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 Wis. Stat. § 292.65(13).

The Dry Cleaning Environmental Response Program is an example of cooperation between industry and DNR. DERP reimburses expenses for environmental cleanup at individual dry cleaner facilities, while the costs of program are borne collectively by the dry cleaner industry. 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 negative impact this has on municipalities.

The 5-year Program Evaluation addresses current and future funding of the program. Over the last 17 years, the Fund has provided more than $20 million to begin investigation and cleanup at 230 dry cleaner facilities. More than 100 of those facilities have completed cleanup and are now closed.

Currently, DERP is experiencing a revenue shortfall due to the contraction of the dry cleaning industry. Revenues no longer cover cleanup expenses and there is a backlog of more than three years to pay current claims. This backlog is expected to worsen in the future.

To help stabilize the Fund, the Legislature authorized a $6.2 loan to DERP in 2009 and enacted the recommendations of the 2006 Program Evaluation which included a 1% increase in fees paid by dry cleaners. Dry cleaners are currently paying 2.8% to DERP on gross revenues and are unable to bear any additional fee increases.

To improve the viability of DERP, the Council unanimously supports and recommends the following budget initiatives:

- direct Department of Revenue to publish a list of all licensed dry cleaners quarterly;
- forgive the $6.2 million loan to DERP; and
- assess alternative funding mechanisms for DERP.
In addition, the Council recommends that DNR be given statutory authority to directly expend money from the Fund for immediate and emergency action for situation where these actions become necessary but the dry cleaner owner/operator is unable to pay for the work.

This proposal allows the dry cleaning industry to build upon the 17 years of success in DERP. Working together, we can sustain family-owned businesses and achieve environmental cleanup standards. A sustainable Fund thought DERP will benefit communities throughout Wisconsin benefit by limiting blighted properties and protecting community members from exposure to contamination.

Sincerely,

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

The Council has chosen to evaluate three areas of the program: efforts to maintain revenue; future sustainability; and ability of individual dry cleaners to pay for cleanups.

We conclude that DERP has promoted proactive cleanup of contaminated dry cleaner properties. However, DERP currently faces a revenue shortfall, which is slowing the cleanup progress on these sites and having a negative financial effect on these small businesses and their surrounding communities.

Revenues into DERP come from dry cleaner licensing and solvent fees. Revenues to fund DERP began to decline soon after the program’s inception because the dry cleaning industry is declining as a whole. Previous actions by the Legislature temporarily stabilized the fund. These included increasing the dry cleaner license fees by 1% in 2008, and approving a $6.2 million loan from the Environmental Improvement Fund, which was used between 2009 and 2014. Because the dry cleaning industry is declining, dry cleaners are unable to bear additional fees to increase revenues to DERP.

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. Assess alternative funding mechanisms for sustaining DERP. An estimated $800,000 per year is needed for DERP to support cleanups.

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, 2015-2017 Biennial Budget Paper #492: [link]
- Legislative Fiscal Bureau, January 2015 Information Paper #64 (pp 25-32): [link]
- 2011 Five-Year Report on DERF [link]
Background Information

The Dry Cleaner Environmental Response Program was established by the Legislature working with the dry cleaning industry in the 1997 – 1999 biennial budget. Wis. Stat. §§ 292.65, 292.66, and 77.996 to 77.9964, provide specific details for 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. Wis. Admin. § NR 169 establishes the criteria for reimbursement from the Dry Cleaner Environmental Response Fund (“Fund”). The 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 Wis. Admin. §§ NR 700 to 754.

The Fund was established in an effort to help dry cleaners, who are primarily comprised of small businesses, 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 the years before modern dry cleaning and chemical handling systems existed. The majority of dry cleaner owners are unaware of environmental contamination on their property until they are ready to sell their business and the property transaction requires certification of environmental conditions.

The goals of the Fund are to share the costs of environmental remediation across the industry, to limit the financial effects of environmental contamination on individual owners, and to achieve acceptable environmental quality for the neighborhoods and communities where dry cleaners operate. By statute, this program closed to new applicants on August 30, 2008.

By statute, license fees will be collected until 2032. The maximum reimbursement amount possible per site is $500,000.

Wis. Stat. § 15.347(2) 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.

Wis. Stat. § 292.65(13) requires the Council to evaluate the Fund every five years. This paper provides the evaluation and recommends actions to sustain the Fund through the next five years.

