Gov­ernor’s Dry Cleaner COUN­cil
Meet­ing Notes
DNR Waukesha Service Center
April 22, 2005
9:30 a.m. – 2 p.m.

Attending:

Governor’s Council
Steve Plater, Chair
Rich Klinke
Jeanne Tarvin
Jim Fitzgerald
Jill Fitzgerald

DNR
Mark Giesfeldt
Pat McCutcheon
Terry Evanson
Edwina Kavanaugh

WI Fabricare Institute
Brian Swingle
Reinhart-Boerner
Don Gallo

Reap­point­ment of Gov­ernor’s COUN­cil:  Mark Giesfeldt

It’s not clear if the Gov­ernor’s office has re­ceived the ma­terials for fi­nalizing the reap­point­ment of the Coun­cil mem­bers. Mark will call the Gov­ernor’s of­fice for this in­for­ma­tion & send an e­mail to the Coun­cil mem­bers any ad­di­tion­al in­for­ma­tion that may be needed from them.

5 year Leg­is­la­tive Re­port:

A ques­tion was raised about when the next 5 year re­port to the Leg­is­la­ture is due. The last re­port was com­plete in De­c­em­ber 2001 (http://www.dnr.state.wi.us/org/aw/rr/archives/pubs/RR681.pdf). The next re­port is due De­c­em­ber 2006.

Adop­tion of Revisions to NR 169 by NRB:  Terry Evanson

The Na­tural Re­sources Board ad­op­ted the re­vised rule lan­guage for NR 169 on March 23. The rule has been sent to the leg­is­la­ture for ap­proval and a leg­is­la­tive hear­ing will be held April 27 in the Cap­itol. Mark Giesfeldt will at­tend for the DNR. Rich Klinke will rep­re­sent the Gov­ernor’s Dry Cleaner Coun­cil and the WFI. Terry will send out a copy of the Leg­is­la­tive Hear­ing Notice to the Coun­cil.

Re­view of fund­ing sta­tus for DERF:  Jeff Soellner

Jeff has $125,804 in spend­ing au­thor­ity re­main­ing for this fis­cal year. How­ever, there is $363,337 in claims on his desk wait­ing to be paid. There­fore, $237,532 will be paid out of next year’s ap­pro­pri­a­tion. He has moved all but $10,000 from the im­me­di­ate ac­tion cat­e­gory to pay cur­rent re­quests. Jeff ex­pects sig­nif­i­cant ad­di­tion­al re­quests to come in be­fore the end of June, put­ting more stress on next year’s ap­pro­pri­a­tion.

Elig­ible/In­eligi­ble Costs for De­mol­i­tion and Re­store­ment of Struc­tures:  Terry Evanson, Jeff Soellner, Edwina Kava­naugh

The Coun­cil dis­cussed the in­ter­pret­a­tion and imple­men­ta­tion of Wisconsin Stat­ute sec­tion 292.65(7)(a)1 and 14, (c)3 and Wis­con­sin Ad­min­is­tra­tive Code sec­tion NR 169.13(3)(a)6, 11, 13, and 14 which ad­dress which types of costs are as­so­ci­ated with, but not in­teg­ral to, in­ves­ti­ga­tion and re­me­di­a­tion of a dry clean­ing prod­uct dis­charge. Wis­con­sin Stat­ute sec­tion 292.65(7)(c) 3
states that costs that DNR determines are associated, rather than integral, costs are not reimbursable by DERF. In the rules that DNR promulgated for the DERF program, Wisconsin Administrative Code section 169.13(3) states:

(3) INELIGIBLE COSTS. (a) General costs. Notwithstanding sub. (1), costs which the department has determined ineligible for reimbursement under s. 292.65 (7) (c), Stats., include, but are not limited to, the following:

2. Costs of retrofitting or replacing dry cleaning equipment.
6. Costs to construct, repair, replace, improve, relocate or demolish any building or fixture.

11. Costs of aesthetic or other improvements that are not essential to a response action, except for restorative grading and filling costs authorized under sub. (2) (a), and under s. 292.65 (7)

The discussion centered on analysis of alternative remedies and selection of the least cost, effective remedy to cleanup a site. The new rule revisions require that all bids for remedial action compare technical and economic feasibility of the proposed remedy. If the least cost, effective remedy involves some demolition & some restoration, then the council members felt that costs should be reimbursable. However, there is no clear line of what constitutes “integral” vs. “associated” costs in determining which costs are eligible for reimbursement and which are not.

It was decided that the Council members will make a recommendation by the end of May to DNR staff on how to address this issue. Follow up will take place after that time. The DNR wants to publish a fact sheet so that dry cleaners, consultants, and DNR staff understand what costs are eligible and ineligible when removal or replacement of structures occur.

Projected Program Revenue Shortfall & Possible Approaches to Program Restructuring

The following handouts were provided:
1. Discussion points for possible restructuring of DERP
2. Comparison of FL and OR State Lead Dry Cleaner Programs
3. Projected costs and revenue shortfall, given various revenue streams

Any restructured program will need to address:
- program sunset date
- spending caps
- owner needs such as refinancing needs, sale of property
- identification of dry cleaner sites likely needing cleanup
- prioritization of cleanup & feeding sites into the program
- projected number of years to cleanup all sites in program
- expected revenue stream and support of staff to implement program
- third party liability issues while sites wait in line to be cleaned up

The possibility of using bonds to address the initial increase of sites coming into the program was discussed.

It was agreed that Mark Giesfeldt will attempt to produce an outline State Lead Dry Cleaner program for Wisconsin.