



Drycleaner Fund: Help for Environmental Cleanup Costs

Planning/#2.01/March 2005

The Minnesota Legislature, working with the drycleaners' trade associations and the Minnesota Pollution Control Agency (MPCA), established the Drycleaner Environmental Response and Reimbursement Account (Drycleaner Fund) in 1995 to help clean up contamination problems faced by members of the drycleaning industry. The law (Minn. Stat. §§ 115B.47- 115B.51), updated during previous sessions, provides a means to pay for the clean up of soil, ground-water or surface-water contamination at drycleaning facilities. Cleanup can be conducted either by the MPCA or by drycleaning facility owners or operators who volunteer to conduct response actions that have been approved by the MPCA.

Why was the drycleaner fund established?

Some drycleaning chemicals (such as perchloroethylene and hydrocarbon-based solvents) were not handled properly in the past, before the risks of improper handling or disposal were known. Past spills, leaks or careless disposal of these chemicals have resulted in soil, ground-water and surface-water contamination at various sites throughout Minnesota. Organizations representing drycleaning facilities wanted funding options for businesses facing the cost of cleaning up problems from the past.

Where does the funding come from and how will it be used?

Annual registration fees paid by drycleaning facilities, as well as solvent fees collected by retailers of particular drycleaning chemicals,

are used to finance the Drycleaner Fund. The fees are submitted to the Minnesota Department of Revenue, which administers the fund. Under the law, the MPCA can use the money in the Fund for two primary purposes:

- emergency removals, environmental investigations and cleanups at drycleaning facilities on the state Superfund list (the Permanent List of Priorities); or
- reimbursement of current or former owners or operators of drycleaning facilities who have entered the MPCA's Voluntary Investigation and Cleanup (VIC) Program and whose sites require cleanup.

Under either approach, the drycleaning facility owner or operator is responsible for \$10,000 of the environmental response costs.

Who is eligible for reimbursement from the Drycleaner Fund?

With only a few exceptions, drycleaning facilities that provided services to the general public may apply for reimbursement. (See the list of facility types not eligible for reimbursement on page 2.)

The Drycleaner Fund is intended to benefit past or present members of the dry-cleaning industry. However, landowners who own the property occupied by a dry-cleaning business are also eligible for reimbursement. An owner or operator of a dry-cleaning facility or a property owner need not be a Minnesota business to use the fund, but the site must be located in the state.





What criteria must be met for owners and/or operators of drycleaning facilities to receive reimbursement for investigation and cleanup expenses?

The criteria include:

- the contamination at the property must have resulted from current or former drycleaning operations;
- if non-drycleaning operations are determined to be contributing sources to the contamination, then only the portion of costs allocated to the drycleaning operation contamination will be reimbursed;
- the cleanup activities must have begun on or after July 1, 1995;
- the cleanup must be conducted by the former or current owner or operator of the drycleaning facility or the owner of the property occupied by the drycleaning facility;
- the owner or operator had to have complied with all state or federal laws and regulations regarding management of drycleaning solvents in effect at the time of the release;
- the investigation and response actions, as well as the costs submitted for reimbursement, must be reviewed and approved by the MPCA;
- the response actions at the site must include clean-up activities. Sites where only investigation activities have been conducted are not eligible for reimbursement. If the site investigation confirms the need for cleanup, the investigation activities would then also be eligible for reimbursement. Sites where cleanup is not necessary, as determined by the MPCA, are not eligible for reimbursement. In assessing the need for a response action, the MPCA will evaluate:
 - the quality of the investigation, relevant VIC guidance documents, current professional practice and reasonable exercise of professional judgment; and
 - the reimbursement application must document all expenditures (totaling at least \$10,000) in reasonable investigation and clean-up costs, as well as any payments received or coverages for all applicable insurance associated with the investigation and cleanup of the site (or assign the MPCA those insurance rights). The applicant is responsible for the first \$10,000 in costs. In evaluating the

reimbursement request, the MPCA will consider MPCA guidance, current professional practice, sound professional judgment, and the range of prices currently in effect for similar activities and services.

