

**BEFORE THE ILLINOIS POLLUTION CONTROL BOARD**

|                                |   |                     |
|--------------------------------|---|---------------------|
| IN THE MATTER OF:              | ) |                     |
|                                | ) |                     |
| DRYCLEANER ENVIRONMENTAL       | ) |                     |
| RESPONSE TRUST FUND ACT        | ) |                     |
| PROPOSAL TO:                   | ) |                     |
| ADD 35 ILL. ADM. CODE PARTS    | ) | R21-19(A)           |
| 1501.100 TO 1501.450,          | ) | (Rulemaking – Land) |
| REPEAL 35 ILL. ADM. CODE PARTS | ) |                     |
| 1500.10 THROUGH 1500.70, AND   | ) |                     |
| REPEAL 2 ILL. ADM. CODE PARTS  | ) |                     |
| 3100.10 THROUGH 3100.60        | ) |                     |

**NOTICE**

TO: ATTACHED CERTIFICATE OF SERVICE LIST

PLEASE TAKE NOTICE that I have today electronically filed with the Office of the Clerk of the Illinois Pollution Control Board an APPEARANCE and the ILLINOIS ENVIRONMENTAL PROTECTION AGENCY'S STATUS UPDATE IN RESPONSE TO THE BOARD'S MARCH 3, 2022, ORDER in the above numbered rulemaking.

Respectfully submitted,

ILLINOIS ENVIRONMENTAL  
PROTECTION AGENCY

By: /s/ John M. McDonough II  
John M. McDonough II  
Assistant Counsel

DATED: July 1, 2022

1021 North Grand Avenue East  
P.O. Box 19276  
Springfield, Illinois 62794-9276  
217/782-5544

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**APPEARANCE**

The undersigned hereby enters this appearance as an attorney on behalf of the Illinois Environmental Protection Agency.

Respectfully submitted,

ILLINOIS ENVIRONMENTAL  
PROTECTION AGENCY

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3100.10 THROUGH 3100.60 )

**ILLINOIS ENVIRONMENTAL PROTECTION AGENCY’S STATUS UPDATE IN  
RESPONSE TO THE BOARD’S MARCH 3, 2022, ORDER**

NOW COMES the Illinois Environmental Protection Agency (“Illinois EPA” or “Agency”), by and through its attorneys, and in response to the Illinois Pollution Control Board (“Board”) March 3, 2022, Opinion and Order (“Order”), provides a status update.

In its Order, the Board requested that dry cleaning stakeholders identify or develop minimum continuing education (“CE”) and compliance program requirements and that participants in the R21-19 rulemaking file information related to proposed rule language or a status report by July 1, 2022.

Pursuant to the Order, the Illinois EPA, on April 5, 2022, received information from Dong Chul Kim on behalf of the Illinois Korean American Drycleaners Association (“KADA”) via email, and on May 11, 2022, received information from Sung Kang on behalf of the National Drycleaners Institute (“NDI”), also via email. Copies of their submittals to the Agency are attached. (See: Attachment A and Attachment B).

In sum, KADA and NDI both submitted historical background information related to Illinois' drycleaners community and proposed rule language for the Board to consider in re CE and compliance program requirements as requested by the Board. These submittals appear to provide information the Board requested in order for it to adopt rules (1) identifying the minimum number of continuing education credits to be obtained, (2) describing the subjects to be covered, or (3) identifying the type of inspections to occur. (See: Order at 10). Notably, these submittals do not reflect a consensus among Illinois drycleaners on how their industry should be regulated.

KADA raises two items for consideration regarding CE and compliance program requirements. First, KADA proposes to reduce the number of consecutive years for CE exemption requirements from a completion of at least 10 consecutive years to 5 years. (See: Attachment A). Illinois EPA notes that KADA's proposal contradicts the express statutory language of the Drycleaner Environmental Response Trust ("DERT") Fund Act which specifies "at least 10 consecutive years" as the floor and not the ceiling for the number of years that a person has owned or operated a drycleaning facility licensed under the DERT Fund Act.<sup>1</sup> Second, KADA recommends against using an outside third-party if a compliance program is required to "avoid potential unreasonable fees." (See: Attachment A at 2).

