

Governor's Dry Cleaner Council
Meeting Notes
2801 Progress St., Madison
February 18, 2011
10:00 a.m. – 12:30 p.m.

Attending:

Governor's Council

Rich Klinke, Chair

Kevin Braden

Jill Fitzgerald

Brett Donaldson

Mark Mejac (for Jean Tarvin)

DNR

Terry Evanson

Cathy Burrow

Mark Gordon

Mark Giesfeldt

Pat Kirsop

WI Fabricare Institute

Brian Swingle

Reinhart-Boerner

Don Gallo

I. Overview and proposed revision to NR 700 -- Mark Gordon

1. NR 700 revisions update the code to codify changes that have occurred since 1998. The update will make the code match the cleanup process as it is currently being used. DNR also removed parts of the code that are no longer pertinent.
2. Costs – biggest change for DERF relates to the vapor intrusion (VI) pathway. Again, the code revisions will codify the process already being used to investigate this pathway. Side discussion on difference between DC & petroleum sites.

Q: Whose continuing obligation is it to run the air testing?

A: It goes with the property.

Side discussion on sensitivity of testing.

3. Reopening closed sites- the department will not reopen closed sites in order to address the VI pathway.

Q: Can an RP test a closed site if they want to while DERF is available?

A: Yes.

Follow-up: If they don't find anything, they may still want to submit that to the department so the record is complete.

Q: Should the council recommend this to DCs? (Swingle)

A: This is a limited number of sites that are closed and were closed before vapor intrusion came up. (Gallo)

4. Fee question. The department is proposing 40% increase which is 2-1/2% per year since rules were 1st promulgated. Dry Cleaners do not pay most fees, with the exception of Closure & GIS fees, so this doesn't have much of an impact.

Timeline for rule: we expect one more meeting in April then to go to NRB in August to request the start of the formal rule-making process. If that goes well, hearings will be held in fall, 2011.

II. Fund Update – Cathy

Discussion regarding if it's necessary to pay the interest for EIF to DOA before DERF pays DC claims.

Who should the lack of long-term funds be communicated to? The consultants (who already know)
How many sites have done nothing yet? Besides the required Potential Claim Notification to enter the program, DNR has not received additional information from 46 of the 230 dry cleaner sites registered in DERF.

III. Proposed Statutory Changes – Terry

Discussed the attached "Proposal to address immediate risk at DERF sites that are unable to proceed with cleanup." The Council agreed with the concept if a per site cap of \$15,000 is specified. The department will draft possible statutory language. Brian will investigate the best way to move forward with this idea.

IV. 5 year report – Terry

Brainstorming ideas:

1. Focus on positive activities and effects
2. Tie it to saving & creating jobs
3. The industry agreed to a 60% increase in fees in 2008, despite a declining industry.
4. Present as a fix that will help evaluate and cleanup immediate threat to health
5. Talk about averted risks and lawsuits and the benefits of not having a blighted site.
6. Talk about businesses in real numbers that have been saved.
7. Continuing effect of keeping a business in business, on the tax-roll, an ongoing concern.

The council will work on this and Terry/Cathy will update the numbers.

The report is due to the legislature by the end of 2011. It was decided that the report should be drafted and the Council meet to discuss the report in early summer, if possible.

Governor's Dry Cleaner Council
February 18, 2011
2801 Progress Rd., Madison

Agenda

1. Discussion of proposed revisions to NR 700
Mark Gordon, Chief, Policy & Technical Resources Section, RR Bureau
2. Update of the Dry Cleaner Fund -
Cathy Burrow, Fund Manager, Community Finance Bureau
3. Proposal to address immediate risk at DERF sites where eligible applicant is unable to proceed with cleanup
Terry Evanson, DERF Team Leader, RR Bureau
4. Discussion of the 5 year Program Evaluation by the Council due in 2011 (in accordance with ss. 292.65(13), WI stats.)
Terry & Cathy
5. Other Council business

Governor's Dry Cleaning Council Update February 18, 2011

Temporary Transfer of Funds (EIF to DERF) Update

Of the \$6 million transfer of funds authorized in last biennial budget, we have spent nearly \$3.5 million to date. Interest has been even lower than last year, to date it's running at about 0.2 %, but that is tied to the economy.

Based on past numbers, I estimate transferring another \$250,000 before July which will leave a little over \$2.25 million for FY12 and beyond.

Program Revenue

Program revenues may be leveling out. Over the past 4 fiscal quarters, they've actually increased by 1.1%. Hopefully that trend will continue. Looking at the historical numbers, it's hard to predict what revenues will be by the end of this fiscal year. I feel confident in estimating they will be at least \$1 million.

