



---

---

**Rules of**  
**Department of Natural Resources**  
**Division 25—Hazardous Waste Management Commission**  
**Chapter 17—Dry-Cleaning Environmental Response**  
**Trust Fund**

<b>Title</b>	<b>Page</b>
10 CSR 25-17.010 Applicability .....	3
10 CSR 25-17.020 Definitions .....	3
10 CSR 25-17.030 Registration and Surcharges .....	4
10 CSR 25-17.040 Reporting and Record Keeping .....	5
10 CSR 25-17.050 Reporting of Releases and Existing Contamination .....	5
10 CSR 25-17.060 Site Prioritization and Completion .....	5
10 CSR 25-17.070 Closure of Facilities .....	6
10 CSR 25-17.080 Site Characterization and Corrective Action .....	6
10 CSR 25-17.090 Application Procedures .....	6
10 CSR 25-17.100 Participation and Eligibility for Funding .....	7
10 CSR 25-17.110 Eligible Costs .....	7
10 CSR 25-17.120 Payment of Deductible and Limits on Payments .....	8
10 CSR 25-17.130 Suspension of Collection of Surcharges; Reinstatement .....	8
10 CSR 25-17.140 General Reimbursement Procedures .....	8
10 CSR 25-17.150 Claims .....	9
10 CSR 25-17.160 Notification of Abandoned Sites .....	9
10 CSR 25-17.170 Violations of Dry Cleaning Remediation Laws .....	10



**Title 10—DEPARTMENT OF  
NATURAL RESOURCES**

**Division 25—Hazardous Waste  
Management Commission**

**Chapter 17—Dry-Cleaning Environmental  
Response Trust Fund**

**10 CSR 25-17.010 Applicability**

*PURPOSE: This rule defines the active and abandoned dry cleaning facilities that are subject to the requirements of this chapter. This rule is designed specifically to protect the quality of groundwater in the state as well as to protect human health and the overall quality of the environment. This rule is promulgated on the authority of sections 260.900 to 260.960, RSMo.*

(1) These rules, 10 CSR 25-17.010 through 10 CSR 25-17.170, apply to the owner or operator of any active facility or owner or operator of any abandoned facility, on which a dry cleaning facility is or was located, as the term is defined in 10 CSR 25-17.020. This includes coin-operated facilities. The term dry cleaning facility includes all contiguous land, structures and other appurtenances and improvements on the land used in connection with the dry cleaning facility.

(2) Dry cleaning facilities located in prisons, governmental entities, hotels, motels, and industrial laundry facilities are excluded from this rule. Facilities that use non-chlorinated solvents are exempt from these rules.

*AUTHORITY: sections 260.900 and 260.905, RSMo Supp. 2005\*. Original rule filed Oct. 3, 2005, effective May 30, 2006.*

*\*Original authority: 260.900, RSMo 2000, amended 2005 and 260.905, RSMo 2000, amended 2005.*

**10 CSR 25-17.020 Definitions**

*PURPOSE: This rule defines specific terms used in this chapter.*

(1) Definitions.

(A) Definitions beginning with the letter A.

1. “Abandoned dry cleaning facility” means any real property premises or individual leasehold space in which a dry cleaning facility formerly operated.

2. “Active dry cleaning facility” means any real property premises or individual leasehold space in which a dry cleaning facility currently operates.

(B) Definitions beginning with the letter B. *Reserved*

(C) Definitions beginning with the letter C.

1. “Chlorinated dry cleaning solvent” means any dry cleaning solvent which contains a compound which has a molecular structure containing the element chlorine.

2. “Claim” means a written demand for money or services from the Dry-Cleaning Environmental Response Trust (DERT) Fund for cleanup at a dry cleaning facility.

3. “Commission” means the Hazardous Waste Management Commission created in section 260.365, RSMo.

4. “Corrective action” means those activities described in section 260.925.1, RSMo;

5. “Corrective action plan” means a plan approved by the director to perform corrective action at a dry cleaning facility.

(D) Definitions beginning with the letter D.

1. “Department” unless otherwise stated, means the Missouri Department of Natural Resources.

2. “DERT Fund” means the Dry-Cleaning Environmental Response Trust (DERT) Fund.

3. “Director” means the director of the Missouri Department of Natural Resources.

4. “DNAPL” means dense non-aqueous phased liquid. DNAPLs are chemicals that exist in a denser-than-water, immiscible phase when released to the environment. They include, but are not limited to, halogenated organic solvents such as tetrachloroethylene (PCE), trichloroethylene (TCE) and 1,1,1-trichloroethane (TCA), substituted aromatics, phthalates, polychlorinated biphenyls (PCB) mixtures, coal and process tars, and some pesticides.

5. “Dry cleaning facility” means a commercial establishment that operates, or has operated in the past in whole or in part for the purpose of cleaning garments or other fabrics on-site utilizing a process that involves any use of dry cleaning solvents. Dry cleaning facility includes all contiguous land, structures and other appurtenances and improvements on the land used in connection with a dry cleaning facility but does not include prisons, governmental entities, hotels, motels or industrial laundries. Dry cleaning facility does include coin-operated dry cleaning facilities.

6. “Dry cleaning solvent” means any and all non-aqueous solvents used or to be used in the cleaning of garments and other fabrics at a dry cleaning facility and includes but is not limited to perchloroethylene, also known as tetrachloroethylene, chlorinated

solvents, and the products into which such solvents degrade.

