responsible for the first \$5,000 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.*
- 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.*
 - 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)]*

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 \$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 \$50,000 per drycleaner facility. [415 ILCS 135/40(f)(1)]
- d) Reimbursement must be paid based on the availability of funds in the Fund and the claimant's compliance with the claim procedures in Section 1501.350, as applicable. Reimbursement will not be paid in advance of remedial action work and Agency approval of such work.
- e) Reimbursement must not be made for any remedial action costs that have not been approved in a budget by the Council or the Agency prior to the commencement of work.
- f) Unless an emergency exists, as defined in Section 1501.130, reimbursement is contingent upon the claimant following all applicable steps and claim procedures in this Subpart, Title XVII of the EPAct, and 35 Ill. Adm. Code 740.
- g) Reimbursement must not be provided for ineligible costs. Ineligible costs include the following:
- 1) Preparation of claim submittals.
 - 2) Removal of soil that is not contaminated.
 - 3) Installation, removal, transport, storage, or disposal of drycleaning systems.
 - 4) Cleaning, repairs, and maintenance of drycleaning systems.
 - 5) Markups on subcontractor costs.
 - 6) Legal fees.
 - 7) Third party claims, other than remediation of soil or groundwater contamination.
 - 8) Deductibles applicable under Section 1501.320.
 - 9) Costs not approved by the Council or the Agency prior to the commencement of work.

- h) *If a claimant has pollution liability insurance coverage other than coverage provided by the insurance account under the DERT Fund Act and this Part, that coverage must be primary. Reimbursement from the remedial account of the DERT Fund will be limited to the deductible amounts under the primary coverage and the amount that exceeds the policy limits of the primary coverage, subject to the deductible amounts in Section 1501.320. [415 ILCS 135/40(f)(9)]*
- i) *Costs of corrective action or indemnification incurred by a claimant which have been paid to a claimant under a policy of insurance other than the insurance provided under Subpart D, another written agreement, or a court order are not eligible for reimbursement. A claimant who receives payment under such a policy, written agreement, or court order must reimburse the State to the extent such payment covers costs for which payment was received from the Fund. Any moneys received by the State under this subsection (i) must be deposited into the Fund [415 ILCS 135/40(f-5)].*

Section 1501.340 Payment Prioritization

- a) *The Agency must prioritize approved claims for reimbursement from the Fund whenever it determines that there are not sufficient funds to pay all approved reimbursement claims. In prioritizing approved claims for reimbursement, the Agency must consider, at a minimum, the following:*
 - 1) *the degree to which human health and the environment are impacted by the release;*
 - 2) *the reduction of risk to human health and environment derived from remedial action compared to the cost of the remedial action;*
 - 3) *the present and planned uses of the impacted property;*
 - 4) *whether the facility is currently licensed and insured, and has paid all fees and premiums due under this Part; and*
 - 5) *whether the claimant failed to provide requested information or documentation after being notified under Section 1501. 350(b). [415 ILCS 135/25(c)]*
- b) *If the Agency prioritizes approved claims for reimbursement under subsection (a), the Agency must post an approved reimbursement claims prioritization list on its website.*

Section 1501.350 Claim Procedures

- a) All claims for reimbursement received by the Agency on or after January 17, 2023, must be reviewed in accordance with this Part. Claims received before that date must be reviewed in accordance with the rules in effect at the time of claim submission under 35 Ill. Adm. Code 1500. Except as provided in Section 77 of the DERT Fund Act, the Agency must not review or modify a final determination made by the Council or the Council's contractor before July 1, 2020.
- b) Budgets
 - 1) To obtain approval of reimbursable remedial action costs, a claimant must submit a budget to the Agency for review and approval before beginning work. The Agency must not accept a budget unless a corresponding SRP plan has been submitted with the budget in compliance with 35 Ill. Adm. Code 740.
 - 2) The budget must be submitted on forms and in a format prescribed by the Agency and must include, at a minimum, the following:
 - A) Identification of the claimant and the remediation site, including the following:
 - 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 or numbers, and Agency-issued site identification number for the remediation site and the date of acceptance into the SRP; and
 - iii) The Federal Employer Identification Number (FEIN) or Social Security Number (SSN) of the claimant.
 - B) Line-item estimates of the eligible remedial action costs for which the claimant will seek reimbursement, including the following:
 - i) Site investigation activities: drilling costs; physical soil analysis; monitoring well installation; soil and 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.
- 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(f)(8)].*
 - 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 EPA Act 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.
- 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
- 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 or numbers, 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 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.
 - 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:
- A) The Agency's reimbursement request determination must be provided in writing. The Agency's determination will be considered to have been made on the postmarked date that the written determination is mailed.
 - B) If a reimbursement request is denied or approved with modification, the written notification 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 of the remedial action costs requested; and
 - iii) Citations to statutory or regulatory provisions upon which the determination is based.

