

Notice of Rulemaking Hearing
Drycleaner Environmental Response Board
Department of Environment and Conservation
Division of Superfund

There will be a hearing before the staff of the Drycleaner Environmental Response Board Tennessee Department of Environment & Conservation, Division of Superfund, Drycleaner Environmental Response Program, to receive public comments regarding the promulgation of amendments to Rule 1200-1-17, Drycleaner Environmental Response Program, pursuant to Tennessee Code Annotated 68-217-101 et. seq., the "Tennessee Drycleaner's Environmental Response Act". The hearing will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, Tennessee Code Annotated, Section 4-5-204 and will take place in the 4th floor Conference Room of the L&C Annex located at 401 Church Street, Nashville, Tennessee at 1:30 PM Central Time on the 17th day of March, 2005. Written comments will be considered if received by the close of business, April 2, 2005, in the office of Steve Goins, Division of Superfund, 401 Church Street, L&C Annex, 4th Floor, Nashville, TN 37243-1538.

Individuals with disabilities who wish to participate in these proceedings (or to review these filings) should contact the Tennessee Department of Environment & Conservation to discuss any auxiliary aids or services needed to facilitate such participation. Such contact may be in person, by writing, telephone, or other means and should be made no less than ten days prior to the hearing date to allow time to provide such aid or services. Contact the ADA Coordinator at 1-866-253-5827 for further information. Hearing impaired callers may use the Tennessee Relay Service (1-800-848-0298).

Substance of Proposed Rule Amendments

1. Rule 1200-1-17-.05 is amended by adding paragraph (12) so that, as amended, Rule 1200-1-17-.05(12) shall read:

(12) Non-Reimbursement Review

- (a) The program may provide oversight of registered facilities requesting review, which will not be seeking Fund reimbursement. Prior to issuance of a Response Complete Letter the program will ensure that the investigative and remedial activities were comparable to sites participating in the program for reimbursement of environmental response activities and that to the extent practicable were consistent with program regulations. The requester shall submit a written request to the program for review/oversight and shall document or include the following: BMP compliance, the facility is current with all fees, surcharges, and penalties, the work has or will be performed by a Drycleaner Approved Contractor (DCAC), a signed waiver of eligibility for cost reimbursement from the Drycleaner Fund, and that all pertinent documents/reports have been submitted to the program.

- (b) The program may provide oversight of unregistered facilities requesting review, which will not be seeking Fund reimbursement. The program may deny any request for a review that is not reasonable or cost effective. Prior to issuance of a Response Complete Letter the program will ensure that the investigative and remedial activities were comparable to sites participating in the program for reimbursement of environmental response activities and that to the extent practicable were consistent with program regulations.

The requester shall submit a written request to the program for review/oversight and shall include a signed waiver of eligibility for cost reimbursement from the Drycleaner Fund and shall submit all pertinent documents/reports related to environmental activity at the site. In addition the requester shall pay the program a phase of work oversight fee as follows:

- \$750 - Prioritization Investigation, Environmental Assessment (Phase 1, Phase 2) or comparable
- \$2,000 - Solvent Impact Assessment, Remedial Investigation or comparable
- \$1,500 - Remedial Alternatives Study, Feasibility Study or comparable
- \$3,000 - Response Complete Letter, Final Remedial Action Report

- (c) Notwithstanding the request for and provision of oversight under the program pursuant to either clause (a) or (b) above, any PEP may apply for entry of a facility in the program under Rule 1200-1-17-.05 and proceed to comply with the requirements thereunder; provided, that any costs incurred under oversight pursuant to clauses (a) or (b) above shall not be reimbursable from the program Fund.

2. Rule 1200-1-17-.08(4) is amended by adding subparagraph (h) so that, as amended, Rule 1200-1-17-.08(4)(h) shall read:

- (h) Monies held in the Fund shall not be used to reimburse owners or operators of facilities conducting investigative or remedial activities under Rule 1200-1-17-.05(12).

3. Rule 1200-1-17-.03(6)(a) is amended by deleting it in its entirety and substituting the following:

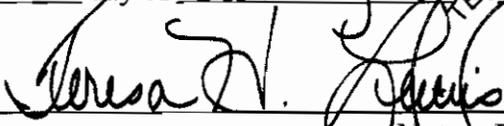
- (a) The surcharge fee is applicable for all drycleaning solvent purchased or transferred after September 30, 1995. The surcharge fee is ten dollars (\$10.00) for each gallon of dense nonaqueous solvent or product, one dollar (\$1.00) for each gallon of light non-aqueous solvent or product except CO₂ and twenty-five cents (\$0.025) for each gallon (\$0.0028 per pound) of CO₂ obtained by a drycleaning facility.

I certify that this is an accurate and complete representation of the intent and scope of rulemaking proposed by the Department of Environment and Conservation, Drycleaner Environmental Response Program.



 Steve Goins
 Technical Secretary
 Drycleaner Environmental Response Board

Subscribed and sworn to before me this the 31st day of January



 Theresa H. Lewis
 Notary Public
 AT LARGE
 WILSON CO. TENN.

My commission expires on the 2nd day of December, 2007.

The notice of rulemaking set out herein was properly filed in the Department of State on the 31 day of Jan., 2005.



 Riley C. Darnell
 Secretary of State

By: 

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