December 20, 2011

Dear Governor Walker and State Representatives,

The Governor’s Council for the Dry Cleaning Environmental Response Program (DERP) is pleased to provide this 5-year Program Evaluation Report. This report is intended to meet statutory requirements contained in s. 292.65(13), Wis. Stats.

The Dry Cleaning Environmental Response Program is an outstanding example of cooperation between industry and DNR. The costs of DERP are primarily borne by the dry cleaner industry. The industry is proactive in addressing environmental cleanup at dry cleaner facilities. This effort restores value to many family-owned businesses, allows second and third generation owners to continue in the family business, and helps avoid abandonment of contaminated properties and the impact these have on municipalities. This program is a win-win for the State – dry cleaners fund DNR and DOR administrative costs of the program without a need for increased tax revenues.

The 5-year Program Evaluation addresses current and future funding of the program. Over the last 12 years, the Fund has provided more than $15 million to begin investigation and cleanup at 230 dry cleaner facilities. More than 60 of those facilities have completed cleanup and are now closed. The Legislature enacted the recommendations of the 2006 Program Evaluation which included a 1% increase in fees paid by dry cleaners and helped stabilize funding. Dry cleaners are currently paying 2.8% to DERP on gross dry cleaning revenues and are unable to bear any additional fee increases.

Due to the economy and contraction of the dry cleaning industry, the Council projects that there will be shortfall of revenues to cover projected cleanup expenses beginning in mid-FY14. The Council unanimously supports and recommends the following FY13/15 budget initiatives: direct DOR to publish a list of all licensed dry cleaners quarterly; forgive the $6.2 million EIF loan to DERP; undertake a study of alternative funding mechanisms for DERP; and provide statutory authority for DNR to directly expend money from the Fund for immediate and emergency actions at certain dry cleaner facilities.

This proposal allows the dry cleaning industry to build upon the 12 years of success in DERP. Working together, we can sustain family owned businesses and environmental remediation. We can continue to ensure that communities throughout Wisconsin benefit from the economic and environmental advantages of the Dry Cleaner Environmental Response Program.

Sincerely,

Richard W. Klinke, Chair
Governor’s Dry Cleaner Environmental Response Council
Dry Cleaner Environmental Response Program

5 Year Program Evaluation
– December 2011 –
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Summary

The Dry Cleaner Environmental Response Council is responsible for providing oversight and direction to the Dry Cleaner Environmental Response Program (DERP) and for ensuring stable funding of the program. As part of this responsibility, the Council is providing this 5-year Program Evaluation to the Governor, Legislature and the public.

The Council has chosen to evaluate three areas of the program: efforts to maintain revenue flow over the past 5 years; sustainability of DERP into the future; and ability of individual dry cleaners to pay for cleanups.

We conclude that DERP has worked well to promote cleanup of contaminated dry cleaner properties thereby helping these small businesses remain viable. The Legislature implemented the recommendations of the 2006 Five Year evaluation, specifically by increasing dry cleaner license fees by 1% (to a total of 2.8% of gross dry cleaning revenues) and by providing a $6.2 million loan from the Environmental Improvement Fund (EIF). These actions have sustained the viability of DERP over the last 5 years.

However, DERP faces a shortfall in revenues by mid-FY14. Given the declines in the dry cleaning industry as a whole, dry cleaners are unable to bear additional increases in license or solvent fees.
The Council recommends the following actions:

1. Provide for Sustainability of the Dry Cleaner Environmental Response Fund
   
a. Direct the Department of Revenue to publish quarterly a list of all licensed dry cleaners, along with their license status – either current or delinquent. This action by the Legislature would help ensure that fees are fairly being paid by all active dry cleaners.
   
b. Forgive the EIF Loan to DERP. This will alleviate accrual of interest on the loan. DERP will not produce revenue to repay either the principal or interest.
   
c. Undertake a study to assess alternative funding mechanisms for sustaining DERP.