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

I. Efforts to maintain revenue to the Fund
II. Future sustainability of the Fund
III. Ability of individual dry cleaners to pay for cleanups

How the Fund is Supported

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

- 2.8% of dry cleaning gross receipts
- $5 per gallon of perchloroethylene
- $0.75 per gallon of other solvent fees paid by chemical distributors
Evaluation

I. Efforts to Maintain Revenue to the Fund

At the inception of DERP, there were approximately 350 licensed dry cleaners. There are currently 157 licensed dry cleaners in Wisconsin, with 189 registered dry cleaning sites. This 55% 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 recent economic recession only hastened this decline.

Revenues into the Fund have decreased as a result of dry cleaning industry’s decline. Program revenues have fallen throughout the 17 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. This fee increase was projected to increase revenue to the Fund. However, the 2008 recession wiped out the effects of this 1% fee increase, and revenues into the Fund continued to decline.

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. To address this backlog, the Legislature authorized the Department of Administration (DOA) to enter into an agreement to transfer up to $6.2 million from the DNR’s land recycling’s loan program – part of the Environmental Improvement Fund (EIF) – to the Fund.

Quarterly transfers of money from EIF to the Fund began in August 2009 and the full loan was expended by June 2014. The EIF loan temporarily stabilized the Fund and reimbursements were able to be paid to individual dry cleaners within 90 days of claim approval during this period.

(*) Fee on dry cleaners’ gross receipts increased from 1.8% to 2.8%.

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2 Wisconsin Dry Cleaner Environmental Response Council, 2006 Five Year Program Evaluation.
Now that the $6.2 million in EIF monies have been expended, the Fund again faces a revenue short fall, and currently there is a payment backlog of over 3.5 year on approved claims.

Because of the worsening revenue shortfall, DERP is unable to pay back the EIF loan, and accrued interest continues to grow. To date, the Fund has repaid the EIF seven annual installments of $1,000, and currently owes the EIF $6.2 million in principle and over $38,000 in accrued interest (Figure 2).

In the 2011 program evaluation, the Council forecasted this backlog situation and recommended the Legislature take following actions to improve the sustainability of DERP 3:

- Ensure that all active dry cleaning businesses are fairly paying license fees,
- Forgive the EIF loan to the Fund, and
- Undertake a study to assess alternative funding mechanisms for sustaining DERP.

The Council again recommends these same Legislative actions be taken to improve future sustainability of the Fund.

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 4 registered in the DERP, and no further sites will be added because the program was closed to new applicants on August 30, 2008.

The status of the cleanup process on these 230 sites is shown on Figure 3. A total of 100 (43%) of these sites have received final closure from the DNR. However, of the 130 sites that remain open, only 84

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3 Wisconsin Dry Cleaner Environmental Response Council, 2011 Five Year Program Evaluation
4 Eligibility for DERP has yet to be established for 2 of these 230 properties.
have begun a site investigation and/or cleanup actions. A total of 46 sites (20%) have undertaken no action besides submitting their initial eligibility application.

In addition to the 46 sites that have taken no action toward cleanup, cleanups are stalling on more and more sites because of the payment backlog. This is illustrated in Figure 4 which shows a sharp drop in the number of claims received since the payment backlog took hold. Between FY05 and FY14, an average claims submitted per year was approximately 52. This average dropped to an average of 26 claims per year in last two years. Most dry cleaners use their DERP reimbursement to fund the next phase of cleanup, and so cleanup work stalls until they receive their payment.

![Figure 4: DERP Claim History](image)

<table>
<thead>
<tr>
<th>Fiscal Year</th>
<th># of Claims</th>
<th>$ AMT of Claims Received</th>
</tr>
</thead>
<tbody>
<tr>
<td>FY00</td>
<td>5</td>
<td>$137,598.96</td>
</tr>
<tr>
<td>FY01</td>
<td>10</td>
<td>$834,034.56</td>
</tr>
<tr>
<td>FY02</td>
<td>9</td>
<td>$372,137.05</td>
</tr>
<tr>
<td>FY03</td>
<td>24</td>
<td>$1,020,682.68</td>
</tr>
<tr>
<td>FY04</td>
<td>24</td>
<td>$1,401,289.61</td>
</tr>
<tr>
<td>FY05</td>
<td>34</td>
<td>$1,290,247.99</td>
</tr>
<tr>
<td>FY06</td>
<td>55</td>
<td>$1,899,221.15</td>
</tr>
<tr>
<td>FY07</td>
<td>66</td>
<td>$1,952,135.84</td>
</tr>
<tr>
<td>FY08</td>
<td>53</td>
<td>$1,288,308.06</td>
</tr>
<tr>
<td>FY09</td>
<td>44</td>
<td>$1,142,985.56</td>
</tr>
<tr>
<td>FY10</td>
<td>61</td>
<td>$2,210,721.51</td>
</tr>
<tr>
<td>FY11</td>
<td>47</td>
<td>$1,243,283.33</td>
</tr>
<tr>
<td>FY12</td>
<td>59</td>
<td>$1,273,438.60</td>
</tr>
<tr>
<td>FY13</td>
<td>50</td>
<td>$1,274,200.74</td>
</tr>
<tr>
<td>FY14</td>
<td>48</td>
<td>$1,683,175.82</td>
</tr>
<tr>
<td>FY15</td>
<td>32</td>
<td>$803,320.04</td>
</tr>
<tr>
<td>FY16</td>
<td>20</td>
<td>$517,337.84</td>
</tr>
</tbody>
</table>

