



# OLR RESEARCH REPORT

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## **DRY CLEANING ESTABLISHMENT REMEDIATION FUND**

By: James Orlando, Legislative Analyst II

You asked for information about the Dry Cleaning Establishment Remediation Fund, including its history, past performance, and present status.

### **SUMMARY**

The General Assembly established the Dry Cleaning Establishment Remediation Account in 1994. This general fund account is funded through a 1% surcharge on dry cleaning gross retail receipts. The program provides grants for eligible dry cleaning businesses to prevent, contain, and remediate pollution from hazardous chemicals the businesses use, in addition to other specified purposes. The Department of Economic and Community Development (DECD) administers the program.

According to a representative for the program, the fund is currently oversubscribed and the program is suspended indefinitely. When the program operates, DECD accepts applications twice per year, the last Friday of March and August, and has a two-phase application process.

According to the representative, the program last accepted applications in Spring 2009. During the Spring 2009 application round, DECD received 12 applications. It reviewed and approved two of them based on Department of Environmental Protection (DEP) priorities. DECD has 23 pending applications that either have been reviewed and put on hold for additional information from the applicant or have been approved and are awaiting available funding.

Since the program's inception, 83 dry cleaning sites have been approved for approximately \$11.2 million in grants.

To receive grants under the program, applicants must satisfy several criteria, including that the business uses chemicals to clean clothes, has been operating or operated for at least a year, is up to date on state and local taxes, and can demonstrate need for the grant. The law allows, but does not require, DECD to provide grants to eligible applicants.

The legislature made several changes to the program since its establishment. Notable recent changes include increasing the maximum calendar year grant under the program from \$50,000 to \$300,000 and extending eligibility to owners of sites formerly occupied by dry cleaning businesses.

More information about the program is available on its website at <http://www.ctbrownfields.gov/ctbrownfields/cwp/view.asp?a=2620&q=319328>.

## **PROGRAM PURPOSE AND SCOPE**

Dry cleaning remediation fund grants may be used for “the containment and removal or mitigation of environmental pollution resulting from the discharge, spillage, uncontrolled loss, seepage or filtration of chemical liquids or solid, liquid or gaseous products or hazardous wastes on or at the site of an eligible dry cleaning establishment[.]” Grants may also be used to take measures to prevent pollution which are approved by the DEP commissioner.

In addition to providing grants for the purposes listed above, money from the remediation account may be used to (1) provide grants to DEP to investigate dry cleaning businesses, (2) provide potable water when necessary, and (3) conduct environmental site assessments. For administrative costs, DECD receives annually from the account the greater of \$100,000 or 5% of the account's maximum balance in the previous year.

Applicants must pay the first \$10,000 of pollution costs. Program grants are capped at \$300,000 (CGS § 12-263m, as amended by [PA 10-86](#)).

## **ELIGIBILITY**

DECD may use account funds to make grants to (1) owners or operators of eligible dry cleaning establishments or (2) owners of property where an eligible dry cleaning establishment has been operating for at least a year or previously operated for at least a year, before the grant application's approval.

Eligible dry cleaning establishments include (1) businesses that use tetrachlorethylene, Stoddard solvent, or other chemicals to clean clothing or other fabrics or (2) businesses that accept clothing or fabrics to be cleaned by another establishment using such chemicals.

By law, to qualify for a grant, an applicant must demonstrate to the DECD commissioner's satisfaction that:

1. the dry cleaning establishment is using or previously used tetrachlorethylene, Stoddard solvent, or other chemicals for cleaning clothes or other fabrics;
2. the establishment has been doing business, or did business, at the site for at least one year before the application submission or approval date; and
3. the applicant or establishment or property owner is up to date on all state and local taxes (including, for dry cleaning establishments or property owners, being up to date on the dry cleaning surcharge) (CGS § 12-263m, as amended by PA 10-86).

DECD further requires (as authorized by CGS § 12-263m(h)) that applicants:

1. demonstrate the need for the requested grant amount;
2. certify that there are no outstanding litigation proceedings involving the applicant or the applicant's representatives; and
3. identify the responsible party to complete the site investigation and remediation, including the funding source to complete the project for costs exceeding approved state funding (CT Office of Brownfield Remediation and Development, Dry Cleaning Establishment Remediation Fund – Fact Sheet, *available at* <http://www.ctbrownfields.gov/ctbrownfields/cwp/view.asp?a=2620&q=319338>).

As noted above, the program has not accepted applications since Spring 2009. The program's website states that "[d]ue to reductions in dry cleaning surcharge receipts and other factors that may affect program funding balances, DECD has decided to postpone the Fall 2010 application round until further notice"

<http://www.ctbrownfields.gov/ctbrownfields/cwp/view.asp?a=2620&q=435598>.

While in operation, the program uses a two-phase application process. The first phase provides up to \$100,000 in funding for site investigation and a Remedial Action Plan (RAP). The second phase provides up to \$200,000 for implementation of the RAP and site remediation. More information on the application process is available at the program's website,

<http://www.ctbrownfields.gov/ctbrownfields/cwp/view.asp?a=2620&q=319328>.

## **HISTORY**

Since establishing the account in 1994 ([PA 94-4](#), May Spec. Sess.), the General Assembly has made numerous changes to the program. Below are some highlights of significant changes to the program since its inception. Please note that this report does not discuss all public acts affecting the program (some of which made only minor or technical changes) or describe all provisions for those acts discussed below.

**[PA 94-3](#), Nov. Spec. Sess.** extended the 1% surcharge to all dry cleaners. Under prior law, a dry cleaner had to pay the surcharge only if it was using or previously used certain chemicals, could show the economic development commissioner that it could not obtain bank financing, and had been doing business in Connecticut for at least one year before applying for a grant.

**[PA 99-216](#)** exempted dry cleaner account grants from attachment by civil judgments and prohibited dry cleaners behind in their state or local taxes from receiving account grants.

**[PA 05-176](#)** (1) allowed owners of property on which there are eligible dry cleaning businesses to apply for grants from the program; (2) set a maximum grant of \$300,000 per applicant and increased, from \$50,000 to \$300,000, the maximum grant an applicant can receive in a calendar year; and (3) allowed the account to be used to fund environmental site assessments.

**PA 06-61** (1) allowed, instead of required, the DECD commissioner to provide grants and specified that applicants must be “eligible;” (2) allowed eligible applicants to show that remediation services have been or will be completed (prior law required them to document that remediation had been completed); and (3) allowed applicants to receive grants of up to \$300,000 per eligible dry cleaning establishment, instead of capping at \$300,000 the total amount an applicant may receive per year.

**PA 07-171** consolidated all annual program reports the General Assembly requires from DECD, including a report on the dry cleaning grant program, into the department’s annual report.

**PA 09-7, Sept. Spec. Sess.** required that the criteria established by DECD for grant distribution must specify a method to ensure timely payment to grant recipients.

**PA 10-86** made the owner of a site formerly occupied by a dry cleaning establishment eligible for dry cleaning remediation grants, and applied to former dry cleaning establishment sites the existing criteria for operating establishments seeking grants.

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