2. Provide statutory authority for DNR to directly expend DERP funds for immediate and emergency actions at eligible dry cleaner properties

Detailed information on the program can be found at:

Legislative Fiscal Bureau, 2011-2013 Biennial Budget Paper #500:
http://legis.wisconsin.gov/lfb/Pages/default.aspx > Publications > Budget Papers > 2011-2013 > #500

Legislative Fiscal Bureau, January 2011 Information Paper #67 (pp. 27 – 34)

Background Information

The Dry Cleaner Environmental Response Program was established by the Legislature working with the dry cleaning industry in the 1997 – 1998 biennial budget. Sections 292.65, 292.66, and ss. 77.996 – 77.9964, Wis. Stats., provide specific details for program implementation and fee assessment for this program, respectively. The Wisconsin Department of Natural Resources (DNR) is charged with implementing the program, while the Wisconsin Department of Revenue (DOR) is responsible for licensing facilities and collecting fees from facilities and solvent suppliers. Chapter NR 169, Wisconsin Administrative Code, establishes the criteria for reimbursement from the Dry Cleaner Environmental Response Fund (“Fund”). This fund was designed by the Wisconsin Fabricare Institute (WFI) to help dry cleaners pay for environmental cleanup costs as a result of a discharge of a dry cleaning chemical at a dry cleaning facility. Cleanups conducted under this program must comply with the DNR’s rules in Chapter NR 700 to 754, Wisconsin Administrative Code.

The Fund was established by the dry cleaning industry in an effort to help dry cleaners, who are primarily comprised of small business men and women, deal with the significant expense associated with soil and groundwater contamination. Most of the environmental contamination at dry cleaners originates from historical releases of dry cleaning chemicals in

How the Fund is Supported

Dry cleaners pay license fees and fees on the sale of dry cleaning solvents. The Department of Revenue collects the fees and deposits them into the Fund, as follows:

- **2.8% of drycleaning gross receipts**
- **$5 per gallon of perchloroethylene**
- **$0.75 per gallon of other solvent fees paid by chemical distributors**
By statute, license fees will be collected until 2032. The maximum reimbursement amount possible per site is $500,000. By statute, this program closed to new applicants on August 30, 2008.

Section 15.347(2), Wis. Stats., establishes a six-member Governor’s Dry Cleaner Environmental Response Council to advise DNR concerning the program. The Council works with the DNR to achieve consensus on all statutory language changes as well as rule-making.

Section 292.65(13), Wis. Stats., requires the Council to establish criteria and evaluate the Fund every 5 years. This paper provides the evaluation and recommends actions to sustain the Fund through the next 5 years.

The Council has chosen address the following areas in this evaluation:

I. Efforts to maintain revenue flow over the last 5 years

II. Sustainability of the Fund into the future

III. Ability of Individual Dry Cleaners to Pay for Cleanups
Evaluation

I. Efforts to maintain revenue generation over the last 5 years

At the inception of DERP, there were approximately 350 licensed dry cleaners. There are currently 197 licensed dry cleaners in Wisconsin, with 235 registered dry cleaning sites. This 44% decline in licensed dry cleaners reflects the shrinking nature of the industry. The dry cleaning industry is in decline due to societal changes in personal lifestyle, professional work attire, and clothing preferences. The economic recession has only hastened this decline.

A decline in Fund revenues has accompanied the industry decline. Program revenues have been steady or declined throughout the 12 year history of DERP (Figure 1). However, the demand on the Fund for reimbursement of cleanup costs has risen over time as more dry cleaners entered the program and as more cleanups have occurred. Inflation has also added to program costs.

Recognizing the need for increased revenue to meet Fund demand, the Legislature approved a dry cleaner license fee increase of 1% (from 1.8% to 2.8% of gross receipts on dry cleaning revenue) beginning January 1, 2008. In 2006, this Council projected a revenue increase due to a 1% fee increase. However, the 2008 recession wiped out the effects of this increase, such that revenues barely remained constant even with the 1% fee increase.

By 2009, the Fund was significantly over subscribed. Revenue was approximately $1,000,000 per year while demand stood at about $2,000,000 per year. Between 2008 and 2009, reimbursement of cleanup costs

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2. Wisconsin Dry Cleaner Environmental Response Council, 2006 Five Year Program Evaluation.
went from a 90 day wait to a projected 2 year wait. This meant that small business men and women who had taken out bank loans to fund cleanups were experiencing significant penalties on interest payments due to a shortfall in the Fund.