- C) The burden of proof is on the claimant in any review.
 - 5) All reimbursement requests must be submitted to the Agency within one calendar year following the date the Agency issues a No Further Remediation Letter for the release. The Agency must not pay reimbursement requests submitted more than one 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 or approving with conditions a reimbursement request the Agency must forward a voucher to the Illinois Office of the Comptroller for payment.
 - 2) The Agency must not forward a voucher to the Illinois Office of the Comptroller unless sufficient funds are available to issue reimbursement in the full amount of the voucher.
 - 3) If the Agency determines that insufficient funds remain to issue full reimbursement, the Agency must prioritize the approved reimbursement according to Section 1501.340 and notify affected claimants in writing.
 - 4) When the Agency determines that full funds are available for reimbursement, the Agency must prepare vouchers for payment as follows:
 - A) Any deductible, under Section 1501.320, must be subtracted from any amount approved for payment by the Agency.
 - B) The Agency must request that the Illinois Office of the Comptroller issue payment to the claimant at the address designated in accordance with Section 1501.350(c)(2)(E). The Agency must not authorize the Illinois Office of the Comptroller to issue payment to an agent, designee, or entity that has conducted remedial action activities for the claimant.

Section 1501.360 Administrative Assessments for Eligible Inactive Drycleaning Facilities

Owners and operators of inactive drycleaning facilities that are eligible for reimbursement from the Fund must, through calendar year 2029, pay an annual \$3,000 administrative assessment each calendar year to the Agency for the facility. The annual assessment is due on or before February 1 of the applicable calendar year. Administrative assessments collected by the Agency under this Section must be deposited into the Fund [415 ILCS 135/40(k)]. This Section applies

to inactive drycleaning facilities that are eligible for reimbursement, irrespective of whether the drycleaning facility has filed a claim.

SUBPART D: INSURANCE CLAIMS

Section 1501.400 General Insurance Provisions

- a) *An owner or operator may purchase environmental liability coverage under the Fund of up to \$500,000 per drycleaning facility, subject to the terms and conditions of the DERT Fund Act and this Part. Coverage must be limited to approved remedial action costs associated with soil and groundwater contamination resulting from a release of drycleaning solvent at a covered drycleaning facility, including third-party liability for soil and groundwater contamination. Coverage is not provided for a release that occurred before the date of coverage. [415 ILCS 135/45(c)]*
- b) Coverage may be provided to either the owner or the operator of a drycleaning facility. However, total coverage for an individual facility is limited to \$500,000. *The Agency is not required to resolve whether the owner or operator, or both, are responsible for a release under the terms of an agreement between the owner and operator. [415 ILCS 135/45(a)]*
- c) Covered claimants must enroll in the Agency's Site Remediation Program and conduct remedial action under approval of the Agency in accordance with Title XVII of the EPA Act and regulations adopted thereunder.
- d) *The owner or operator of an active drycleaning facility that has previously received or is currently receiving reimbursement for the costs of a remedial action must maintain continuous financial insurance for environmental liability coverage of at least \$500,000 for that facility until January 1, 2030. Failure to comply with this requirement will result in the revocation of the drycleaning facility's existing license, potential civil penalties under Section 69 of the DERT Fund Act, and in the inability of the drycleaning facility to obtain or renew a license. [415 ILCS 135/40(j)] Failure to maintain insurance will also result in ineligibility for reimbursement from the Fund for remedial action claims.*
- e) The owner or operator of a drycleaning facility that has a release must provide notice of any release within 24 hours after the release. A notice of claim must be submitted in writing to the Agency as soon as reasonably possible after a notice of a release.

Section 1501.410 Eligibility

- a) *An owner or operator, subject to the terms and conditions of the DERT Fund Act and this Part, may purchase environmental liability coverage under the Fund if:*

- 1) *a site investigation designed to identify soil and groundwater contamination resulting from the release of a drycleaning solvent has been completed for the drycleaning facility to be insured and the site investigation has been found adequate by the Council before July 1, 2020 or by the Agency on or after that date;*
- 2) *the drycleaning facility is participating in and meets all drycleaning compliance program requirements adopted by the Board pursuant to Section 12 of the DERT Fund Act;*
- 3) *the drycleaning facility to be insured is licensed under Subpart B and all fees due under that Subpart have been paid;*
- 4) *the owner or operator of the drycleaning facility to be insured provides proof to the Agency that:*
 - 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) *100% of the drycleaning solvent in the largest tank or vessel;*
 - ii) *100% of the drycleaning solvent of each item of drycleaning equipment; and*
 - iii) *100% of the drycleaning solvent of the largest portable waste container or at least 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 at the facility 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;*
 - F) *The drycleaning facility is in compliance with subsection (a)(2); 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)]*

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

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 90 calendar days before the expiration of the current coverage to allow sufficient time for Agency review and processing.
- 3) The Agency must process an annual insurance coverage application upon receipt of:
 - A) a properly completed insurance coverage application form, including any required attachments or certifications; 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) The Agency must allow a grace period of 60 calendar days 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 on which the premium is paid.