Incoming Claims

For the past two years claims have been just over \$2 million, after the deductible we've paid out an average \$1.9 million. If this reflects stabilization in both claims and revenues mentioned above, the EIF funds should last through the 2nd quarter of 2013 which coincides with the end of the fiscal year as well. When additional monies from that source run out, the history of the DERF program shows that clean-up will drastically slow-down or stop. In my five weeks in this job, I've received five phone calls from owners or agents asking about the availability of funds.

Data

In the minutes, I will put a link to the R&R web site where Dry Cleaning statistics are posted. Those include

- Current Reimbursement Requests that are pending and haven't' been paid.
- Current Cost Payments - that shows all claims submitted and paid w/the \$ details.
- Payments by Site – this shows how much has been paid out per eligible site.
- Program Revenues.

These files are updated at least monthly. The pending claims sometimes gets updated more often. There is also some other historical data on that site.

DERF PROGRAM APPLICATIONS TO DATE

Annual Claims Submitted & Paid (by Fiscal Year)				
Feb. 18, 2011				
		Requested Reimburse.	Deductible	Payment processed
FY01	Totals	\$ 1,027,815.55	(\$54,761.78)	\$ 971,634.05
FY02	Totals	\$ 407,714.67	(\$33,845.86)	\$ 372,137.05
FY03	Totals	\$ 1,146,948.82	(\$123,190.23)	\$ 1,020,682.68
FY04	Totals	\$ 1,668,324.14	(\$145,069.38)	\$ 1,515,718.96
FY05	Totals	\$ 1,264,787.13	(\$101,966.32)	\$ 1,160,848.26
FY06	Totals	\$ 2,429,721.04	(\$320,441.89)	\$ 2,108,429.20
FY07	Totals	\$ 2,096,452.09	(\$192,240.36)	\$ 1,533,945.03
FY08	Totals	\$ 1,610,511.44	(\$179,612.46)	\$ 1,287,217.57
FY09	Totals	\$ 1,300,160.55	(\$145,820.11)	\$ 1,147,112.17
FY10	Totals	\$ 2,354,540.55	(\$132,390.69)	\$ 2,210,721.51
FY11	Totals -- So Far	\$ 851,325.67	(\$112,819.24)	\$ 659,300.76

Annual Claims Submitted & Paid (by Calendar Year)				
2000	Total	\$ 368,448.59	(\$27,500.00)	\$ 338,979.96
2001	Total	\$ 793,208.86	(\$48,788.99)	\$ 744,677.70
2002	Total	\$ 580,155.05	(\$36,653.94)	\$ 541,673.65
2003	Total	\$ 1,213,491.95	(\$138,113.53)	\$ 1,071,768.65
2004	Total	\$ 1,616,835.49	(\$171,674.98)	\$ 1,437,198.98
2005	Total	\$ 2,163,037.68	(\$199,115.43)	\$ 1,962,696.18
2006	Total	\$ 1,872,612.27	(\$224,796.60)	\$ 1,640,565.60
2007	Total	\$ 2,202,268.86	(\$236,546.06)	\$ 1,792,481.04
2008	Total	\$ 1,007,087.58	(\$134,020.02)	\$ 847,982.37
2009	Total	\$ 2,001,292.52	(\$85,938.46)	\$ 1,915,394.05
2010	Total	\$ 2,063,998.68	(\$201,330.49)	\$ 1,694,329.06