To address this very significant problem, the Legislature authorized the Department of Administration (DOA) to enter into an agreement to transfer up to $6.2 million from the land recycling loan program within the Environmental Improvement Fund (EIF) to the Fund. Quarterly transfers of money from EIF to the Fund began July 30, 2009 and have continued since that time. The Fund is assessed interest charges on the money transferred and required to repay $1,000 of principal annually to EIF. The Memorandum of Agreement between DOA and DNR stipulates that transferred funds and accrued interest must be repaid by the termination date of the Fund, which is 2032. To date, $3,747,650 has been transferred from EIF to the Fund and the Fund has repaid EIF $12,263 in principal and accrued interest (Figure 2).

With the quarterly transfer of EIF money, the Fund backlog was eliminated. Since August 2009, reimbursements have been paid to dry cleaners within the usual 90 day time frame. However, with the transfer of EIF money, the state has essentially taken over the interest payments on the shortfall between the Fund revenues and demand.

The EIF transfer has stabilized the Fund for the short-term. However, once the $6.2 million in EIF money is expended, the Fund will again be faced with a short fall and the payment backlog experienced in 2009 will return. We estimate that the EIF funds will be

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**Figure 2**

*EIF to DERP Transfer History*

<table>
<thead>
<tr>
<th>FY</th>
<th>Date</th>
<th>Amount Borrowed by DERF from EIF</th>
<th>Interest &amp; Principal Payments to EIF</th>
<th>EIF Monies Available on Loan to DERF</th>
</tr>
</thead>
<tbody>
<tr>
<td>FY10</td>
<td>Transfer-Q1</td>
<td>20-Aug-2009  $1,490,000.00</td>
<td></td>
<td>$4,510,000.00</td>
</tr>
<tr>
<td></td>
<td>Transfer-Q2</td>
<td>6-Oct-2009   $362,000.00</td>
<td></td>
<td>$4,148,000.00</td>
</tr>
<tr>
<td></td>
<td>Transfer-Q3</td>
<td>5-Jan-2010   $407,000.00</td>
<td></td>
<td>$3,741,000.00</td>
</tr>
<tr>
<td></td>
<td>Transfer-Q4</td>
<td>1-Apr-2010   $219,500.00</td>
<td></td>
<td>$3,521,500.00</td>
</tr>
<tr>
<td></td>
<td>FY10 Interest Paid (*)</td>
<td>30-Jun-2010</td>
<td>$4,201.43</td>
<td>$3,525,701.43</td>
</tr>
<tr>
<td></td>
<td>Principal Repayment</td>
<td>8-Jul-2010</td>
<td>$1,000.00</td>
<td>$3,526,701.43</td>
</tr>
<tr>
<td>FY11</td>
<td>Transfer-Q1</td>
<td>1-Jul-2010   $410,500.00</td>
<td></td>
<td>$3,116,201.43</td>
</tr>
<tr>
<td></td>
<td>Transfer-Q2</td>
<td>5-Oct-2010   $278,500.00</td>
<td></td>
<td>$2,837,701.43</td>
</tr>
<tr>
<td></td>
<td>Transfer-Q3</td>
<td>5-Jan-2011   $257,150.00</td>
<td></td>
<td>$2,580,551.43</td>
</tr>
<tr>
<td></td>
<td>Transfer-Q4</td>
<td>1-Apr-2011   $28,000.00</td>
<td></td>
<td>$2,552,551.43</td>
</tr>
<tr>
<td></td>
<td>FY11 Interest Paid (*)</td>
<td>28-Jun-2011</td>
<td>$6,061.60</td>
<td>$2,558,613.03</td>
</tr>
<tr>
<td></td>
<td>Principal Repayment</td>
<td>30-Jun-11</td>
<td>$1,000.00</td>
<td>$2,559,613.03</td>
</tr>
<tr>
<td>FY12</td>
<td>Transfer-Q1</td>
<td>1-Jul-2011   $110,000.00</td>
<td></td>
<td>$2,449,613.03</td>
</tr>
<tr>
<td></td>
<td>Transfer-Q2</td>
<td>1-Oct-2011   $185,000.00</td>
<td></td>
<td>$2,264,613.03</td>
</tr>
<tr>
<td></td>
<td>Transfer</td>
<td>3-Jan-2012</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Transfer</td>
<td>01-Apr-2012</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td><strong>Total</strong></td>
<td><strong>$3,747,650.00</strong></td>
<td><strong>$12,263.03</strong></td>
<td><strong>$2,264,613.03</strong></td>
</tr>
</tbody>
</table>