7. “Dry cleaning unit” means a machine or device which utilizes dry cleaning solvents to clean garments and other fabrics and includes any associated piping and ancillary equipment and any containment system.

8. “Dry cleaning waste” means waste which is generated at a dry cleaning facility during the cleaning of garments and contains dry cleaning solvents. Some or all of this waste may also be hazardous waste.

(E) Definitions beginning with the letter E.

1. “Environmental response surcharge” means either the annual dry cleaning facility registration surcharge or the dry cleaning solvent surcharge.

2. “Existing contamination” means the discovery of contamination in the soil, groundwater, surface and drinking waters in excess of the applicable state cleanup levels. It also includes the presence of DNAPL/free product or vapors in soils, basements, sewer and utility lines and nearby surface and drinking waters.

(F) Definitions beginning with the letter F.

1. “Facility closure” means an active dry cleaning facility that has ceased operations for sixty (60) continuous days.

2. “Free product” means a dry cleaning solvent that is present as a non-aqueous phase liquid (for example, pools of regulated substances at the surface or perched in the subsurface on top of an impermeable rock stratum or on top of groundwater).

3. “Fund” means the Dry-Cleaning Environmental Response Trust Fund created in section 260.920, RSMo.

(G) Definitions beginning with the letter G. *Reserved*

(H) Definitions beginning with the letter H. *Reserved*

(I) Definitions beginning with the letter I.

1. “Industrial laundry facility” means dry cleaners solely engaged in supplying laundered or dry-cleaned work uniforms, wiping towels, dust control items, etc. to industrial and commercial users.

(J) Definitions beginning with the letter J. *Reserved*

(K) Definitions beginning with the letter K. *Reserved*

(L) Definitions beginning with the letter L. *Reserved*

(M) Definitions beginning with the letter M.

1. “Multi-source site” means a site that contains contaminants from more than one source or operation (e.g., a dry cleaner in combination with a service station or auto part facility).



(N) Definitions beginning with the letter N. *Reserved*

(O) Definitions beginning with the letter O.

1. "Operator" means any person who is or has been responsible for the operation of dry cleaning operations at a dry cleaning facility.

2. "Owner" means any person who owns the real property where a dry cleaning facility is or has operated.

(P) Definitions beginning with the letter P.

1. "Participant" means the owner or operator of an active or abandoned dry cleaning facility.

2. "Person" means an individual, trust, firm, joint venture, consortium, joint-stock company, corporation, partnership, association or limited liability company. Person does not include any governmental organization.

3. "Prioritization" means to arrange in order of importance for expenditures from the DERT Fund.

(Q) Definitions beginning with the letter Q. *Reserved*

(R) Definitions beginning with the letter R.

1. "Release" means any spill, leak, emission, discharge, escape, leak or disposal of dry cleaning solvent from a dry cleaning facility into the soils or waters of the state;

(S) Definitions beginning with the letter S. *Reserved*

(T) Definitions beginning with the letter T. *Reserved*

(U) Definitions beginning with the letter U. *Reserved*

(V) Definitions beginning with the letter V. *Reserved*

(W) Definitions beginning with the letter W. *Reserved*

(X) Definitions beginning with the letter X. *Reserved*

(Y) Definitions beginning with the letter Y. *Reserved*

(Z) Definitions beginning with the letter Z. *Reserved*

*AUTHORITY: sections 260.900 and 260.905, RSMo Supp. 2005\*. Original rule filed Oct. 3, 2005, effective May 30, 2006.*

*\*Original authority: 260.900, RSMo 2000, amended 2005 and 260.905, RSMo 2000, amended 2005.*

### 10 CSR 25-17.030 Registration and Surcharges

*PURPOSE: This rule explains the requirements of registration of active dry cleaning facilities and the requirements of the solvent providers.*

(1) Every active dry cleaning facility shall pay, in addition to any other environmental response surcharges, an annual dry cleaning facility registration surcharge in accordance with section 260.935, RSMo.

(A) The annual dry cleaner facility registration surcharge follows:

1. Five hundred dollars (\$500) for facilities which use no more than one hundred forty (140) gallons of chlorinated solvents per year;

2. One thousand dollars (\$1,000) for facilities which use more than one hundred forty (140) gallons of chlorinated solvents and less than three hundred sixty (360) gallons of chlorinated per year; and

3. Fifteen hundred dollars (\$1,500) for facilities which use at least three hundred sixty (360) gallons of chlorinated solvents per year.

(B) The annual dry cleaning facility registration surcharge is due on April 1 of each calendar year on a form provided by the department, on a reproduction of a form provided by the department, or a substitute version of a form approved by the department. The annual dry cleaning facility registration fee is determined based upon solvent use for the previous calendar year. Failure to keep registration current may cause an active dry cleaning facility to be ineligible for the Dry-Cleaning Environmental Response Trust (DERT) Fund.

(C) If any person does not pay the annual dry cleaning facility registration surcharge in full within thirty (30) days from the date prescribed for such payment, the department shall impose and such person shall pay, in addition to the annual dry cleaning facility registration surcharge owed by such person, a penalty of fifteen percent (15%) and interest upon the unpaid amount at the rate of ten percent (10%) per annum from the date prescribed for payment of the annual dry cleaning registration surcharge and penalties until such payment is actually made. Such penalty and interest shall be deposited in the DERT Fund.