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<sup>1</sup> *"The rules adopted by the Board under this subsection (h) may also provide an exemption from continuing education requirements from persons who have, for at least 10 consecutive years on or after January 1, 2009, owned or operated a [drycleaning] facility licensed under this Act."* (See: 415 ILCS 135/12(h)).

In contrast, NDI comments that “compliance programs have brought many beneficial results rather than a burden to drycleaners” and that such a program (to include CE requirements) should be established by administrative rule (See: Attachment B at 1). NDI further suggests that a simple and transparent rule “would bring benefits without negative side effects.” (See: *Id.*). In general, NDI’s proposal conflates the objectives of CE and compliance with the law (e.g., where a compliance inspection counts toward continuing education credits).

Regarding both proposals, Illinois EPA reiterates what was noted in the Board’s Order, specifically that the Agency is not in a position to evaluate the effectiveness of CE and compliance program requirements for the drycleaning industry. As with other programs administered by the Illinois EPA, we support a regulated industry’s collective efforts, and a regulated entity’s individual efforts, to enhance their understanding of applicable state and federal laws and regulations as well as develop and adhere to best management practices. However, imposing CE and compliance programming requirements upon the drycleaning industry similar to those historically implemented by the DERT Fund Council, is not an integral part of a drycleaner program from the Agency’s perspective, and not consistent with other Illinois EPA remediation programs. The Agency ensures compliance with regulations by conducting its own inspections of facilities, not by mandating educational or compliance programs. The use of CE and compliance program requirements are best left for regulated entities to negotiate among themselves and provide the Board with the parameters of such a rulemaking proposal. That is why the legislation transferring administration of the DERT Fund to the Agency left such requirements to Board rules. However, given the opposing viewpoints, and in consideration that not all stakeholders have commented, there does not seem to be an agreed upon approach with sufficient detail for Board to consider at this time.

Illinois EPA will await further direction from the Board as to next steps in this subdocket and respond accordingly.

Respectfully submitted,

ILLINOIS ENVIRONMENTAL  
PROTECTION AGENCY

By: /s/ John M. McDonough II  
John M. McDonough II  
Assistant Counsel

DATED: July 1, 2022

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# **ATTACHMENT A**



일 리 노 이 한 인 세 탁 협 회  
Illinois Korean American Drycleaners Association

4953 N. Damen Ave., Chicago, IL 60625 • www.ilkada.org • kada.illinois@yahoo.com

April 5, 2022

Dear Mr. Jennings:

We sincerely appreciate the opportunity to share our thoughts and insights. We believe it would be very helpful to share some background details to enhance comprehensive understanding and some context for some consideration to establish a feasible proposal. We have included this detailed historical information for your review on a separate letterhead.

In addition, it is significant to go back and review some numbers provided in the last Drycleaner Environmental Response Trust Fund Council minutes dated April 2020. There were 1,883 dry-cleaning licenses issued, and the numbers have steadily declined. As of April of 2020, the total Licenses in Force was 602, and per the IEPA Licensed Drycleaners Updated Roster dated March 15, 2022, the total is 492. With a high degree of confidence, we can safely assume this number will continue to steadily decline, as shown by the trend below.

**ACTIVITY REPORT  
APRIL 2020**

**LICENSE PARTICIPATION**

|                                   |            |
|-----------------------------------|------------|
| Licenses Issued:                  | 1883       |
| Licenses Not Renewed 1998 - 2014: | 957        |
| Licenses Not Renewed 2015:        | 50         |
| Licenses Not Renewed 2016:        | 43         |
| Licenses Not Renewed 2017:        | 61         |
| Licenses Not Renewed 2018:        | 64         |
| Licenses Not Renewed 2019:        | 106        |
| <b>Total Licenses in Force:</b>   | <b>602</b> |

*Snippet from Drycleaner Environmental Response Trust Fund Council minutes on April 2020*

According to the same Council minutes, the total policies issued was 1,143, and that has declined to a total of 333 as noted below. Unfortunately, there is no current data available to confirm if this number also has decreased since April of 2020. Currently due to the effects of the pandemic and the inflation, many facilities have closed their businesses, and many are becoming inactive which means there are no longer any machines on the premises. This in turn alleviates the owner from having to participate in the Compliance Program as no site inspection is necessary. In addition, there is no need for license. We are wondering if some of these inactive facilities were included in the IEPA updated roster number. We are thinking some may have, so the total licensed drycleaners may be much lower than 492 currently.

