



Missouri Drycleaning Environmental Response Trust Fund (DERT): New Regulations for Assessment and Remediation of Drycleaner Solvents

Introduction

Weaver Boos Consultants (Weaver Boos) has prepared this environmental brief to highlight key points in the new Missouri law pertaining to the assessment and remediation of existing and former drycleaner facilities that used chlorinated solvents.

On April 30, 2006, the Missouri Department of Natural Resources (MoDNR) published its final Drycleaning Environmental Response Trust Fund Rule (10 CSR 25-17.010 to 10 CSR 25-17.170 and Section 260.900 to 260.965 Revised Statutes of Missouri (RSMo)). The new regulations become effective on May 30, 2006. The DERT Fund regulations apply to existing and closed drycleaner sites that use chlorinated solvents and wish to apply for funding to assess and remediate contamination from chlorinated solvents.

Generally, the DERT Fund is similar to drycleaner programs in other states. Drycleaners pay surcharges on their usage of chlorinated solvents into a dedicated fund, which in turn is utilized to offset costs of assessment and remediation of drycleaner sites within the state. Unlike many state programs, Missouri's DERT Fund only applies to chlorinated solvents. Drycleaners that do not use chlorinated solvents (i.e., petroleum based), do not pay surcharges on their solvent usage and are not eligible to seek funding through the DERT program for assessment and remediation of releases of non-chlorinated solvents.

Background

Previous remediation at drycleaner sites has generally followed the Voluntary Cleanup Program (VCP) rule, oftentimes with the goal to obtain a No Further Remediation (NFR) letter. Under the new rule, eligible drycleaner sites will be remediated under the DERT Fund, may be eligible for special funding, and sites successfully closed will receive a Certificate of Completion letter. Drycleaning facilities not eligible under the DERT Fund will continue to be assessed and remediated under the VCP program. The following are examples of chlorinated and non-chlorinated solvents historically or currently used in drycleaning:

Chlorinated

1. Perchloroethylene (PERC or PCE)
2. Trichloroethylene (TCE)
3. Trichloroethane (TCA)
4. Freon 113
5. Valclene

Non-Chlorinated

1. Stoddard Solvent
2. Rynex
3. Pure Dry
4. Green Earth
5. DF2000 (or other petroleum solvents)

Eligible Facilities

A variety of facilities are eligible to receive funding from the Missouri DERT fund for assessment and remediation of chlorinated drycleaning solvents.

1. Any active facility in compliance with surcharges;
2. Former facilities that have notified MoDNR by July 1, 2009;
3. Coin operated laundries with dry cleaning equipment that use chlorinated solvents; and,
4. Governmental agencies that gain possession or control of former drycleaning facilities they did NOT operate.

Ineligible facilities are as follows:

1. Prisons, motels, hotels, governmental entities and industrial facilities;
2. Facilities using non-chlorinated solvents;
3. Dry stores (collection points); and,
4. Facilities not in compliance with surcharges (may become eligible if facility is brought back into compliance).

Funding

The source of Missouri DERT funds comes from annual drycleaning facility registration surcharges, solvent surcharges paid by solvent suppliers, and penalty fees including interest on late payments. Surcharges have been collected since 2001 in anticipation of a large number of reimbursement requests to be filed once the final rule becomes effective. The estimated balance in the DERT Fund for fiscal year 2006 is \$2,263,760.

All budgets must be approved by the DERT Fund prior to implementation. Approved budget costs from all drycleaner facilities are subject to a \$25,000 deductible payable by owner prior to any reimbursement by the DERT Fund. There is a \$1,000,000 cap per site and a limit of 25% of total fund moneys during any fiscal year can go to one site. Funds are distributed according to priority, with 60% of the funds going to high priority, 30% going to medium priority, and 10% going to low priority projects each year.

Priority is assessed based on information provided on the Site Prioritization Form which includes environmental contamination, potential receptors, and site history. This form must be signed and sealed by a registered geologist or professional engineer licensed by the state of Missouri. This form is required to be updated if new or additional site information is obtained that may affect prioritization. At a minimum, the Site Prioritization Form should be reviewed and updated annually.

Sites that have been, or are currently being assessed and remediated through the VCP program since August 28, 2000 are eligible for reimbursement.



Environmental Brief

Applying to the DERT Fund

The following steps must be completed to apply to the DERT Fund:

1. Fill out application form completely with signatures;
2. Include information/reports on all known environmental conditions that exist at the site; and,
3. Provide analytical data for one groundwater or soil sample that shows contamination in excess of MoDNR's cleanup standards.

Note: Any work completed prior to an application's acceptance is not an eligible cost. It is advisable to do a limited assessment to identify contamination prior to completing a full site assessment, so that the costs for the investigation portion of the project will apply towards the deductible.

The DERT Fund will respond within 30 days with either a notice of acceptance, request for additional information, or reasons for rejection.

Following Acceptance into the DERT Fund

All work plans and cost estimates must be pre-approved by the department. This includes obtaining multiple proposals for site activities such as drilling, laboratory testing, and cleanup actions. The department will review and comment on work plans and reports within 60 days. Actual reimbursement will be based on prioritization.

The following process is typical of DERT fund activities:

- Phase I Environmental Site Investigation (ESA) for site prioritization;
- Site Characterization (Limited Phase II ESA);
- Site corrective action:
 - Includes off-site investigations and corrective actions;
 - Similar to Brownfields/VCP program;
 - Utilize the MoDNR's Missouri Risk-Based Corrective Action (MRBCA) Technical Guidance Document; and,
- Certification of Completion will be issued at conclusion of successful cleanup.

General reimbursement procedures are as follows:

- Submit Reimbursement Claim Worksheet;
 - Invoices, canceled checks, and reports,
 - Within 6 months of the completed work,
- Eligible costs will be reduced by the applicable deductible until the deductible is met;
- Department will respond within 30 days of receipt of reimbursement request;
- Any denial will be explained; and,
- If money has already been allocated for this year, continue to follow procedures to be eligible next year.

Additional Information

Missouri is a member state of the State Coalition for Remediation of Drycleaners. This organization provides a forum for the exchange of information and studies on remediation techniques. The publications section of the website (www.drycleancoalition.org) offers many useful technical and administrative articles.

Official information about the Missouri DERT fund is available at www.dnr.mo.gov/env/hwp/dert/hwpvcp-dryclean.htm. All program forms and related publications can be accessed at this web site. DERT fund contacts include:

- Mr. Scott Huckstep – Unit Chief
- Ms. Carol Finke – Management Analysis Specialist
- Mr. David Kindelspire – Environmental Specialist/Project Manager
- Ms. Vicky Kugler – Environmental Specialist/Project Manager

The provisions of the DERT Fund expire on August 28, 2012. It is anticipated that the program will be reauthorized by MoDNR to extend beyond that date.

Weaver Boos employs qualified Environmental Professionals with the background and experience to assist you with drycleaner facility site assessment and remediation, as well as many other environmental issues. For additional information, please contact Anna Saindon at (asaindon@weaverboos.com) or Doug Wall (dwall@weaverboos.com) at 314-621-8140.

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