(2) Every seller or provider of dry cleaning solvent for use in this state shall pay, in addition to any other environmental response surcharges, a dry cleaning solvent surcharge on the sale or provision of dry cleaning solvent in accordance with section 260.940, RSMo. The dry cleaning solvent surcharge required in this section shall be paid by the seller or provider on a quarterly basis and shall be paid to the department for the previous quarter. Quarterly reporting periods shall end on March 31, June 30, September 30, and December 31 of each calendar year. Quar-

terly reports and the accompanying surcharge payment shall be received by the department no later than thirty (30) days after the end of each reporting quarter.

(A) The amount of the dry cleaning solvent surcharge imposed by this section on each gallon of dry cleaning solvent shall be an amount equal to the product of the solvent factor for the dry cleaning solvent and the rate of eight dollars (\$8) per gallon.

1. The solvent factor for each dry cleaning solvent is as follows:

A. For perchloroethylene, the solvent factor is 1.00;

B. For 1,1,1-trichloroethane, the solvent factor is 1.00;

C. For other chlorinated dry cleaning solvents, the solvent factor is 1.00.

(B) In the case of a fraction of a gallon, the dry cleaning solvent surcharge imposed by this section shall be the same fraction of the fee imposed on a whole gallon.

(C) Dry cleaning solvent surcharge reporting will be done on a form provided by the department, on a reproduction of a form provided by the department, or a substitute version of a form approved by the department. This form shall include a list of facilities that the solvent provider has provided solvents to and the type of solvent and amount delivered to each.

(D) The dry cleaning solvent surcharge required in this section shall be paid to the department by the seller or provider of the dry cleaning solvent, regardless of the location of such seller or provider.

(E) If any person does not pay the dry cleaning solvent surcharge in full on the date prescribed for such payment, the department shall impose and such person shall pay, in addition to the dry cleaning solvent surcharge owed by such person, a penalty of fifteen percent (15%) and interest upon the unpaid amount at the rate of ten percent (10%) per annum from the date prescribed for payment of the dry cleaning solvent surcharge and penalties until such payment is actually made. Such penalty and interest shall be deposited in the DERT Fund.

(F) An operator of a dry cleaning facility shall not purchase or obtain solvent from a seller or provider who does not pay the dry cleaning solvent charge, as provided in this rule. Any operator of a dry cleaning facility who fails to obey the provisions of this rule shall be required to pay the dry cleaning solvent surcharge for any dry cleaning solvent purchased or obtained from a seller or provider who fails to pay the proper dry cleaning solvent surcharge as determined by the department. Any operator of a dry cleaning facility who fails to follow the provisions



of this subsection shall also be charged a penalty of fifteen percent (15%) of the dry cleaning solvent surcharge owed. Any operator of a dry cleaning facility who fails to obey the provisions of this subsection shall also be subject to the interest provisions of subsection (2)(E) of this section. If a seller or provider of dry cleaning solvent charges the operator of a dry cleaning facility the dry cleaning solvent surcharge provided for in this section when the solvent is purchased or obtained by the operator and the operator can prove that the operator made full payment of the surcharge to the seller or provider but the seller or provider fails to pay the surcharge to the department as required by this section, then the operator shall not be liable pursuant to this subsection for interest, penalties or the seller's or provider's unpaid surcharge.

(G) A solvent supplier shall not provide dry cleaning solvents to an active dry cleaning facility that has not paid its annual dry cleaning facility registration surcharge.

(3) The department will provide a receipt to each person that pays the annual dry cleaning facility registration surcharge and the dry cleaning solvent surcharge.

(4) An owner or operator of a facility will inform the department of the opening of a new dry cleaning facility on a form provided by the department within thirty (30) days of the start of operations.

(5) An owner or operator of an active dry cleaning facility will notify the department of a change in ownership of the facility on a form provided by the department within thirty (30) days after the change of ownership occurs.

*AUTHORITY: sections 260.905, 260.935 and 260.940, RSMo Supp. 2005.\* Original rule filed Oct. 3, 2005, effective May 30, 2006.*

*\*Original authority: 260.905, RSMo 2000, amended 2005; 260.935, RSMo 2000, amended 2005; and 260.940, RSMo 2000, amended 2005.*

#### **10 CSR 25-17.040 Reporting and Record Keeping**

*PURPOSE: This rule explains how the owner and operator of an active dry cleaning facility shall keep records demonstrating compliance with the requirements of this chapter. These records shall be furnished to the department on request. The rule establishes the reporting requirements to the General Assembly and the governor's office.*

(1) Owners and operators of an active dry cleaning facility shall cooperate fully with inspections, monitoring and testing conducted by the department, as well as requests for document submission, testing and monitoring by the department, in regards to a claim for the Dry-Cleaning Environmental Response Trust (DERT) Fund.

(2) Participants will provide copies of records or reports, within five (5) calendar working days upon receipt of a written request for such records, in regards to a claim for the DERT Fund. A written request shall be made by certified mail to the mailing address.

(3) The department will provide the General Assembly and the governor an annual report on the items listed in section 260.955, RSMo on July 1 of each calendar year.