**INSURANCE PARTICIPATION**

|                                 |            |
|---------------------------------|------------|
| Policies Issued:                | 1143       |
| Policies Lapsed:                | 810        |
| <b>Total Policies in Force:</b> | <b>333</b> |

*Snippet from Drycleaner Environmental Response Trust Fund Council minutes on April 2020*

We, Illinois Korean American Drycleaners Association, has also experienced steady decline in our membership. Based on our membership, the average age of our members is 50 years old, and many have owned the facilities for more than 15 years. As the dry-cleaning facilities and its owners continue to age, the market will only grow smaller and smaller. Many of these older owners are getting ready to retire, and the younger generations have no interest in taking over the family businesses as there is no security in this market, especially for those facilities using the chlorine-based solvent machines. These machines are older generation machines, and there are many other newer, environmentally-safe machines that are less costly to operate. These chlorine-based solvent machines will become obsolete in the near future.

As we consider the future of our businesses and ponder the various effects that this proposal will have on our business operations, we are wondering what kind of compromises could be worked out. We would like to mention couple of items for consideration.

First, in the drycleaning industry, the same CE courses have been offered and the same compliance program inspections have been conducted since 2004 with no changes. The main purpose of the continuing education requirement in many specialized industries is to educate on changing regulations and laws as well as provide information on new technologies available to those working in those industries in order to maintain their competencies. Therefore, we feel there is no need for the Continuing Education and Compliance Program requirements in the drycleaning industry. If possible, we would like to be relieved of these requirements. If this is not possible, we are wondering if owners who have owned and operated a dry-cleaning facility for at least 5 consecutive years instead of 10 consecutive years as noted under a subdocket, could be exempted from the CE requirement or if provisions could be made for a grandfathered-in clause.

Second, if a Compliance Program is going to be required, we would strongly recommend not using an outside third-party program in order to avoid potential unreasonable fees or charges for personal financial gain or benefit for their own business. Consequently, this will prevent unnecessary burdens and financial strains on drycleaner owners who already face many financial challenges amid the current market.

We would like to discuss these points further before your update to the Board on July 1, 2022. We are very grateful again for the opportunity to express our thoughts on paper. Also, we greatly appreciate your time and effort to assemble important and relevant information to compose an appropriate proposal for the common good of all drycleaner owners.

Thank you very much!

Best regards,

Dong Chul Kim, President of KADA  
The Board Members of KADA



일 리 노 이 한 인 세 탁 협 회  
Illinois Korean American Drycleaners Association

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4953 N. Damen Ave., Chicago, IL 60625 • www.ilkada.org • kada.illinois@yahoo.com

## Historical Continuing Education and Compliance Program Requirements

### 1. Continuing Education

The Continuing Education was conducted by Council approved compliance programs. The Trust Fund Act required the drycleaner owner/operator operating the perchloroethylene (chlorine-based) dry-clean machine to successfully complete the Continuing Education.

Effective April 1, 2004, all continuing education courses were submitted to the Council and approved by the Council and/or Administrator prior to them being eligible for continuing education credits. The Council and/or Administrator reviewed at length the requirements that need to be submitted for each course, including a profile on the instructors and copies of Power Point or other materials to be used by the instructor.

The drycleaner owner/operator must have completed 4 Credit CE class annually:

- Two (2) continuing education hour included Best Management Practices as a minimum, 50 minutes of actual seminar/class time.
- Two (2) continuing education hour included another topic as relates with drycleaners business or each completed Council meeting attendance as 1 credit hour.