Note: *Amounts are after deductible dollars.*

A decrease in claims is observed during payment backlog. Cleanup work remains to be done, so this trend indicates delays in cleanup are occurring because of backlog.

2. Reimbursed Costs at DERP Sites

Figure 5 summarizes annual revenue, expenses, and reimbursement cost experienced by the Fund. This figure also highlights how the EIF loan temporarily stabilized the Fund and reenergized cleanups on dry cleaner sites between FY10 and FY14.

It is important to keep in mind that these past costs may underrepresent future costs that it will take to clean up the remaining dry cleaner sites in the program. The easiest, least contaminated sites are cleaned up quickly and less expensively, while the most difficult and costly sites continue to require cleanup effort and money. In addition, the vapor intrusion exposure pathway has become a more significant concern at contaminated dry cleaner sites in recent years, and costs to investigate and mitigate vapor intrusion add to the future costs on the sites that remain open.
### Table: DERP Annual Program Revenues, Expenses & Reimbursements

<table>
<thead>
<tr>
<th>Fiscal Year</th>
<th>DERF Revenue</th>
<th>Transfer from EIF to DERF</th>
<th>EIF Loan Payment</th>
<th>Administrative Expenses</th>
<th>DERF Reimbursement Payments</th>
</tr>
</thead>
<tbody>
<tr>
<td>FY99</td>
<td>$1,239,451</td>
<td>--</td>
<td>--</td>
<td>-133,054</td>
<td>--</td>
</tr>
<tr>
<td>FY00</td>
<td>$1,362,535</td>
<td>--</td>
<td>--</td>
<td>-154,613</td>
<td>--</td>
</tr>
<tr>
<td>FY01</td>
<td>$1,144,310</td>
<td>--</td>
<td>--</td>
<td>-180,611</td>
<td>-1,102,519</td>
</tr>
<tr>
<td>FY02</td>
<td>$1,117,507</td>
<td>--</td>
<td>--</td>
<td>-201,710</td>
<td>-592,530</td>
</tr>
<tr>
<td>FY03</td>
<td>$1,146,619</td>
<td>--</td>
<td>--</td>
<td>-245,127</td>
<td>-1,218,745</td>
</tr>
<tr>
<td>FY04</td>
<td>$1,043,143</td>
<td>--</td>
<td>--</td>
<td>-256,076</td>
<td>-507,983</td>
</tr>
<tr>
<td>FY05</td>
<td>$1,015,453</td>
<td>--</td>
<td>--</td>
<td>-245,611</td>
<td>-1,592,017</td>
</tr>
<tr>
<td>FY06</td>
<td>$1,104,436</td>
<td>--</td>
<td>--</td>
<td>-249,850</td>
<td>-1,715,114</td>
</tr>
<tr>
<td>FY07</td>
<td>$938,344</td>
<td>--</td>
<td>--</td>
<td>-281,872</td>
<td>-1,934,885</td>
</tr>
<tr>
<td>FY08 (*)</td>
<td>$1,087,836</td>
<td>--</td>
<td>--</td>
<td>-284,931</td>
<td>-488,711</td>
</tr>
<tr>
<td>FY09</td>
<td>$1,023,975</td>
<td>--</td>
<td>--</td>
<td>-259,297</td>
<td>-850,532</td>
</tr>
<tr>
<td>FY10</td>
<td>$1,015,425</td>
<td>$2,478,500</td>
<td>-1,000</td>
<td>-235,779</td>
<td>-3,136,461</td>
</tr>
<tr>
<td>FY11</td>
<td>$986,979</td>
<td>$974,150</td>
<td>-1,000</td>
<td>-245,746</td>
<td>-1,786,262</td>
</tr>
<tr>
<td>FY12</td>
<td>$911,342</td>
<td>$691,000</td>
<td>-1,000</td>
<td>-264,153</td>
<td>-1,326,148</td>
</tr>
<tr>
<td>FY13</td>
<td>$811,505</td>
<td>$612,000</td>
<td>-1,000</td>
<td>-265,082</td>
<td>-1,272,334</td>
</tr>
<tr>
<td>FY14</td>
<td>$771,951</td>
<td>$1,244,350</td>
<td>-1,000</td>
<td>-238,822</td>
<td>-1,667,209</td>
</tr>
<tr>
<td>FY15</td>
<td>$748,924</td>
<td>--</td>
<td>-1,000</td>
<td>-229,198</td>
<td>-539,751</td>
</tr>
<tr>
<td>FY16</td>
<td>$732,161</td>
<td>--</td>
<td>-1,000</td>
<td>-312,455</td>
<td>-511,963</td>
</tr>
<tr>
<td><strong>TOTALS</strong></td>
<td>$18,201,896</td>
<td>$6,200,000</td>
<td>-7,000</td>
<td>-4,283,988</td>
<td>-20,243,161</td>
</tr>
</tbody>
</table>