*AUTHORITY: sections 260.905, RSMo Supp. 2005 and 260.955, RSMo 2000.\* Original rule filed Oct. 3, 2005, effective May 30, 2006.*

*\*Original authority: 260.905, RSMo 2000, amended 2005 and 260.955, RSMo 2000.*

#### **10 CSR 25-17.050 Reporting of Releases and Existing Contamination**

*PURPOSE: This rule describes the steps for reporting and initial abatement of the spilling, leaking, emitting, discharging, escaping, leaching, or disposing of dry cleaning solvents onto the ground surface or into groundwater, surface water, or subsurface soil and the reporting of existing contamination at dry cleaner sites.*

(1) Owners or operators of an active dry cleaning facility shall report to the department as soon as practical after discovery of a release of chlorinated dry cleaning solvents from spills or leaks that result in a release to the environment that equals or exceeds its reportable quantity under Comprehensive Environmental Response Compensation and Liability Act of 1980 (CERCLA) (40 CFR 302.4) at the site or in the surrounding area. The reportable quantity for dry cleaning solvents not listed in Comprehensive Environmental Response Compensation and Liability Act of 1980 (CERCLA) (40 CFR 302.4 is one hundred (100) pounds. The National Response Center phone number is (800) 424-8802 and the department's Environmental Emergency Response phone number for reporting releases is (573) 634-2436.

(2) Owners or operators of an active or abandoned dry cleaning facility shall report to the department as soon as practical after discovery of existing contamination of chlorinated dry cleaning solvents that is discovered in soils, groundwater, vapors, surface water, etc., that exceeds the department's cleanup guidelines.

(3) The department may require owners and operators to submit a report to the department summarizing the steps taken to clean up the release, within thirty (30) days after a reportable quantity release confirmation.

(4) If directed to do so by the department, owners or operators of an active or abandoned dry cleaning facility shall be required to follow the application procedures to the Dry-Cleaning Environmental Response Trust (DERT) Fund in accordance with 10 CSR 25-17.090 and conduct site characterization and corrective action in accordance with 10 CSR 25-17.080.

(5) The department may respond and conduct emergency response procedures to mitigate any emergency release to protect human health and the environment that if in the opinion of the department, the owner or operator has not satisfactorily responded to at an active or abandoned facility. The department may initiate procedures to recover the costs of these actions from the owner or operator.

(6) Failure to comply with 10 CSR 25-17.050 and failure to pay cost recovery as outlined in 10 CSR 25-17.050(5), may cause a dry cleaning facility to be ineligible for the DERT Fund.

*AUTHORITY: sections 260.905, RSMo Supp. 2005 and 260.910, RSMo 2000.\* Original rule filed Oct. 3, 2005, effective May 30, 2006.*

*\*Original authority: 260.905, RSMo 2000, amended 2005 and 260.910, RSMo 2000.*

#### **10 CSR 25-17.060 Site Prioritization and Completion**

*PURPOSE: This rule describes the requirements for the prioritization of sites and for determining the completion of cleanup of sites.*

(1) The department shall prioritize the order in which to use funds from the Dry-Cleaning Environmental Response Trust (DERT) Fund



using standardized site assessment prioritization criteria. The criteria shall include but may not be limited to:

(A) Risk to human health or the environment;

(B) The present and future use of the affected property, groundwater, or surface water;

(C) The effect that interim remedial measures have on the site;

(D) The benefit of corrective action compared to the cost of corrective action; and

(E) Other factors that the director deems relevant, which include but are not limited to:

1. Whether a public water supply well or one (1) or more domestic drinking water wells are contaminated or threatened with levels above state or federal drinking water limits, and no alternative source is readily available;

2. Whether a surface water intake is contaminated or threatened with levels above state or federal drinking water limits, and no alternative source is readily available; and

3. Whether a high probability exists for direct human exposure to contaminated media.

(2) The department shall determine whether the proposed level of corrective action is sufficient by using the following criteria, which include but are not limited to:

(A) The characteristics of the contaminated dry cleaning facility;

(B) Cleanup standards and procedures developed by the department in guidance documents or other state and federal regulations; and

(C) Any other factors which the department considers relevant may be used in determining the level at which corrective action is deemed completed.

*AUTHORITY: section 260.905, RSMo Supp. 2005.\* Original rule filed Oct. 3, 2005, effective May 30, 2006.*

*\*Original authority: 260.905, RSMo 2000, amended 2005.*

#### 10 CSR 25-17.070 Closure of Facilities

*PURPOSE: This rule describes the requirements for the permanent closure of active dry cleaning facilities.*

(1) An owner or operator of an active dry cleaner facility will notify the department sixty (60) days after facility closure on a form provided by the department.

(2) Each owner or operator of an active dry cleaner facility which has ceased operation for sixty (60) continuous days shall remove all dry cleaning solvents and dry cleaning wastes from the facility no later than ninety (90) days after the last day of operation.

(A) Each owner or operator shall properly dispose of all hazardous dry cleaning wastes. Dry cleaning wastes are subject to hazardous waste determination pursuant to 10 CSR 25-5.262(1). Hazardous dry cleaning wastes must be handled in compliance with the requirements of 10 CSR 25-4.261 and 10 CSR 25-5.262, et seq. This can include, but is not limited to, proper storage, management, and disposal of the waste.

(B) An owner or operator may request a written extension of the sixty (60)-day time limit. This written extension will include a brief description of the reason for the extension, list of the type and quantity of solvents stored on-site, and a plan for inspections of the facility.

