**Section 1500.50 Drycleaner Facility Insurance Account**

The owner or operator of an active drycleaning facility shall be eligible for up to $500,000 financial assurance per drycleaning facility from the Council, subject to the following limitations:

a) To apply for financial assurance coverage, the owner or operator of an active drycleaning facility must submit a completed application provided by the Council (see Section 1500.70(b)). The Council will not determine who must submit the application. Any insurance policy issued must identify both the owner and the operator and both will be named insureds.

b) Prior to the submission of an insurance application and no later than June 30, 2006 for a drycleaning facility that is active on June 30, 2006, an applicant must have a focused site investigation completed that is designed to identify soil and groundwater contamination resulting from the release of drycleaning solvents at the facility based upon the continued use of the facility as a drycleaning facility, consistent with 35 Ill. Adm. Code 740.430 and 435.

c) *The drycleaning facility is participating in and meets all requirements of a drycleaning compliance program approved by the Council.*  (Section 45(d)(2) of the Act)

d) Applications must include the annual premium for financial assurance coverage as follows:

1) *For the year* July 1, 1999 through June 30, 2000, *$250 per drycleaning facility* (Section 45(e)(1) of the Act);

2) *For the year July 1, 2000 through June 30, 2001, $375 per drycleaning facility* (Section 45(e)(2) of the Act);

3) *For the year July 1, 2001 through June 30, 2002, $500 per drycleaning facility* (Section 45(e)(3) of the Act);

4) *For the year July 1, 2002 through June 30, 2003, $625 per drycleaning facility* (Section 45(e)(4) of the Act);

5) *For subsequent years, the applicant applying for coverage shall pay an annual actuarially sound insurance premium* as determined by the Council. The Council shall take into consideration *risk factor adjustments* to *reflect the range of risk presented by*:

A) the type of *drycleaning system*

B) the type of *monitoring system*

C) *drycleaning volume*

D) *risk management practices*. (Section 45(e)(5) of the Act)

e) *If coverage is purchased for any part of a year, the purchaser shall pay the full annual premium for that year. The insurance premium is fully earned upon issuance of the insurance policy.* (Section 45(f) of the Act) The insurance premium may be paid in semiannual installments for policies issued on or after June 30, 2003.

f) All insurance policies shall include a *$10,000 deductible.* (Section 45(g) of the Act)

g) *Coverage shall be limited to 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 for soil and groundwater contamination,* consistent with the terms of the Council's insurance policy. (Section 45(c) of the Act)

h) Coverage *is not provided for a release that occurred before the date of coverage* (Section 45(c) of the Act). It is the responsibility of the insured to prove the release occurred after the date of coverage.

i) The Council does not have the duty or obligation to defend a claim made against a named insured listed on a Council issued insurance policy.

j) If a Council insured drycleaning facility ceases drycleaning operations during the policy period, coverage shall automatically cancel 60 days after the last day of active drycleaning operations at the facility. No cancellation notice need be issued by the Council to effect this cancellation.

k) Except as noted in subsection (j), an insurance policy issued by the Council may be cancelled by mailing or delivering to the first named insured listed on the declarations page of the insurance policy written notice of cancellation at least:

1) Ten days before the effective date of cancellation if the Council cancels for misrepresentation; or

2) Thirty days before the effective date of cancellation if the Council cancels for non-payment of premiums; or

3) Sixty days before the effective date of cancellation if the Council cancels for any other reason.

l) If the insurance policy issued by the Council is terminated either for failure to meet the underwriting requirements or for non-payment of the premiums, the notice of cancellation *must include instructions on how to seek reinstatement of coverage, as well as any information concerning any premiums or penalties that may be due.* (Section 45(e-6) of the Act) A copy of the Council's appeal procedures will be included as part of the cancellation notification.

m) Insurance coverage issued under this Section shall expire one year after the date of issuance unless cancelled in accordance with subsection (j) or (k) and may be renewed on reapplication to the Council and submission of the appropriate premium in accordance with subsection (d). At least 30 days before the insurance policy is to expire, the Council will mail a renewal application and premium billing notice to the address of the first named insured on the policy. Failure to complete the renewal application and pay the appropriate premium shall result in expiration of the insurance policy.

n) An insurance policy issued by the Council for a specific drycleaning facility location can be transferred to a successor drycleaning facility operator or owner upon execution of a policy transfer form prescribed by the Council and signed by the policy holder and transferee. The insurance policy cannot be transferred unless the drycleaning facility license is also transferred.

o) Settlement of a Claim

1) A notice of a release of drycleaning solvent must be made to the Council within 24 hours after the release. A notice of claim must be submitted in writing to the Council as soon as is reasonably possible after a notice of a release of drycleaning solvent has been reported to the Council.

2) To be eligible for reimbursement, a claimant must demonstrate that drycleaning solvent contaminated soil, groundwater or both exceeds Agency tiered approach to corrective action objectives.

3) For purposes of claimant reimbursement, eligible expenses are limited to the following:

A) Only costs that are pre-approved by the Council are eligible for reimbursement unless an emergency exists. In the case of an emergency, the Council may reimburse reasonable expenses for remediation services required to mitigate the emergency conditions.

B) To be pre-approved for reimbursement, remedial action activities must be required under the site remediation program. Only services required to obtain a No Further Remediation letter for the drycleaning solvent of concern, based upon continued land use as a drycleaning facility, are reimbursable.

4) If, for any reason, the Council determines that an excess payment has been paid from the Fund, the Council may take steps to collect the excess amount.

5) Upon receipt of a signed, written request from the claimant and verification that the applicable deductibles have been paid by the claimant, the Council will pay directly to the primary service provider the amount of reimbursement due the claimant from the Fund for remedial action activities. The claimant must submit to the Council a copy of cancelled checks supporting that the applicable deductibles have been paid, along with a signed, written statement from the primary service provider verifying the applicable deductibles have been paid. This request will remain in effect until:

A) it is rescinded in writing by the claimant; or

B) the Fund has reimbursed the maximum benefit allowed; or

C) the claim is closed and the Fund has reimbursed the total amount approved for remedial action activities performed at the facility.

6) Upon enrollment in the Agency's site remediation program and receipt of a signed, written request from the claimant, the Fund may pay the Agency directly, on eligible claims, the cost incurred by the Agency in its oversight of the drycleaning facility with respect to which the claimant obtained a No Further Remediation letter. This request will remain in effect until:

A) the Fund has reimbursed the maximum benefit allowed; or

B) the claim is no longer eligible for benefits from the Fund; or

C) the facility has completed the project with the Agency and all related oversight costs have been paid in full to the Agency.

7) Third party claims will be settled in accordance with the terms of the insurance policy.

p) Recordkeeping. Owners and operators of drycleaning facilities must maintain all records required to obtain an insurance policy from the Fund for a minimum of 3 years from each initial issuance and each policy renewal. These records include the application, insurance fees, repair and maintenance logs, compliance program participation certificates, continuing education credits, site inspection reports, ownership information and any other information that may have been needed to issue and renew the insurance coverage. Owners and operators must also maintain records of each repair performed on the drycleaning machine for the remaining operating life of the drycleaning machine. For regulated underground storage tanks at drycleaning facilities, records must be retained as required by 41 Ill. Adm. Code 170, Subpart B (Underground Storage Tanks − Technical Requirements).

(Source: Amended at 39 Ill. Reg. 5775, effective April 8, 2015)