**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.