(3) To ensure eligibility in the Dry-Cleaning Environmental Response Trust (DERT) Fund, the owner or operator of the closed facility should immediately measure for contamination in areas where a release of dry cleaner solvents is most likely to occur.

*AUTHORITY: section 260.905, RSMo Supp. 2005.\* Original rule filed Oct. 3, 2005, effective May 30, 2006.*

*\*Original authority: 260.905, RSMo 2000, amended 2005.*

#### 10 CSR 25-17.080 Site Characterization and Corrective Action

*PURPOSE: This rule describes the steps for the assessment, investigation, and corrective action of contamination of dry cleaning solvents.*

(1) Owners or operators shall conduct assessments, investigations, and corrective actions of contamination and shall do so in accordance with risk-based guidance developed by the department.

(2) When required by the department, owners or operators of active or abandoned dry cleaning facilities shall conduct investigations to determine if the active or abandoned dry cleaning facility is the source of off-site impacts. These impacts include, but are not limited to, the discovery of dry cleaning solvents, the presence of dense non-aqueous phased liquid (DNAPL)/free product or vapors in soils, basements, sewer and utility

lines and nearby surface and drinking waters that have been observed by the department or brought to its attention by another party.

(3) The department will approve the work plan only after ensuring that implementation of the plan will adequately protect human health, safety and the environment.

(4) Upon approval of the corrective action plan, the owner or operator shall implement the plan including modifications to the plan made by the department. Owners and operators shall monitor, evaluate and report the results of implementing the plan in accordance with a schedule and in a format established by the department.

*AUTHORITY: section 260.905, RSMo Supp. 2005.\* Original rule filed Oct. 3, 2005, effective May 30, 2006.*

*\*Original authority: 260.905, RSMo 2000, amended 2005.*

#### 10 CSR 25-17.090 Application Procedures

*PURPOSE: This rule describes the application procedures for the Dry-Cleaning Environmental Response Trust (DERT) Fund.*

(1) Any owner or operator of an active or abandoned dry cleaning facility who wishes to participate in the Dry-Cleaning Environmental Response Trust (DERT) Fund shall apply to the DERT Fund on a form provided by the department.

(A) An application form shall be submitted for each site for which an owner or operator of an active or abandoned dry cleaning facility desires participation in the DERT Fund.

(B) Applications shall include information on all known environmental conditions that exist at the site. To be eligible, one (1) groundwater or one (1) soil sample shall provide proof that the level of contamination at the site exceeds the department's cleanup levels or other evidence confirming contamination must be provided.

(2) The department shall review applications within thirty (30) days of receipt of the application and respond to such application in writing with one (1) of the following options:

(A) A notice of acceptance of eligibility;

(B) If the response is a request for clarification or information, it shall specify a date by which the applicant shall respond; and

(C) If the response is a rejection, it shall list the reasons for the rejection.

*AUTHORITY: section 260.905, RSMo Supp. 2005.\* Original rule filed Oct. 3, 2005, effective May 30, 2006.*



*\*Original authority: 260.905, RSMo 2000, amended 2005.*

### 10 CSR 25-17.100 Participation and Eligibility for Funding

*PURPOSE: This rule describes eligibility requirements for participation and funding of the Dry-Cleaning Environmental Response Trust (DERT) Fund.*

(1) Any owner or operator of an active or the owner or operator of an abandoned dry cleaning facility may apply to participate in the Dry-Cleaning Environmental Response Trust (DERT) Fund.

(A) Dry cleaning facilities located in prisons, governmental entities, hotels, motels and industrial laundries are not eligible for participation in the DERT Fund. Facilities that use a non-chlorinated dry cleaning solvent are not eligible for participation in the DERT Fund.

(B) Governmental entities that own or are in possession and control of an abandoned facility otherwise eligible for coverage may apply to the DERT Fund as long as the governmental entity follows the procedures of 10 CSR 25-17.050 through 10 CSR 25-17.170.

(2) An active or abandoned dry cleaning facility may be considered ineligible if the owner or operator owes the annual dry cleaning facility registration surcharge or dry cleaning solvent surcharge, including any penalties or interest, at the time the application for the DERT Fund is submitted or contamination from dry cleaner solvents was discovered.

*AUTHORITY: sections 260.905 and 260.925, RSMo Supp. 2005.\* Original rule filed Oct. 3, 2005, effective May 30, 2006.*

*\*Original authority: 260.905, RSMo 2000, amended 2005 and 260.925, RSMo 2000, amended 2005.*

### 10 CSR 25-17.110 Eligible Costs

*PURPOSE: This rule describes eligible costs associated with the assessment, investigation, or remediation of dry cleaning sites.*

(1) Moneys from the Dry-Cleaning Environmental Response Trust (DERT) Fund shall be utilized to address contamination resulting from releases of chlorinated dry cleaning solvents in accordance with section 260.925, RSMo.