- A) If the annual premium or the first semi-annual premium is paid within the grace period, insurance coverage must be issued retroactive to the due date for the annual premium or the first semi-annual premium stated in Section 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 will not begin until the date on which the Agency receives the annual premium or the first semi-annual premium payment.
- 6) The Agency must allow a grace period of 60 calendar days 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 on which the premium is paid.
- A) If the second semi-annual premium is paid within the grace period above, insurance coverage for the second six calendar months of coverage will continue retroactive to the due date for the second semi-annual premium specified in Section 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 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 must 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 will be:*
 - A) *For the year July 1, 2020 through June 30, 2021, and for subsequent years through June 30, 2029, \$1,500 per drycleaning facility per coverage year.*

- B) *For July 1, 2029 through January 1, 2030, \$750 per drycleaning facility per coverage year. [415 ILCS 135/45(e)]*
- 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. [415 ILCS 135/45(f)]*
- 3) Premiums may be paid annually or semi-annually. Payment of premiums on an annual basis are due on the first day of the first month of coverage. For premiums paid semiannually, payment of the first semi-annual premium is due on the first day of the first six calendar months of coverage and payment of the second semi-annual premium is due on the first day of the second six calendar months of coverage.
- b) *Any insurance coverage provided under Subpart D will be subject to a \$10,000 deductible on eligible costs. [415 ILCS 135/45(g)]*

Section 1501.430 Coverage Limitations

- a) *Coverage must be limited to approved remedial action costs associated with soil and groundwater contamination resulting from a release of drycleaning solvent at an insured drycleaning facility, including third-party liability of the owner or operator for soil and groundwater contamination.*
- b) *Coverage will not be provided for a release that occurred outside the dates of coverage. [415 ILCS 135/45(c)]*
- c) Insurance purchased by an eligible owner or operator and issued by the Agency must provide coverage up to \$500,000 per insured drycleaning facility, subject to the limitations, conditions, and procedures of the DERT Fund Act and this Part.
- d) Coverage provides reimbursement of eligible costs to claimants following the claim procedures as specified in Section 1501.450.
- e) Reimbursement must not be made for any remedial action costs that have not been approved by the Agency in a SRP plan and a budget prior to the commencement of work.
- f) Unless an emergency exists, as defined in Section 1501.130, reimbursement is contingent upon the claimant following all applicable procedures in this Subpart.
- g) Coverage and reimbursement will be provided only for eligible costs. Ineligible costs include:

- 1) Preparation of claim submittals.
 - 2) Removal of soil that is not contaminated as within an approved plan.
 - 3) Installation, removal, transport, storage or disposal of drycleaning systems.
 - 4) Cleaning, repairs, and maintenance of drycleaning systems.
 - 5) Markup on subcontractor costs.
 - 6) Legal fees.
 - 7) Third party claims other than remediation of soil or groundwater contamination.
 - 8) Any deductibles applicable under Section 1501.420.
 - 9) Costs not approved by the Council or the Agency before starting the work.
- h) *If a claimant has pollution liability insurance coverage other than insurance coverage provided by the Fund, that other coverage will be primary. In such instances, insurance coverage from the Fund will be limited to the deductible amounts under the primary coverage and the amount that exceeds the policy limits of the primary coverage, subject to the deductible amounts established under this Subpart. [415 ILCS 135/40(f)(9)]*

Section 1501.440 Claim Prioritization

- a) The Agency must prioritize insurance coverage payments from the Fund whenever the Agency determines that there are not sufficient funds to pay all vouchers to be forwarded to the Comptroller under Sections 1501.350(d) and 1501.450(d).
- b) If the Agency prioritizes insurance coverage payments under subsection (a), the Agency must assign priority for payment based on the date order the payments are approved under Section 1501.450(d). Insurance coverage payments prioritized under this Section must take precedence over approved payments prioritized under Section 1501.340.