Effective January 1, 2014, the Council online training was developed by the Illinois EPA in conjunction with the Administrator's staff to meet the requirements of Public Act 097-1057. The training consisted of 45 screens and should take approximately 30-45 minutes to complete. The slides were timed to prevent individuals advancing through the presentation without reviewing the content. At the end of the training, there was a short quiz. The initial course material was taken from a presentation put together by members of the State Coalition for Remediation of Drycleaners (SCRD) of which Illinois is a member. The training course resided on the Council's web site and was available in both English and Korean. The online training course was required to be completed every 4 years.

The main reason to convert to online Best Management Training Course was:

- Less issues with CE attendance verifications and missing CE completion documentations. With the online training course, the registration confirmation was submitted directly to the Council Administrator's office and once completed, the certificates of completion were available to print out for verification by the online course attendees.

## 2. Compliance Program

The Compliance Program were only required for facilities insured by the Trust Fund.

The compliance program was required to inspect each facility participating in their program, a minimum of once every two (2) years (bi-annually) and the Council approved site inspector was required to file the conditions at the drycleaning facility via photographs and documentations.

Inspection requirements for all facilities:

a. Containment devices or diked areas shall exist around all:

- drycleaning machines
- hazardous waste containers
- wastewater containers
- solvent storage tanks or containers
- used filter containers

b. Operator shall maintain a log of all solvent purchases:

- drycleaning machine
- date repair is needed or machine is taken out of operation
- date parts ordered (if needed)
- date machine repaired
- date machine placed back in operation

## 3. Council Approved Compliance Programs

- AASBA Compliance Program (John Lee)
- Environmental Drycleaners Compliance Program (Charles Kwon)
- ESM Drycleaner Compliance & Assistance Program (Richard Kim)
- The Drycleaner Compliance Program (Dry Cleaning and Laundry Institute International, Sue Kratz)
- National Drycleaners Foundation Inc. (NDI/ Sung Kang)
  - *NDI was decertified on July 23, 2015 by Council after failing Council audit*
  - *Missing site inspection documents*
  - *Missing photographs from site inspections*
  - *Lack of management structure and organization*

# **ATTACHMENT B**

**From:** [Jennings, James M.](#)  
**To:** [San Diego, Nick M](#)  
**Subject:** FW: [External] compliance program suggestions  
**Date:** Wednesday, May 11, 2022 10:54:59 AM  
**Attachments:** [rule suggestion compliance program.docx](#)

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FYI

**From:** sung kang <kangsungdo1@gmail.com>  
**Sent:** Wednesday, May 11, 2022 9:00 AM  
**To:** Rominger, Kyle <Kyle.Rominger@Illinois.gov>; Jennings, James M. <James.M.Jennings@illinois.gov>; Slayton, Victoria <Victoria.Slayton@Illinois.gov>  
**Subject:** [External] compliance program suggestions

Dear IEPA,

Like many industries, the last two years have changed the landscape of the drycleaning industry due to COVID-19. A substantial number of drycleaning facilities have closed, and the rest of them are still struggling. Considering this situation, any rule making suggestion shouldn't be imposing unnecessary burden on drycleaners. From my experience as a former Council member of the Fund, a compliance program director, an industry association president, compliance programs have brought many beneficial results rather than a burden to drycleaners. From a long term perspective, it is still true even considering all the difficult present conditions. Since the compliance program started, a very small number of pollution incidents over decades proves the beneficial impact of the compliance program. However, there are some industry veterans who were critical of the compliance program due to the unnecessary changes of compliance program policies in the Fund causing confusion and mistakes to drycleaners. Therefore, if we could make the rules for compliance programs simpler and transparent, it would bring benefits without negative side effects.

As a former Council member, I made some policy change suggestions to the Fund, so I spent some time coming up with a simpler and concise version of rule suggestions. I included the suggestion here and I would appreciate hearing your opinions.

Thank you.