(*) Interest incurred in FY10&11 paid back same year. Future interest is to be accrued.
expended by mid-FY14.

The Council concludes that the efforts to maintain funding over the last 5 years have allowed cleanups to progress at dry cleaners around the state. However, the financial difficulty created by the 2009 reimbursement backlog and the possibility of a future reimbursement backlog has contributed to uncertainty in the dry cleaning community and may have caused some DERP applicants to put their cleanups on hold.

II. Future Sustainability of the Fund

A. Past Expenditures for Cleanup of Dry Cleaner Properties

1. Participation and Progress of Cleanups at Dry Cleaners.

There are 230 properties\(^3\) registered in the Dry Cleaner Environmental Response Program. Of these, 107 sites (46%) have completed a site investigation and begun and/or completed cleanup actions. A total of 63 (27%) of these sites have received final closure from the DNR. However, 46 sites (20%) have undertaken no action besides submitting their initial eligibility application (Figure 3). The DERP closed to new applicants on August 30, 2008.

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3. Eligibility for DERP has yet to be established for 2 of these 230 properties.
In addition to the 46 sites that have taken no action toward cleanup, more dry cleaner owner/operators are finding that they are unable to continue cleanups they have begun. Section III below discusses this problem in more detail.

2. Reimbursed Costs at DERP Sites. Figure 4 summarizes annual revenue and cost experienced by the Fund. It is important to keep the following in mind. First, DERP reimbursed costs do not equal cleanup costs experienced by dry cleaner owners/operators. Dry cleaners must pay deductible, financing and other costs that are not reimbursable. Second, past costs are not accurate predictors of future costs. The easiest, least contaminated sites are cleaned up quickly and less expensively.

The most difficult and costly sites are underrepresented in cost estimates because they continue to require cleanup effort and money (Figure 5). Third, inflation and other cost increases tend to increase total cost of site cleanup over time.

3. How the Fund is spent. Cleanup costs for dry cleaners are tracked by several categories, including soil investigation/remediation; groundwater investigation/remediation; vapor investigation/remediation; laboratory and miscellaneous costs; and deductible costs.
Figure 5

Upward Trend in Payments for Cleanup

<table>
<thead>
<tr>
<th># of Sites</th>
<th>Avg. DERF Payment (to date)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Closed sites; cleanup complete</td>
<td>47*</td>
</tr>
<tr>
<td>Active sites; undergoing cleanup</td>
<td>94**</td>
</tr>
</tbody>
</table>

*63 sites have received final closure. Only sites that have submitted a claim to DERF were included.
**121 DERP sites are actively cleaning up; 94 of these have submitted at least one claim.

This table supports the conclusion that less complex sites were cleaned up first. Sites with more complexity and/or contamination will take more money to remediate.