Future Revenue/Credits to DERF

Future Draws on DERF Balance

	Likely Revenue Available for Reimb. (*)	EIF Transfer (Incoming)	For Reference - EIF Transfer Interest Charges (^)	Reimbursement Claims Submitted	Reimbursement Claims Paid	Required Min EIF Repayment (to maintain max \$6.2 million debt)	Amount DERF Owes	Amount DERF can Pay	Claims Waiting to be Paid
FY11 after Feb	\$ 175,000	\$ 253,000	\$ 3,678	\$ 420,000	\$ 423,000	\$ 4,678	\$ 424,678	\$428,000	\$0
FY12	\$ 710,000	\$ 1,201,000	\$ 9,759	\$ 1,900,000	\$ 1,900,000	\$ 10,759	\$ 1,907,437	\$1,911,000	\$0
FY13	\$ 710,000	\$ 1,120,658	\$ 27,471	\$ 1,900,000	\$ 1,802,000	\$ 28,471	\$ 1,924,908	\$1,830,658	\$94,250
FY14	\$ 710,000		\$ 31,000	\$ 950,000	\$ 678,000	\$ 32,000	\$ 1,076,250	\$710,000	\$366,250
FY15	\$ 710,000		\$ 49,600	\$ 500,000	\$ 659,000	\$ 50,600	\$ 916,850	\$710,000	\$206,850
FY16	\$ 710,000		\$ 62,000	\$ 500,000	\$ 647,000	\$ 63,000	\$ 769,850	\$710,000	\$59,850
FY17	\$ 710,000		\$ 210,800	\$ 500,000	\$ 498,000	\$ 211,800	\$ 771,650	\$710,000	\$61,650
FY18	\$ 710,000		\$ 210,800	\$ 500,000	\$ 498,000	\$ 211,800	\$ 773,450	\$710,000	\$63,450
FY19	\$ 710,000		\$ 210,800	\$ 500,000	\$ 498,000	\$ 211,800	\$ 775,250	\$710,000	\$65,250
FY20	\$ 710,000		\$ 210,800	\$ 500,000	\$ 498,000	\$ 211,800	\$ 777,050	\$710,000	\$67,050
FY21	\$ 710,000		\$ 210,800	\$ 500,000	\$ 498,000	\$ 211,800	\$ 778,850	\$710,000	\$68,850
FY22	\$ 710,000		\$ 210,800	\$ 500,000	\$ 498,000	\$ 211,800	\$ 780,650	\$710,000	\$70,650
FY23	\$ 710,000		\$ 210,800	\$ 500,000	\$ 498,000	\$ 211,800	\$ 782,450	\$710,000	\$72,450
FY24	\$ 710,000		\$ 210,800	\$ 500,000	\$ 498,000	\$ 211,800	\$ 711,800	\$710,000	\$1,800
FY25	\$ 710,000		\$ 210,800	\$ 500,000	\$ 498,000	\$ 211,800	\$ 711,800	\$710,000	\$1,800
FY26	\$ 710,000		\$ 210,800	\$ 500,000	\$ 498,000	\$ 211,800	\$ 711,800	\$710,000	\$1,800
FY27	\$ 710,000		\$ 210,800	\$ 500,000	\$ 498,000	\$ 211,800	\$ 711,800	\$710,000	\$1,800
FY28	\$ 710,000		\$ 210,800	\$ 500,000	\$ 498,000	\$ 211,800	\$ 711,800	\$710,000	\$1,800
FY29	\$ 710,000		\$ 210,800	\$ 500,000	\$ 498,000	\$ 211,800	\$ 711,800	\$710,000	\$1,800
FY30	\$ 710,000		\$ 210,800	\$ 500,000	\$ 498,000	\$ 211,800	\$ 711,800	\$710,000	\$1,800
FY31	\$ 710,000		\$ 210,800	\$ 500,000	\$ 498,000	\$ 211,800	\$ 711,800	\$710,000	\$1,800
FY32	\$ 710,000		\$ 210,800	\$ 498,200	\$ 498,000	\$ 211,800	\$ 710,000	\$710,000	\$0
Sunset - Balance Due	\$ -				\$ -	\$ (6,200,000)			
	\$ 15,085,000	\$ 2,574,658	\$ 3,556,308	\$ 14,168,200	\$ 14,077,000	\$ (2,637,129)			

Est Reimb Claims Remaining \$ 23,486,987
Est Claims Paid Out \$ 14,077,000
\$ 9,409,987 Claims Unfunded

Est. Annual Interest Rate for EIF Transfer (^)	
variable	3.40%
short term	long term

Assumptions:

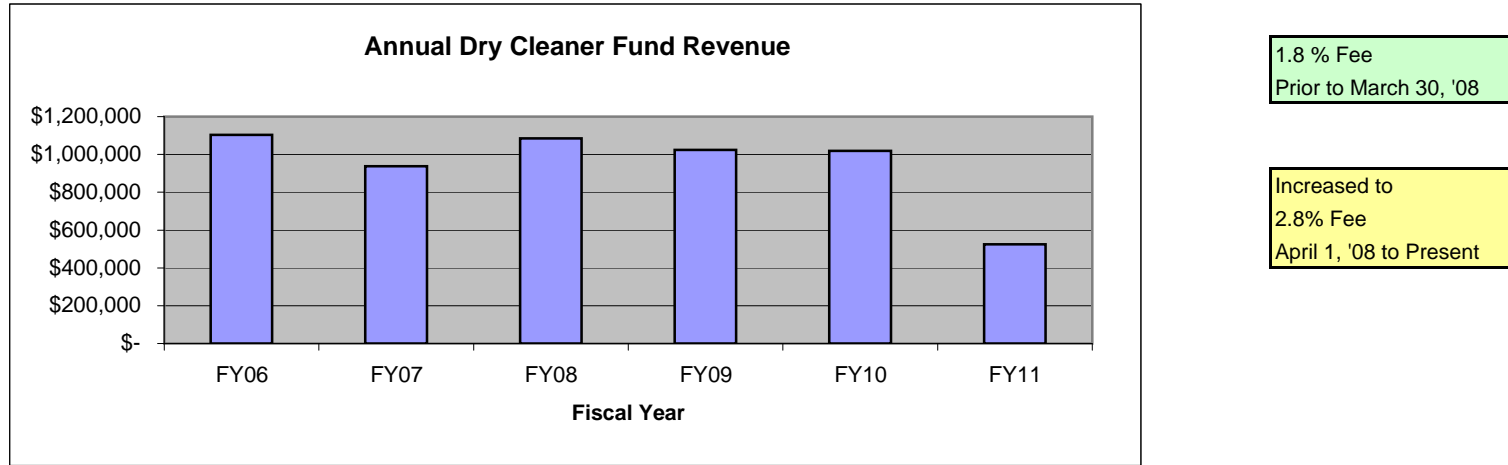
- (*) DERF Revenue is projected to be \$1,010,000 / year, with approx \$300,000 going to administrative expenses. Revenue may not meet expectations due to fluxuations in national economy & business outlook for dry cleaning.
- Reimbursement Claims will likely slow to match the funds available for reimbursement. In the recent past when claims couldn't be paid until funds became available, clean-up work drastically slowed down thus claims slowed down as well.
- (^) Assumes a low variable rate (from .2%-1%) over the next 5 years based on current trends, then 3.4% per year extending further out. This rate fluctuates from month to month based on the daily interest earnings rate of the state investment fund, and will vary. 3.4% is the 10 year average for the past 10 years

Dry Cleaner Environmental Response Fund Revenue
Monthly Revenue

Revenue By Month

	Jul	Aug	Sept	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	13th	Total
FY06	\$ 194,015	\$ 55,006	\$ 14,050	\$ 154,236	\$ 114,730	\$ 21,789	\$ 40,558	\$ 190,562	\$ 28,543	\$ 108,732	\$ 147,583	\$ 25,740	\$ 8,779	\$ 1,104,323
FY07	\$ 148,737	\$ 106,803	\$ (9,053)	\$ 115,852	\$ 104,947	\$ 16,343	\$ 72,258	\$ 143,032	\$ 15,735	\$ 91,286	\$ 120,232	\$ 5,753	\$ 6,359	\$ 938,285
FY08	\$ 56,941	\$ 165,047	\$ 21,884	\$ 109,452	\$ 97,308	\$ 10,800	\$ 29,022	\$ 186,948	\$ 3,723	\$ 58,400	\$ 200,113	\$ 12,594	\$ 132,516	\$ 1,084,749 **
FY09	\$ -	\$ 169,916	\$ 12,551	\$ 202,914	\$ 48,431	\$ 10,768	\$ 159,850	\$ 77,778	\$ 15,311	\$ 177,213	\$ 29,439	\$ 10,943	\$ 108,860	\$ 1,023,975 **
FY10	\$ -	\$ 141,765	\$ 11,012	\$ 110,739	\$ 112,746	\$ 15,101	\$ 120,883	\$ 116,867	\$ 12,733	\$ 150,561	\$ 59,268	\$ 15,212	\$ 152,239	\$ 1,019,125 **
FY11	\$ -	\$ 86,006	\$ 8,730	\$ 177,916	\$ 58,967	\$ 22,437	\$ 171,200							\$ 525,256