Section 1501.450 Claim Procedures

- a) General

- 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 or numbers; 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 must 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 must issue a determination of eligibility, or ineligibility, for further claim processing under this Section. The following rules apply regarding an Agency determination of ineligibility:
 - i) The Agency's determination of ineligibility must be provided in writing.
 - ii) The written notification must contain, as applicable: an explanation of the specific type of information or

documentation, if any, that the Agency finds the claimant did not provide; the reasons for the determination of ineligibility; and citations to statutory or regulatory provisions upon which the determination is based.

iii) The burden of proof is on the claimant in the proceeding.

F) If the Agency's determination of ineligibility is based on the incompleteness of the insurance coverage claim, the claimant may correct any deficiencies and resubmit the claim to the Agency.

b) Budgets

1) After receiving a determination of eligibility from the Agency under Section 1501.450(a)(2)(E), a claimant may submit a budget along with its corresponding SRP plan (see 35 Ill. Adm. Code 740, Subparts D and E). The Agency must not accept a budget unless a corresponding SRP plan that satisfies the requirements of 35 Ill. Adm. Code 740 has also been submitted.

2) The budget must be set forth on forms prescribed and provided by the Agency and must include the following information:

A) Identification of the claimant, the remediation site, including:

i) The full legal name, address, and telephone number of the claimant and any contact persons to whom inquiries and correspondence must be addressed;

ii) The address, site name, tax parcel identification number or numbers, and Agency-issued identification number for the remediation site and the date of acceptance of the site into the Site Remediation Program; and

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

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 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 claimant may revise accordingly and submit the corresponding budget 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(f)(8)]*
 - B) The Agency's budget review must consist of a detailed review of the costs associated with each element necessary to accomplish the goals of the SRP plan as required 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 budget. The overall goal of the review must be to assure that costs associated with materials, activities, and services are reasonable, consistent with the associated SRP plan, incurred in the performance of remedial action activities, and not used for remedial action activities in excess of those necessary to meet the associated SRP plan.

- 6) Upon completion of the review, the Agency must issue a letter to the claimant approving, denying, or approving with modification the estimated remedial action costs submitted in the budget. Agency determinations will apply the following:
 - 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 a budget is denied or approved with modification of estimated remedial action costs, the written notification must contain, at a minimum, the following information as applicable:
 - 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 estimated remedial action costs; and
 - iii) Citations to statutory or regulatory provisions upon which the determination is based.
 - D) If the Agency denies an SRP plan or approves an SRP plan with conditions, in accordance with Part 740, the Agency may return the corresponding budget to the claimant without review. If the SRP plan is amended in response to Agency action, the claimant may submit a revised budget for review.
 - E) The burden of proof is on the claimant in any review.
 - 7) The Agency-approved budget should form the basis of a claimant's subsequent remedial action, as the Agency must not reimburse remedial action costs above or beyond the approved budget.
- c) Coverage for Insurance Coverage claims for reimbursement.
- 1) After completing a phase of remedial action under an approved SRP plan and its corresponding approved budget, a claimant may submit a reimbursement claim for insurance coverage to the Agency. The Agency must not accept a reimbursement claim for insurance coverage request unless it is accompanied by an SRP determination that the applicable phase of remedial action was completed under 35 Ill Adm. Code 740.

- 2) The reimbursement claim for insurance coverage must be on forms prescribed and provided by the Agency and must include the following:
 - A) The Agency-approved budget.
 - B) The SRP determination that an applicable phase of remedial action was completed under 35 Ill. Adm. Code 740.
 - C) 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 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.
 - D) All invoices, bills, and payment documentation related to the incurred line-item costs, above.
 - E) An IRS Form W-9 completed by the claimant.
 - F) 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 reimbursement request in written form, one original and one copy, must be mailed to the address designated by the Agency on the forms.
- 4) The Agency must review the reimbursement request to determine whether the submitted actual costs fall within the previously approved budget, and are otherwise consistent 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(f)(8)]*
 - 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 performed in conjunction with the site.
 - C) Line-item costs must be less than or equal to their corresponding estimates in the Agency-approved budget. If an actual cost exceeds the amount approved in the budget, the claimant will not be reimbursed for the difference.
 - 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 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 must prioritize the reimbursement claim for insurance coverage claim according to Section 1501.440 and notify the affected claimants in writing.
 - 4) When the Agency determines that funds are available to issue full reimbursement of an insurance coverage claim, the Agency must prepare vouchers for payment as follows:
 - A) Any deductible, under Section 1501.420, must be subtracted from any amount approved for payment by the Agency.
 - B) The Agency must instruct the Illinois Office of the Comptroller to issue payment to the claimant at the address designated in accordance with Section 1501.450(c)(2)(G). The Agency must not authorize the Illinois Office of the State Comptroller to issue payment to an agent, designee, or entity that has conducted remedial action activities for the claimant.