(*) Fee on dry cleaners’ gross receipts increased from 1.8% to 2.8.

### Figure 5

DERP Annual Program Revenues, Expenses & Reimbursements

- **Transfer from EIF to DERF**
- **DERF Revenue**
- **DERF Reimbursement Payments**
- **Administrative Expenses**

**FISCAL YEAR**

- FY99
- FY01
- FY03
- FY05
- FY07
- FY09
- FY11
- FY13
- FY15

**SOLID-STATE**

- $4,000,000
- $3,000,000
- $2,000,000
- $1,000,000
- $0
- -$1,000,000
- -$2,000,000
- -$3,000,000
- -$4,000,000
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 6** summarizes the categories of reimbursed costs. Investigation of vapor, groundwater, and soil make up 39% of claimed costs and remediation of contamination discovered during the investigation phase makeup 50% of costs claimed for reimbursement. This illustrates that costs for remediation are generally higher than for investigation. Because the sites that remain open will need to complete remediation prior to reaching closure future costs eligible for reimbursement will likely increase.

**Figure 6**
**How the Fund is Spent by Category**

<table>
<thead>
<tr>
<th>Category</th>
<th>Phase</th>
<th>Total DERP Payments</th>
<th>% by Phase</th>
<th>% by Category</th>
</tr>
</thead>
<tbody>
<tr>
<td>Investigation</td>
<td>Vapor</td>
<td>$799,951</td>
<td>4%</td>
<td>39%</td>
</tr>
<tr>
<td></td>
<td>Groundwater</td>
<td>$5,396,521</td>
<td>24%</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Soil</td>
<td>$2,610,342</td>
<td>11%</td>
<td></td>
</tr>
<tr>
<td>Remediation</td>
<td>Vapor</td>
<td>$567,510</td>
<td>2%</td>
<td>51%</td>
</tr>
<tr>
<td></td>
<td>Groundwater</td>
<td>$5,309,330</td>
<td>23%</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Soil</td>
<td>$5,681,556</td>
<td>25%</td>
<td></td>
</tr>
<tr>
<td>Lab</td>
<td>All Phases</td>
<td>$2,480,393</td>
<td>11%</td>
<td>11%</td>
</tr>
<tr>
<td><strong>TOTAL</strong></td>
<td></td>
<td><strong>$22,845,603</strong></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

This illustrates that investigation costs are eligible for reimbursement. Because the sites that remain open will need to complete remediation prior to reaching closure future costs eligible for reimbursement will likely increase.
4. Where the Fund is Spent
Three maps indicate where Fund money has been reimbursed by County, Senate District, and Assembly District (Attachment A). The number of dry cleaning businesses reflects the population centers of the state. Half of 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. Current Status and Future Projections

Currently, revenues into the Fund are just over $700,000 per year, while demand is approximately $1 million per year. There are 30 claims totaling close to $900,000 waiting to be paid, and the estimated wait time is over 3.5 years on approved claims. This wait is projected to increase in the future, which means that small business men and women who have taken bank loans to fund cleanup are experiencing significant penalties on interest payments for work they have completed, and others are putting their cleanups on hold, which increases demand on the Fund in the future.