Figure 6

How the Fund is Spent by Category

<table>
<thead>
<tr>
<th>Total DERP Payments</th>
<th>% by Category &amp;</th>
<th>% by type of Contamination</th>
</tr>
</thead>
<tbody>
<tr>
<td>Air/Vapor Investigation</td>
<td>$286,497.62</td>
<td>1.84%</td>
</tr>
<tr>
<td>Air/Vapor Remediation</td>
<td>$198,052.62</td>
<td>1.27%</td>
</tr>
<tr>
<td>Groundwater Investigation</td>
<td>$3,748,757.24</td>
<td>24.09%</td>
</tr>
<tr>
<td>Groundwater Remediation</td>
<td>$3,745,914.59</td>
<td>24.07%</td>
</tr>
<tr>
<td>Lab, Analysis &amp; Misc.</td>
<td>$1,640,344.25</td>
<td>10.54%</td>
</tr>
<tr>
<td>Soil Investigation</td>
<td>$1,951,600.05</td>
<td>12.54%</td>
</tr>
<tr>
<td>Soil Remediation</td>
<td>$3,990,947.23</td>
<td>25.65%</td>
</tr>
</tbody>
</table>

$15,562,113.61

Air/Vapor = 3%

Soil = 38%

Soil Remediation 26%

Soil Investigation 13%

Lab & Misc. 11%

Air/Vapor = 3%

Groundwater 48%

GW Investigation 24%

GW Remediation 24%
**Figure 6** illustrates the categories of reimbursed costs. Remediation costs makeup 51% of costs claimed for reimbursement. Investigation costs make up 39% of claimed costs and laboratory and miscellaneous costs represent 11% of claimed costs. These numbers make clear that the Dry Cleaner cleanup program emphasizes remediation.

4. Where the Fund is spent. Three maps indicate where Fund money has been reimbursed by County, Senate District, and Assembly District (Figures 7, 8, and 9 - see appendix). The number of dry cleaning businesses reflects the population centers of the state. Half of all dry cleaners are located in the southeastern part of the state. Southern and northeastern counties account for most of the remaining areas where reimbursements have been made.

**B. Future Projections**

**Figure 10** summarizes projected demand on the Fund through its sunset date of 2032.
2032. Estimated future net revenues of $700,000 per year are based on historical experience. Total future demand is estimated by projecting cost to closure for active cleanup sites and estimating $145,000 total costs for DERP sites that have not begun cleanup. We estimate that the Fund will experience approximately $1.5 million in reimbursement requests per year. The $6.2 million loan from EIF will allow DNR to pay the difference between revenue shortfall and reimbursement demand until mid-FY14. After that time, reimbursements will be limited to incoming revenue and requests will be paid on a first-in-first-out basis. However, immediate and emergency actions are given priority for reimbursement over all other requests.

The projections show that a reimbursement backlog will quickly develop once the EIF loan is expended. Figure 11 illustrates the development of the payment backlog. By the June 30, 2032 sunset date, DERP will still owe $3 million in reimbursement to dry cleaner owner/operators. Dry cleaner owners and operators can not carry the interest payments implied by the large backlogs projected in Figure 10 and illustrated in Figure 11. It is far more likely that dry cleaners will cease cleanup work when they face significant delays in receiving reimbursement. Most dry cleaners use their DERP reimbursement to fund the next phase of cleanup. As small business men and women, they can not carry tens of thousands of dollars in outstanding loans for long periods of time.

**Figure 11: Projected Demand on DERP**

This figure illustrates the data presented in Figure 10. In addition to the revenue and demand projections, it is based on the assumption that the EIF loan will be forgiven resulting in DERP having no repayment obligation in 2032.
In addition to the projected shortfall in revenue versus reimbursement claims, the Memorandum of Agreement between DOA and DNR requires that the principal ($6.2 million) and accrued interest (projected to be $3.4 million) be repaid to EIF by the DERF sunset date. Projected DERF revenues through 2032 will not cover the cleanup demand or the cost of repaying the EIF loan. As shown in Figure 10, the estimated unfunded cleanup claims and loan principal and interest in 2032 are estimated to be approximately $12,680,000.

Additional funding is necessary if environmental cleanups at the open dry cleaner sites in DERP are to be completed. Dry cleaning businesses are currently paying 2.8% of their gross dry cleaning revenues into the Fund. With the significant decline in the industry, dry cleaners are unable to pay any additional fees into the Fund.

The DERP provides significant benefits to Wisconsin. It has successfully restored many family-owned businesses, allowed a second or third generation owner to continue in the family business, and avoided abandonment of contaminated property and assumption of cleanup costs by the public. It is important that these benefits be extended to the remaining dry cleaner properties in DERP.