Reimbursement applications may be submitted when the MPCA has determined that a response action is necessary and has approved a response-action plan.

If the owner or operator of the drycleaning facility or the property owner declines to conduct the investigation and cleanup of a release at a site, the MPCA will assess the site, prioritize the site, and conduct an investigation and any necessary cleanup. Once the MPCA has incurred costs with respect to the site that are final or exceed \$10,000, the agency will request payment from the owner or operator for the actual amount or up to a maximum of \$10,000. The drycleaning facility owner or operator or the property owner must also assign all applicable insurance coverages to the MPCA Commissioner.

What facilities are not eligible for reimbursement from the Drycleaner Fund?

- Drycleaning facilities located on a United States military base;
 - Uniform services, linen-supply facilities or other drycleaning operations serving businesses or institutions;
 - Coin-operated drycleaning operations;
 - Drycleaning services at prisons or other penal institutions
 - Facilities listed on the National Priorities List (the federal Superfund list), established by the Comprehensive Environmental Response, Compensation and Liability Act of 1980;
 - Facilities at which a response action was completed or started before July 1, 1995, the date the Drycleaner Fund legislation took effect;
- Facilities where an investigation has been performed, but a cleanup is not required as determined by the MPCA; and facilities that operate out of compliance with state and federal laws and regulations regarding management of drycleaning solvents today or operated out of compliance with the laws and regulations in effect at the time of the release.



What costs are ineligible for reimbursement?

Examples of costs that would not be reimbursable include (but are not limited to):

- All costs associated with actions that do not eliminate health or environmental risk or clean up the site.
- Costs related to the repair, replacement or upgrading of facility structures or equipment.
- Loss of income.
- Legal fees.
- Permanent relocation of residents.
- Decreased property values.
- Eligible person's personal time spent on planning and administering cleanup activities.
- Third-party review of proposed investigations and work plans.
- Aesthetic improvements.
- Costs covered or payable under insurance or other contract.
- Clean-up costs incurred prior to July 1, 1995.
- Costs for allocating non-drycleaning contamination clean-up costs.
- Any work not in compliance with safety codes, such as Occupational Health and Safety Administration, well and fire codes.

How can I conduct an investigation and cleanup that will be approvable by the MPCA?

MPCA staff will meet with the owner or operator to discuss what steps need to be taken to investigate and clean up the site or document activities already underway. The owner or operator will submit a VIC Program application and work with program staff. There is a charge for VIC technical assistance and oversight. The VIC Program has various guidance documents that may be helpful to applicants in selecting a consultant, developing a schedule, and completing necessary investigation and cleanup work. These can be found either on the MPCA's Web site at <http://www.pca.state.mn.us/cleanup/vic.html> or by calling (651) 296-7291. After this process leads to an approved clean-up plan, the owner or operator can submit an application for reimbursement of costs.

How long will it take for reimbursement to occur?

It is anticipated to take from 60 to 90 days to review and process reimbursements. Please be aware that because the Drycleaner Fund is based on the volume of fees collected, the amount in the Fund will be limited. Reimbursement will be based on the money available in the Fund at the beginning of the fiscal year. In addition, no single site may receive more than 20 percent of the Fund in a given year. Therefore, some drycleaners may not receive their full reimbursements in the first year following their application for reimbursement; they will be eligible for the remainder of their reimbursement in subsequent years

Who should drycleaners contact to find out more about the program or apply for reimbursement?

The application for reimbursement form and this fact sheet are available on the MPCA Web site <http://www.pca.state.mn.us/cleanup/pubs> or by contacting Kären Kromar, MPCA VIC Program, (651) 297-3080, or Allen Dotson, MPCA Municipal Division (651) 296-7735, toll-free or TDD (800) 657-3864.

For more information about the registration or solvent fees, please contact Marilyn Sheffield or Terry Dwyer of the Minnesota Department of Revenue at (651) 282-5770.

MPCA Web site: <http://www.pca.state.mn.us>