Figure 7 summarizes the projected future demand on the Fund through its sunset date of 2032. The revenues to the Fund are projected to be $600,000 per year to pay on claims and $300,000 per year to administer DERP. An estimated $1.1 million per year is needed to cleanup contamination on the 130 open sites. At this rate, by the June 30, 2032 sunset date, DERP will owe $12.6 million in reimbursements to dry cleaner owner/operators.

In addition to the projected shortfall in revenue to pay reimbursement claims, DERP will also owe money to EIF. The Memorandum of Agreement between DOA and DNR requires that the $6.2 million plus accrued interest be repaid to EIF by the DERP sunset date. Based on current projections, the Fund will be unable to repay the EIF loan.

Additional funding is necessary if environmental cleanups at the open dry cleaner sites in DERP are to be completed.

C. Options for Stabilizing DERP Funding

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.

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. 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. Other options that exist include:

1. **Ensure that All Active Dry Cleaning Businesses Pay License Fees**
   DOR should be directed to publish quarterly a list of all licensed dry cleaners, along with their license status – either current or delinquent. Wis. Stat. § 299.27(2), 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. DOR does not currently publish this information because it is covered by confidentiality of tax returns. However, confidentiality of tax records could be maintained while publicly 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**
   DERP will not produce enough revenue to repay either the principal or accrued interest of the EIF loan. The Legislature could choose to forgive the loan, thereby alleviating this debt on the Fund.

3. **Alternative Funding Mechanisms**
   Capturing fees from all licensed dry cleaners and forgiving the EIF load will help the Fund, but other funding mechanisms will be necessary. Additional funding of $800,000 per year is needed for DERP to support cleanups.

   Alternative funding options were included in recent Legislative Fiscal Bureau Biennial Budget Papers. For example, the Legislature could authorize a transfer of monies from another source (such as the general fund or petroleum inspection fund) during the next budget biennium. In any study of alternative funding options, it is critical that DERP fees remain segregated for reimbursement of cleanups at DERP eligible sites.

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

Dry cleaner operators/owners are under enormous financial pressures. 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. Most dry cleaners use their DERP reimbursement to fund the next phase of cleanup.

It is more difficult to obtain bank loans to fund cleanups and most owners cannot afford extended delays in reimbursement. As small business men and women, they cannot carry tens of thousands

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of dollars in outstanding loans for long periods of time. The current backlog of more than three years to pay on claims is resulting in further financial penalties for these small business owners.

In addition, the DERP reimbursed costs do not equal the total cost for cleanup experienced by dry cleaner owners/operators. Dry cleaners must pay deductible, financing, and other costs that are not reimbursable, but which add to the total costs they incur for cleanup of their properties.

Many dry cleaner owners are aging and ready to retire, but they often cannot sell their businesses if their properties are contaminated. DERP eligible dry cleaners can designate an “agent” who can take over the cleanup 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. Financial incentives diminish as the sustainability of the Fund becomes more uncertain.

With a shortage of money and an inability to borrow money, more dry cleaners find that they are unable to pay for environmental cleanup. Every dry cleaner eligible for DERP reimbursement has been registered for the program for between eight and 17 years. More than one-third of the open registered DERP sites (46 dry cleaners) have taken no action to begin their cleanup. We believe most of these businesses have not moved forward with cleanup due to financial constraints.

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 cannot 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 Wis. Stat. § 292.65(3)(c).
- 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.
Conclusion and Recommendations

The Dry Cleaner Environmental Response Program has successfully promoted cleanup of historical and active dry cleaning sites. The success experienced by the program is a result of the dry cleaning industry, DNR, and DOR’s vision in developing and modifying DERP since its inception to meet challenges as they have arisen.

The greatest challenge to DERP is upon us. 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 cannot obtain financing required for cleanup of their sites if they do not receive prompt reimbursement for the work. Without a sustainable Fund, cleanups on these contaminated dry cleaning sites are likely to stall or cease. This will significantly increase the possibility of business and personal financial default, create tax delinquent properties, and expose neighborhoods to contamination.
Appendix

Maps:

DERF Dollars Reimbursed by County
DERF Dollars Reimbursed by Senate District
DERF Dollars Reimbursed by Assembly District
Governor’s Dry Cleaner Environmental Response Program

dnr.wi.gov/topic/brownfields/dryclean.html