C. Options for Stabilizing DERP Funding

The Council supports exploration of alternatives that will allow the past success of DERP to be extended to the dry cleaner business owners, neighborhoods and municipalities where dry cleaner properties continue to be cleaned up. Given the financial situation of the industry, dry cleaners cannot sustain an increase in dry cleaning license fees or solvent fees. Other options that exist include:

1. Ensure that all active dry cleaning businesses are paying license fees. Department of Revenue should be directed to publish quarterly a list of all licensed dry cleaners, along with their license status – either current or delinquent. Section 299.27(2), Wis. Stats., requires that dry cleaning solvent not be sold or delivered to dry cleaning facilities unless they are licensed. Publishing the list of licensed dry cleaners, along with their current fee status would identify dry cleaners that are not licensed and/or are not paying license fees. Department of Revenue does not currently publish this information because it is covered by confidentiality of tax returns. However, confidentiality of tax records could be maintained while publically disclosing the name and location of licensed dry cleaner facilities in the state. This action by the Legislature would help ensure that fees are fairly being paid by all active dry cleaners.

2. Forgive the EIF Loan to DERP. As shown in Figure 10, Fund income will not be large enough to repay reimbursement claims, much less the principal and interest on the EIF loan by the sunset date of DERP. The Legislature could choose to forgive the loan, thereby alleviating the accrual of interest against the Fund. The DERP
will not produce revenue to repay either the principal or interest of the EIF loan.

3. Alternative funding mechanisms. The Council recommends that a study be undertaken to assess alternative funding mechanisms for sustaining DERP. In any study of alternative funding options, it is critical that DERP fees remain segregated for reimbursement of cleanups at DERP eligible sites.

II. Ability of Individual Dry Cleaners to Pay for Cleanups

Dry cleaner operators/owners are under enormous financial pressures. It is more difficult to obtain bank loans to fund cleanups and owners can not afford extended delays in reimbursement. Dry cleaner owners are aging and many are ready to retire. They often can not sell their businesses if their properties are contaminated. With a shortage of money and an inability to borrow money, more dry cleaners find that they are unable to pay for environmental cleanup. Even though the Fund can provide up to $500,000 for cleanup, these financially strapped dry cleaners are unable to access the Fund because they cannot front the money necessary to receive the reimbursement.

Currently, three dry cleaners have officially submitted financial information to the DNR’s Ability to Pay process and have been found to have insufficient resources to pay for cleanup of environmental contamination on their properties (Figure 12). In these instances the DNR has placed a deed affidavit on the property notifying interested buyers that the property is contaminated and needs to be cleaned up. These properties are priority ranked by DNR, with the possibility of using money from the Environmental Fund (EF) for eventual cleanup.

To date, DNR has expended $324,990 from the EF for cleanup at 3 additional dry cleaner sites where the owners were unable to undertake cleanup (Figure 12). Legislative authority allows DERP to reimburse the EF for these expenditures. However, DNR has suspended reimbursements from the Fund to EF in order to preserve Fund reimbursement for the dry cleaner owners/operators.

In addition, 46 dry cleaners who registered for DERP have taken no action to begin their cleanup. This represents more than a quarter of the open dry cleaner sites remaining in DERP. Every dry cleaner eligible for DERP reimbursement has been

<table>
<thead>
<tr>
<th>Site Name</th>
<th>Amount DERF Owes to EF</th>
<th>EF Payment of DERF Deductible (not reimburseable)</th>
</tr>
</thead>
<tbody>
<tr>
<td>So’s Cleaners, Appleton</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Fox Valley Laundries, Oshkosh</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Barb and Ron's, Appleton</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Shilobrit’s, Neenah</td>
<td>$104,083.97</td>
<td>$10,000</td>
</tr>
<tr>
<td>Shilobrit’s, Oshkosh</td>
<td>$97,851.50</td>
<td>$10,000</td>
</tr>
<tr>
<td>Westby Cleaners, Westby</td>
<td>$144,055.14</td>
<td>$10,000</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$345,990.61</strong></td>
<td><strong>$30,000</strong></td>
</tr>
</tbody>
</table>
registered for the program for between 3 and 12 years. We believe most of these businesses have not moved forward with cleanup due to financial constraints.