State of Illinois - CONFIDENTIALITY NOTICE: The information contained in this communication is confidential, may be attorney-client privileged or attorney work product, may constitute inside information or internal deliberative staff communication, and is intended only for the use of the addressee. Unauthorized use, disclosure or copying of this communication or any part thereof is strictly prohibited and may be unlawful. If you have received this communication in error, please notify the sender immediately by return e-mail and destroy this communication and all copies thereof, including all attachments. Receipt by an unintended recipient does not waive attorney-client privilege, attorney work product privilege, or any other exemption from disclosure.

## **SUGGESTION FOR RULES OF COMPLIANCE PROGRAM**

This suggestion is a modified version of based on The Illinois Drycleaner Environmental Response Trust Fund's List of criteria for a compliance program.

### **1. Compliance with State and Federal Regulations**

The compliance program should address the issues regarding drycleaning facility compliance with state and federal regulations including, but not limited to the operation and maintenance of Perc-based or Petroleum-Based or drycleaning machine(s), Wet-Cleaning system, Pollution Prevention Measures (P2), Hazardous Waste Maintenance, and record keeping log.

### **2. Continuing Education Unit (CEU)**

The compliance program must provide drycleaner owner/operators with continuing educational programs, seminars, classes focused on continued compliance with federal and state regulations. Minimum continuing education requirement is 1-credit hours per calendar year.

The compliance program must issue each facility participating in their program a compliance certificate that lists the name and address of the facility and includes an expiration date.

The compliance program must provide the board and IEPA a current listing of their program participants that have fulfilled annual CEU requirement, by November 30th of each year with a grace period of 31days

### **3. Third Party Compliance Inspection as A Substitute for CEU**

The compliance program may provide for a third-party compliance inspection of the drycleaning facility upon request of drycleaner. Such compliance inspection shall address the compliance requirements of Sections 1 above. The site inspection shall qualify for annual CEU requirement. The compliance program must issue each facility participating in third party compliance inspection a compliance certificate that lists the name and address of the facility and includes an expiration date.

### **4. Requirement for Compliance Program Administration**

The compliance program must be able to demonstrate that directors, site inspectors and seminars/classes presenters shall have minimum of 5 years working experience of drycleaning industry with any related industries.

The compliance program must keep all original site inspection forms, continuing education documentation, program application, general correspondence, etc.

All original copy of document must be kept for three calendar year.

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**CERTIFICATE OF SERVICE**

I, the undersigned, an attorney, affirm that I have served the attached APPEARANCE and the ILLINOIS ENVIRONMENTAL PROTECTION AGENCY'S STATUS UPDATE IN RESPONSE TO THE BOARD'S MARCH 3, 2022, ORDER, on behalf of the Illinois EPA, upon the following person(s) by e-mailing it to the e-mail address(es) indicated below or, if no e-mail address is provided, by placing a true copy, in an envelope duly addressed and bearing proper first class postage, in the United States mail at Springfield, Illinois on July 1, 2022:

TO:

Illinois Pollution Control Board  
Don Brown, Clerk  
State of Illinois Center  
100 West Randolph, Suite 11-500  
Chicago, Illinois 60601  
don.brown@illinois.gov

Illinois Department of Natural Resources  
Mark Kaminski, Hearing Officer  
State of Illinois Center  
100 West Randolph, Suite 11-500  
Chicago, Illinois 60601  
mark.kaminski@illinois.gov

Office of the Attorney General  
Environmental Bureau North  
69 West Washington Street, Suite 1800  
Chicago, Illinois 60602  
karen.howard@ilag.gov

Illinois Department of Natural Resources  
Office of General Counsel  
One Natural Resources Way  
Springfield, Illinois 62702  
renee.snow@illinois.gov

I affirm that my e-mail address is john.mcdonough@illinois.gov; the number of pages in the e-mail transmission is 16; and the e-mail transmission took place today before 5:00 PM. If you prefer service by mail, please contact me and a copy will be mailed to you.

Respectfully submitted,

ILLINOIS ENVIRONMENTAL  
PROTECTION AGENCY

By: /s/ John M. McDonough II  
John M. McDonough II  
Assistant Counsel

DATED: July 1, 2022

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Springfield, IL 62794-9276  
(217) 782-5544  
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