

Summary of 10/22/98 Dry Cleaners Council/Advisory Group Meeting

Present: Steve Plater (Platco), Jeanne Tarvin (STS), John Robinson (REI/WWWA), Jim Cherwinka (Wausau Chem), Joe Phillips (WFI), Don Gallo (Michael, Best, Friedrich), Donna Griesemer (Spic and Span), Jim Fitzgerald (Herb Fitzgerald Co), Jill Fitzgerald (Jill's Master Dry Cleaners), Kate Juno (NRT), Manyee Wong (DOA), Kendra Bonderud (Leg Fiscal Bureau), Pat McCutcheon, Mark Giesfeldt, Leslie Gauberti, Barb Kneer, Mark Putra, Robin Schmidt - DNR.

Action items are *italicized* and **bold-faced**.

1. Joe Phillips responded with feedback from a recent WFI Board meeting, and indicated that the Board did not support broadening the definition of dry cleaners at this time, nor do they support an increase in fees from 1.8% to 2%. They would also like the fees based on the cleaning done on a retail basis, not the wholesale basis, as that would generate more money into the fund. ***Joe Phillips indicated they would be bringing this back to WFI for further consideration because there was concern whether this was inconsistent with past statements by the industry. He will contact Robin in the very near future with the results of their discussions.***

2. Robin discussed the request from Sen. Rude's office and WFI regarding the formal-wear rental operators. There was discussion regarding whether they could access the fund if they were not in the program, and caution to craft language that would not allow that to occur. Some expressed concern regarding how we dealt with dry cleaners who may rent formal-wear as a side business. The exemption is only for formal-wear rental firms exclusively; if they operate a dry cleaner for public use, they are not exempt from the program. We will need to discuss how they would have to determine the fees to be paid in this scenario. The issue of whether we would have to reimburse the formal-wear rental firms for the year's worth of fees they have already paid in was discussed, but no resolution reached. ***Joe Phillips agreed to discuss this issue as well with the WFI Board to determine whether they still support this exemption. They will contact Robin in the very near future with the results of those discussions.***

3. Robin also discussed the Department's desire to limit the eligibility criteria to the owners of licensed facilities. Current statutory language limits the eligible parties to licensed facility operators and dry cleaner facility owners (not property owners, and unclear as to whether the facility is licensed or not). The industry, in general, felt that this should be a broad definition. The group discussed that there was a conflict in that there was such limited funds, and yet if the definition is broad, there would be many operating facilities that could potentially have to shut down because funds would not be available to conduct a cleanup.

4. The group also discussed the desire on the part of the industry to have assurance from the department that they would not have to do a cleanup unless funding was available. The department reiterated its position that this assurance cannot be provided - but the department would use enforcement discretion where possible and consider ability to pay/availability of funding when requiring cleanup actions occur. ***The department asked industry (Don Gallo, Jeanne Tarvin, others) to come up with some criteria for the department to consider when using enforcement discretion. The department would put its own thoughts together on criteria and we would discuss this at the next meeting.***

5. Use of Environmental Fund - Mark Giesfeldt brought up the ability to use the environmental fund when a dry cleaner didn't have the ability to pay and funding wasn't available in a timely manner. We briefed Secretary Meyer about this option, and there was concern that the environmental fund would simply become the dry cleaner fund, if funding wasn't available from the DERP. The department will seek statutory changes that would allow us to be reimbursed from the DERP if the environmental fund was to be used, however, the environmental fund will only be used in very limited cases (the environmental fund covers many programs and has its own funding limits and criteria for its use).
6. The DNR discussed that they were developing criteria regarding ability to pay, whether it be for the use of the environmental fund or to determine when enforcement actions are appropriate. That criteria will be developed over the next year.
7. Robin questioned whether there was the need for NR 700 outreach targeted at the dry cleaning industry - in other words, a how to guide for NR 700. Industry thought that such an effort would be helpful in understanding the cleanup program and dispelling fears that may be unfounded based on program implementation.
8. The group discussed the concept of Preliminary Site Screening for the purpose of conducting an interim action. There was discussion of the current funding limits, and the proposed statutory changes that would make that more reasonable. The purpose of the preliminary site screening is only to determine the appropriateness of the interim action, it does not address the overall risks posed by the site (not sufficient information may be collected at that time, given the funding constraints).
9. The group discussed the provision for insurance claims, and whether the claims should be assigned to the DNR, required to be pursued by the dry cleaners, or other options. The DNR had posed the question to the DOJ as to whether they would be willing to pursue these claims, and their initial response was that it was not a sufficient priority and potentially too large a workload for them to commit to at this time. The group agreed that we would not make it a requirement for the dry cleaner to pursue insurance claims, but if they do, they need to notify the department and give the department the opportunity to join the claim. Remaining insurance settlements (after paying deductibles for the dry cleaner and costs for pursuing the claim) would be payable into the DERP account. This would likely need a minor statutory change including a provision to direct any insurance payments received back into the DERP account.
10. ***There was agreement that the Council members and the Advisory Group members would provide Robin with comments on the rule itself by November 2nd, and that the next meeting of this group would comprise a detailed discussion of the rule - what's missing, what's incorrect, what's needed. The next meeting was scheduled for November 9th, from 9:30 - 2:30. Robin will make arrangements for the room.***