**Section 310.75 Emergency Response Cost Recovery**

The Agency has authority under the Radiation Protection Act of 1990 [420 ILCS 40] to respond to conditions that constitute an immediate threat to health and to *assess the costs of its response against the person or persons responsible for the creation or continuation of the threat*. *If the Agency is unable to determine who is responsible for the creation or continuation of the threat, the costs shall be assessed against the owner of the property and shall constitute a lien against the property until paid* [420 ILCS 40/38(b)].

a) Costs that are assessed shall be based on:

1) The Agency's actual response costs, including, but not limited to:

A) Time required by Agency professional staff to coordinate response;

B) Time spent traveling and providing administrative support;

C) Performance or oversight of decontamination activities at properties contaminated with radioactive material;

D) Performance or oversight of confirmatory environmental monitoring;

E) Performance or oversight of treatment, storage and disposal of sources of radiation;

F) Equipment and supplies; and

G) Contractual support, if any, incurred by the Agency.

AGENCY NOTE: These support service costs may include, but are not limited to, rental of specialized equipment, acquisition of additional professional expertise not available within the Agency and laboratory fees charged to the Agency.

2) Costs incurred by other units of government while assisting the Agency, including agencies of the federal government, provided the costs are submitted as follows:

A) Unless otherwise notified by the Agency, the request for reimbursement must be received by the Agency within 45 days after the assistance is rendered to the Agency or 45 days after the costs are determined, whichever is later, but in any case, not later than one year after the assistance is rendered;

B) The request shall be in writing and shall include documentation justifying costs to be reimbursed; and

C) Reimbursable costs may include, but are not limited to, items specified in subsection (a)(1) of this Section.

b) All reimbursable costs described in a reimbursement request by a governmental unit are subject to approval by the Director of the Agency. The Agency may request additional information in support of the requested reimbursement.

c) If a request by a governmental unit for costs is denied, or denied in part, the Agency shall notify the requesting governmental unit of the decision within 30 days after the date the request was submitted.

d) Each bill for emergency response costs assessed under this Section shall identify the items claimed and the costs related to each. Payment is due to the Agency within 45 days after receipt of the bill.

e) After all emergency response costs have been paid by the responsible parties, the Agency shall pay governmental units based on approved requests.

f) *Any person assessed costs under this* Section *shall have the right to a hearing before the Agency provided a written request for a hearing is served on the Agency within 10 days* after *notice of the assessment. In the absence of receipt of a request for a hearing, the affected party shall be deemed to have waived the right to a hearing* [420 ILCS 40/38(b)]. Hearings shall be conducted in accordance with 32 Ill. Adm. Code 200.

(Source: Amended at 29 Ill. Reg. 20748, effective December 16, 2005)