** all July 08, 09 & 10 deposits were considered part of previous FY rather than new FY

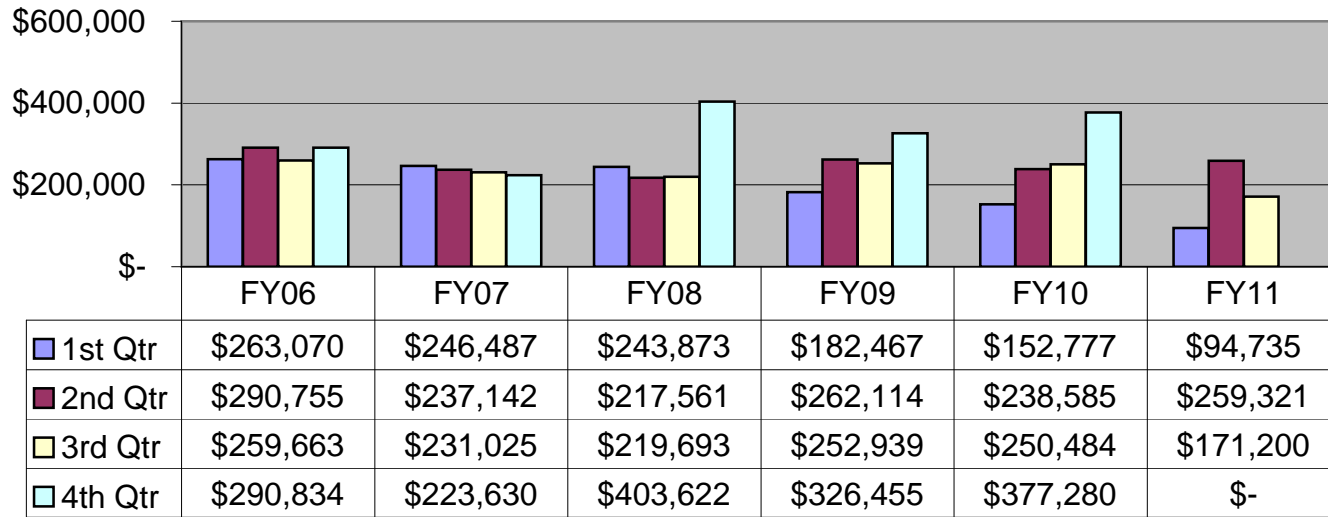


Revenue By Quarter

	1st Qtr (Jul-Sept)	2nd Qtr (Oct-Dec)	3rd Qtr (Jan-Mar)	4th Qtr (Apr-Jun)	Deposits
FY06	\$ 263,070	\$ 290,755	\$ 259,663	\$ 290,834	
FY07	\$ 246,487	\$ 237,142	\$ 231,025	\$ 223,630	
FY08	\$ 243,873	\$ 217,561	\$ 219,693	\$ 403,622	* all July deposits were considered part of the NEXT FY instead of this year
FY09	\$ 182,467	\$ 262,114	\$ 252,939	\$ 326,455	* all July deposits were considered part of the NEXT FY instead of this year
FY10	\$ 152,777	\$ 238,585	\$ 250,484	\$ 377,280	* all July deposits were considered part of the NEXT FY instead of this year
FY11	\$ 94,735	\$ 259,321	\$ 171,200	\$ -	

Dry Cleaner Environmental Response Fund Revenue
Monthly Revenue

Revenue By Quarter



Quarter

Proposal to address immediate risk at DERF sites that are unable to proceed with cleanup

Problem: We see more dry cleaners unable to continue any investigation or cleanup work because they have no money. Many (but not all) are out of business and cleaning up properties that are no longer providing any income. Our staff goes through the usual Ability to Pay process in these cases. The problem we have is that in almost all cases the vapor intrusion pathway has not been investigated and there are nearby receptors. This month alone we sought EF money to assess vapor risk at 2 DERF sites. Most of these assessments don't require a lot of money (<\$3,000), however, if we find a problem (and we often do), a mitigation system must be installed and that requires additional money. There is very little money available in the Environmental Fund. DERF can reimburse the Environmental Fund, but the reimbursement doesn't come back to our program and we've been holding those reimbursements in order to reimburse dry cleaners.

Proposal: Change the statute and allow DNR to directly expend DERF money, up to the amount set aside for emergency and immediate actions (9.7% of the annual receipts) in order to assess direct risk from dry cleaner contamination to receptors.

Criteria for this expenditure:

1. Any money expended on a specific dc site would be counted as if the dry cleaner had been reimbursed (i.e., immediate action money counts toward the \$500,000 max a dry cleaner can receive for cleanup).
2. If the eligible applicant hasn't paid their initial \$10,000 deductible, DNR would place a lien on the property for the money expended (we do that now & have statutory authority for this).
3. 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.)

This would allow DNR to assess the risk at sites where there may be an immediate risk due to the vapor intrusion pathway and/or to nearby drinking water wells. The 9.7% equals a little less than \$100,000/yr. We have never come close in any year to spending that much on emergency and immediate actions and it is highly unlikely the DNR would directly contract for the maximum amount. This proposal gives us flexibility to assess the most pressing problems at these dry cleaning sites. It should not materially affect the dry cleaner owners -- deed affidavits and, where necessary, liens, are already being placed on properties where a dry cleaner has stopped cleanup. This proposal simply allows DNR to move expeditiously to address real risk where individual dry cleaners may not be able to address the risk and doesn't put additional pressure on the EF.