(A) Eligible payments from the DERT Fund shall include:

1. Costs for investigation and assessment of releases from a dry cleaning facility, including costs of off-site investigations and assessments of contamination, which may have moved off of the dry cleaning facility;

2. Costs for necessary or appropriate emergency action, including but not limited to treatment, restoration or replacement of drinking water supplies, to assure that the human health or safety is not threatened by a release or potential release;

3. Costs for remediation of releases from dry cleaning facilities, including contamination which may have moved off of the dry cleaning facility, which remediation shall consist of the preparation of a corrective action plan, which may include activity and use limitations for the site, and the cleanup of affected soil, groundwater and surface waters, using an alternative that is cost-effective, technologically feasible and reliable, and provides adequate protection of human health and environment and to the extent practicable minimizes environmental damage. Costs for remediation beyond that necessary to achieve contaminant levels that are protective of human health and the environment are not eligible;

4. Costs for operation and maintenance of corrective action;

5. Costs for monitoring of releases from dry cleaning facilities including contamination which may have moved off of the dry cleaning facility;

6. Payment of reasonable costs incurred by the director in providing field and laboratory services;

7. Reasonable costs of restoring property as nearly as practicable to the condition that existed prior to activities associated with the investigation of a release or cleanup or remediation activities;

8. Costs of removal and proper disposal of wastes generated by a release of a dry cleaning solvent; and

9. Payment of costs of corrective action conducted by the department or by entities other than the department but approved by the department, whether or not such corrective action is set out in a corrective action plan; except that, there shall be no reimbursement for corrective action costs incurred before August 28, 2000. Costs, under this paragraph, are not eligible unless the department has declared a hazardous substance emergency and has provided an opportunity and/or requirement to the responsible party, if available, to conduct the corrective action activities.

(B) At any multi-source site, the department shall utilize the moneys in the fund to pay for the proportionate share of the liability

for the assessment, investigation, and corrective action costs which is attributable to a release from one or more eligible dry cleaning facilities and for that proportionate share of the liability only. At any multi-source site, the director is authorized to make a determination of the relative liability of the fund for costs of corrective action, expressed as a percentage of the total cost of assessment, investigation, and corrective action at a site, whether known or unknown. The director shall issue an order establishing such percentage of liability. Such order shall be binding and shall control the obligation of the fund until or unless amended by the director. In the event of an appeal from such order, such percentage of liability shall be controlling for costs incurred during the pendency of the appeal.

(2) Nothing in section (1) of this rule shall be construed to authorize the department to obligate moneys in the fund for payment of costs that are not integral to corrective action for a release of dry cleaning solvents from a dry cleaning facility. Moneys from the fund shall not be used:

(A) For corrective action at sites that are contaminated by solvents normally used in dry cleaning operations where the contamination did not result from the operation of a dry cleaning facility;

(B) For corrective action at sites, other than dry cleaning facilities, that are contaminated by dry cleaning solvents which were released while being transported to or from a dry cleaning facility;

(C) To pay any fine or penalty brought against a dry cleaning facility operator under state or federal law;

(D) To pay any costs related to corrective action at a dry cleaning facility that has been included by the United States Environmental Protection Agency on the national priorities list;

(E) For corrective action at sites with active dry cleaning facilities where the owner or operator is not in compliance with sections 260.900 to 260.960, RSMo, rules and regulations adopted pursuant to sections 260.900 to 260.960, RSMo, orders of the director pursuant to sections 260.900 to 260.960, RSMo, or any other applicable federal or state environmental statutes, rules or regulations;

(F) For corrective action at sites with abandoned dry cleaning facilities that have been taken out of operation prior to July 1, 2009, and not documented by or reported to the



department by July 1, 2009. Any person reporting such a site to the department shall include any available evidence that the site once contained a dry cleaning facility;

(G) Assessment, investigation, and remediation costs incurred prior to August 28, 2000;

(H) Compensating third parties for bodily injury or property damage caused by a release from a dry cleaning facility, other than property damage included in the corrective action plan under 10 CSR 25-17.110(1)(A)7.;

(I) Costs necessary to remove an underground or aboveground storage tank system;

(J) Costs of demolition and removal of building, equipment, etc., except as required as a result of necessary cleanup activities and pre-approved by the department;

(K) Costs of disposal of soil, groundwater, etc., that is not contaminated with contaminants associated with dry cleaning solvents at levels such that the Department of Natural Resources requires corrective action;

(L) Markup of costs charged by a treatment facility which is used for the disposal of contaminated soil, groundwater, etc.;

(M) Markup of costs charged by laboratory for analysis of soil, groundwater, surface water, etc., samples;

(N) Markup of costs by the environmental consultant or contractor of major subcontracted work done as part of the assessment, investigation, or remedial work, such as drilling, well installation, or push-probe investigations;

(O) Installation of new or repair and maintenance of existing dry cleaning equipment;

(P) Preparation of claim submittals;

(Q) Paving or resurfacing, except as required as a result of necessary cleanup activities. Costs for resurfacing shall be paid on the basis of the actual cash value of the surface which existed immediately prior to cleanup activities; and

(R) Other costs not relevant to the assessment, investigation, or remediation of contamination caused by dry cleaning solvents from eligible facilities, as determined by the department.

*AUTHORITY: sections 260.905 and 260.925, RSMo Supp. 2005.\* Original rule filed Oct. 3, 2005, effective May 30, 2006.*

*\*Original authority: 260.905, RSMo 2000, amended 2005 and 260.925, RSMo 2000, amended 2005.*

**10 CSR 25-17.120 Payment of Deductible and Limits on Payments**

*PURPOSE: This rule explains the deductible amounts and limits on expenditures from the Dry-Cleaning Environmental Response Trust (DERT) Fund.*

(1) The Dry-Cleaning Environmental Response Trust (DERT) Fund shall not be liable for the payment of costs in excess of one (1) million dollars at any one (1) contaminated dry cleaning site.