Dry cleaners can designate an “agent” who can take over the clean up effort and receive reimbursement. However, there usually needs to be a significant financial incentive (i.e., increase in property value) for someone to agree to take on agent status. Many dry cleaner properties do not have strong redevelopment potential.

The inability of dry cleaners to pay for environmental cleanup leads to several poor outcomes:

1. The properties may be abandoned and become tax delinquent. The municipality then is faced with a brownfield property that can not be redeveloped until the property is cleaned up.

2. Neighbors may be exposed to contamination from the dry cleaner. The most common exposure pathway is through vapor intrusion which is when people breathe contaminated vapors that migrate into buildings from contaminated soil and groundwater.

3. DNR spends money from the Environmental Fund to address emergency or immediate risk situations that the dry cleaner is unable to address.

We conclude that some number of dry cleaners currently enrolled in DERP will not be able to undertake environmental cleanup of their property, even with access to Fund reimbursement. Cleanup at these sites will require a third party (such as a DERP agent, a property developer, the State of Wisconsin, etc.) to undertake the cleanup. It is imperative that immediate health risks from these properties be addressed. The Council recommends a statutory change to allow DNR to directly expend money from the Fund for emergency and immediate actions that dry cleaner owner/operators are unable to complete.

The caveats on DNR’s authority to expend money directly from the Fund would include:

- Direct expenditure authority would apply only to emergency and immediate actions, with a limit of $15,000 per dry cleaner site and the maximum total expenditure in a year not to exceed 9.7% allowed for immediate actions under the existing s. 292.65(3)(c), Wis. Stats.

- Expenditures will be counted against the site’s maximum $500,000 DERP cap as if the dry cleaner had been reimbursed (i.e., immediate action money counts toward the $500,000 maximum a dry cleaner can receive for a cleanup at one dry cleaner site).

- If the eligible applicant hasn’t paid the initial $10,000 deductible, a lien will be placed on the site for the amount expended as authorized and required by the current statute.

- The dry cleaner must go through the Ability to Pay process to show that s/he is unable to pay for the work. (This proposal is not intended to remove the dry cleaner’s responsibility to undertake these actions.)
3 Conclusions

The Dry Cleaner Environmental Response Program is currently working well to address cleanup and remediation of historical and active dry cleaning sites. This industry funded program is a success story with credit to DNR, DOR and the dry cleaning industry for vision in developing and modifying DERP since its inception to meet challenges as they have arisen.

The greatest challenge to DERP lies in the near future, when significant funding shortfall is likely to lead to a cessation in cleanup work at most contaminated dry cleaning sites.

Unless action is taken to address the shortfall between the current revenue stream and cleanup demand, the future for DERP is bleak. The majority of dry cleaners do not have the financial ability to obtain financing required for remediation of their sites without prompt reimbursement for the cleanup work. Without a sustainable funding plan, the dry cleaner owners will not be able to complete their cleanups. This significantly increases the possibility of business and personal financial default, creation of tax delinquent properties and exposure of neighborhoods to contamination.
Appendix

Maps:

DERF Dollars Reimbursed by County
DERF Dollars Reimbursed by Senate District
DERF Dollars Reimbursed by Assembly District
Legend
DERF Dollar$ Reimbursed By County

- >400,000 - 800,000
- >800,000 - 1,200,000
- >1,200,000 - 1,600,000
- >1,600,000 - 2,000,000
- >2,000,000 - 2,400,000
- 7,251 - 400,000
- >800,000 - 1,200,000
- >1,200,000 - 1,600,000
- >1,600,000 - 2,000,000
- >2,000,000 - 2,400,000
Legend
DERF Dollar$ Reimbursed By Senate District

- 19,128 - 300,000
- >300,000 - 600,000
- >600,000 - 900,000
- >900,000 - 1,200,000
- >1,200,000 - 1,500,000
- >1,500,000 - 1,800,000