

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  
Jeff Soellner  
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 e-mail 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 Restoration 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.