(2) The DERT Fund shall not be liable for the payment of costs for any one (1) site in excess of twenty-five percent (25%) of the total moneys in the fund during any fiscal year.

(3) The owner or operator of an active and the owner or operator of an abandoned dry cleaning facility shall be liable for the first twenty-five thousand dollars (\$25,000) of corrective action costs incurred because of a release from an active or abandoned dry cleaning facility.

*AUTHORITY: sections 260.905 and 260.925, RSMo Supp. 2005.\* Original rule filed Oct. 3, 2005, effective May 30, 2006.*

*\*Original authority: 260.905, RSMo 2000, amended 2005 and 260.925, RSMo 2000, amended 2005.*

**10 CSR 25-17.130 Suspension of Collection of Surcharges; Reinstatement**

*PURPOSE: This rule describes the procedures for suspension of collection of surcharges and the reinstatement of those surcharges.*

(1) If the unobligated principal of the Dry-Cleaning Environmental Response Trust (DERT) Fund equals or exceeds five (5) million dollars on April 1 of any year, the annual dry cleaning facility registration surcharge and the dry cleaning solvent surcharge imposed by sections 260.935 and 260.940, RSMo, shall not be collected on or after the next July 1 until such time as on April 1 of any year thereafter the unobligated principal balance of the fund equals two (2) million dollars or less, then the annual dry cleaning facility registration surcharge imposed by section 260.935, RSMo and the dry cleaning solvent surcharge imposed by section 260.940, RSMo shall again be collected on and after the next July 1.

*AUTHORITY: sections 260.905 and 260.945, RSMo Supp. 2005.\* Original rule filed Oct. 3, 2005, effective May 30, 2006.*

*\*Original authority: 260.905, RSMo 2000, amended 2005 and 260.945, RSMo 2000, amended 2005.*

**10 CSR 25-17.140 General Reimbursement Procedures**

*PURPOSE: This rule describes general reimbursement procedures for the Dry-Cleaning Environmental Response Trust (DERT) Fund.*

(1) Dry-Cleaning Environmental Response Trust (DERT) Fund participants are required to seek pre-approval from the DERT Fund of site assessment, investigation, or remedial activities by following the procedures outlined below:

(A) Obtain proposals from qualified contractors or consultants to demonstrate that a fair and reasonable price will be paid; and

(B) Submit the bid(s) or proposal(s) to the director. The bids should contain the following:

1. Cost estimate for field activities;
2. Cost estimate for removal, treatment, and/or disposal of contaminated media, which includes but is not limited to soil, water, and air;
3. Cost estimate for project management, supervision, data analysis, reporting, and other activities necessary to comply with sections 260.900–260.960, RSMo and implementing regulations, as appropriate;
4. Cost estimate for collection and analysis of samples for contaminated media, which includes but is not limited to soil, water, and air;
5. Contingency costs, expressed as unit costs, for any additional costs which may be incurred if conditions warrant;
6. Cost estimate for any equipment purchased or rented to conduct remedial activities; and
7. Cost estimate for any anticipated work not described above that is necessary to comply with sections 260.900–260.960, RSMo and implementing regulations.

(2) The department will respond in writing within sixty (60) days after the work plan and cost estimate is received by the department. One (1) of the following responses will be made:

(A) The response will include a statement of whether the cost estimate(s) is eligible, reasonable, and necessary.

1. This response will be based on the information and reports submitted for the



particular project and compared to a review of cost estimates for similar claims;

(B) If the cost estimate is incomplete or contains costs which are higher than the department deems reasonable, the director may:

1. Ask the participant to solicit additional cost estimates;

2. Ask the participant to justify the cost estimate in writing; and

3. Agree to pay a lesser cost deemed reasonable by the director; and

(C) The department reserves the right to reject a proposed cost estimate, that the department deems ineligible, unreasonable, and unnecessary. Any rejection shall be made in writing and shall contain the specific reasons for the rejection of the cost estimate.

(3) Reimbursement of the DERT Fund moneys will be accomplished based on the site prioritization method described in 10 CSR 25-17.060.

(A) DERT Funds will be allocated to prioritized sites in the following proportions: high priority sites—sixty percent (60%); medium priority sites—thirty percent (30%); low priority sites—ten percent (10%). In any fiscal year, if the funding allocation in any priority category are not used, those funds may be reallocated to other priority categories, starting with any high priority sites and followed by medium and low priority sites.

(B) Owners, operators, or persons that are not allocated with moneys for a fiscal year, but wish to proceed with cleanup and remain eligible for future available funding, shall have assessment, investigation, and corrective action work plans and cost estimates pre-approved by the department. Failure to obtain approval for these costs may subject the DERT Fund participant to reduction or denial of reimbursement of costs.

(4) Participants requesting payment from the DERT Fund shall send invoices for the work done along with any reports generated for the work to the DERT Fund address.

(A) Invoices shall be submitted within six (6) months of the date that the proposed work is completed. Failure to submit invoices within the time frame may result in a denial of payments.

(B) Original invoices are requested. Photocopies may be submitted with a signed statement that the copies are accurate and true.

(5) Eligible costs will be reduced by the applicable deductible, as outlined in 10 CSR

25-17.120, for the dry cleaning facility until such deductible amount is met.

(6) The department will respond in writing to every request for reimbursement within thirty (30) days of receipt of the request. If the response indicates that some or all of the costs are being denied, then the response will state the reasons for the denial of costs.

*AUTHORITY: section 260.905, RSMo Supp. 2005.\* Original rule filed Oct. 3, 2005, effective May 30, 2006.*

*\*Original authority: 260.905, RSMo 2000, amended 2005.*

### 10 CSR 25-17.150 Claims

*PURPOSE: This rule describes who can make claims against the Dry-Cleaning Environmental Response Trust (DERT) Fund, when and how such claims shall be made, how to request payment from the DERT Fund and describes claims appeals.*

(1) To ensure eligibility in the Dry-Cleaning Environmental Response Trust (DERT) Fund the owner or operator should submit a notice to the department as soon as reasonably possible after a dry cleaning facility becomes aware of contamination.

(2) After being accepted in the DERT Fund, prior to the initiation of any assessment, investigation, or cleanup activities, whether within the deductible or in excess of the deductible, the costs shall be first approved by the department. Failure to obtain approval for these costs may subject the DERT Fund participant to reduction or denial of reimbursement of costs.

(A) Fund participants are not required to obtain prior approval of the department for the reasonable costs of emergency response or of necessary first aid. The DERT Fund participant shall notify the department of such activities as soon as practical.

(3) Before the initiation of any assessment, investigation, or cleanup activities, the DERT Fund participant will provide a consent of access form that states the property's owners consent for the department or its agents or contractors to access the facility or property.

(4) The department and the commission retain the final authority to make a determination concerning all eligibility issues, including but not limited to whether costs for products and services were reasonable, and whether the costs incurred were necessary to

achieve the cleanup activities required by the Department of Natural Resources.

(5) Claim Dispute Resolution.

(A) If a DERT Fund participant disagrees with a payment decision, he or she shall send or deliver the objection(s) or reason(s) for the disagreement in writing to the department within ninety (90) days of the date the check or claim denial is issued.

(B) The department will then review the claim considering the objections or reasons, and respond in writing to the DERT Fund participant within thirty (30) days of receipt. The director must—

1. Affirm the decision previously made;
2. Modify the decision previously made;
3. Refer the claim to the commission; or
4. Request additional information or clarification from the owner or operator making the appeal.

Within thirty (30) days of receipt of the additional information or clarifications, the department shall take one (1) of the three (3) steps listed above. If no response is received, the department may terminate the dispute resolution process, which leaves in place the original decision.

(C) If the DERT Fund participant still disagrees with department's decision, he or she may request further review by sending a written request within sixty (60) days of receipt of the director's decision to the commission, in accordance with 10 CSR 25-1.010.

(D) The commission will then consider the disputed claim at one (1) of its two (2) next regularly scheduled meetings.

*AUTHORITY: section 260.905, RSMo Supp. 2005.\* Original rule filed Oct. 3, 2005, effective May 30, 2006.*

*\*Original authority: 260.905, RSMo 2000, amended 2005.*

### 10 CSR 25-17.160 Notification of Abandoned Sites

*PURPOSE: This rule describes the requirements for the notification of abandoned dry cleaning sites.*

(1) Owners or former operators of abandoned dry cleaners shall inform the department of the existence of an abandoned dry cleaning facility on a form provided by the department. Any available evidence that the property once contained a dry cleaning facility shall accompany the form.

(2) This form shall be postmarked by July 1, 2009.





*AUTHORITY: sections 260.905 and 260.925, RSMo Supp. 2005.\* Original rule filed Oct. 3, 2005, effective May 30, 2006.*

*\*Original authority: 260.905, RSMo 2000, amended 2005 and 260.925, RSMo 2000, amended 2005.*

### **10 CSR 25-17.170 Violations of Dry Cleaning Remediation Laws**

*PURPOSE: This rule describes the violations and penalties for violation of the dry cleaning regulations.*

(1) The department may bring civil damages not to exceed five hundred dollars (\$500) for each violation, against a participant of a dry cleaning facility for the following:

(A) For operation of an active dry cleaning facility in violation of 10 CSR 25-17.010 through 10 CSR 25-17.170, or operate an active dry cleaning facility in violation of any other applicable federal or state environmental statutes, rules or regulations;

(B) Prevent or hinder a properly identified officer or employee of the department or other authorized agent of the director from entering, inspecting, sampling or responding to a release at reasonable times and with reasonable advance notice to the operator as authorized by section 260.910, RSMo;

(C) Knowingly make any false material statement or representation in any record, report or other document filed, maintained or used for the purpose of compliance with 10 CSR 25-17.040;

(D) Knowingly destroy, alter or conceal any record required to be maintained by 10 CSR 25-17.040; and

(E) Willfully allow a release in excess of a reportable quantity or knowingly fail to make an immediate response to a release in accordance with 10 CSR 25-17.050.

*AUTHORITY: sections 260.905 and 260.910, RSMo Supp. 2005.\* Original rule filed Oct. 3, 2005, effective May 30, 2006.*

*\*Original authority: 260.905, RSMo 2000, amended 2005 and 260.910, RSMo 2000.*