

Concept Paper

Colorado Drycleaner Environmental Response Program CDERP

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Background

- This paper addresses concepts for a state-wide fund to assist with environmental problems at properties occupied now or in the past by dry cleaner operations.
- The Colorado Department of Public Health and Environment (CDPHE) is seeing many current or former dry cleaner properties enter its remedial programs. Dry cleaner operator or property owner sites represent the single largest industry group currently entering CDPHE remedial programs.
- Many dry cleaner operators are under-capitalized to manage the expense of environmental problems in compliance with regulatory requirements.
- Consultants working with contaminated dry cleaner sites are finding that remediation technologies for most dry cleaner sites are expensive and have varying degrees of effectiveness. Few dry cleaner sites in the state have been remediated to current ground-water standards.
- A consortium of industry, consultants, attorneys and local and state government representatives has been studying environmental concerns associated with dry cleaner properties in Colorado and other states for over one year to help the industry manage environmental problems. Based on the consortium's research and drawing on experience from other state programs, the consortium has developed the following conceptual program for Colorado dry cleaner properties.

Program Goal

- The goal of the program will be to create a fund that will provide financial assistance to dry cleaner operators and property owners to comply with clean-up requirements.

Statement of the Problem

- There are approximately 400 active dry cleaners in Colorado.
- The number of former dry cleaners is unknown, but it is likely to be at least 50% of the current operating cleaners. Florida has estimated that there are four times as many historic cleaners as currently operating cleaners. Many property owners (frequently a strip mall) may be sitting on unknown liabilities.
- Many dry cleaners have experienced a release to the environment. Over 115 dry cleaner sites currently are in the Colorado cleanup regulatory process.
- The most common chemical used in dry cleaning is perchloroethylene (PERC or PCE), which is classified as a hazardous waste when disposed and is persistent in the environment (we estimate about 300 dry cleaners use PERC).
- The average cost at a dry cleaner site to delineate the extent of contamination is typically between \$50,000 and \$100,000. (Note, these figures as well as the remediation figures

below are from published research of the State Coalition for Remediation of Drycleaners.)

- The cost of remediation is dependent on the extent of contamination, on the remedial technology selected, and the other site specific conditions. Remedial costs can routinely exceed \$100,000, which is in addition to the cost for delineation. Many states report the average cost of cleanup to be over \$200,000.
- Unlike the Colorado petroleum tank (UST) program, for dry cleaners there are no ongoing release detection requirements, nor has there been a requirement to evaluate past releases or upgrade equipment.
- Unlike USTs, there is no state trust fund to assist dry cleaners or property owners with cleanup costs. Often, because the operator is marginally capitalized, the property owner ends up paying for the cost of delineation and cleanup, as the dry cleaners do not have adequate resources.
- For a significant portion of the dry cleaner industry, there is a language barrier that can inhibit an understanding of the regulatory requirements.
- In addition to this direct cost of clean-up, there are indirect costs to property owners and municipalities. Property owners find that they cannot sell their property, or cannot realize the expected value due to contamination. Municipalities experience an impact to public property, and an increased cost of public works projects, which leads to increased costs to taxpayers. Finally, there can also be indirect public health and worker concerns from contamination migrating off of the impacted site.

Proposed Solution

- Establish a dry cleaner fund to help dry cleaner operators and property owners address the contamination. Obviously a fund will not be able to address all of the potential cost, but a modest fund would take initial steps to meet the most critical environmental needs. The fund could also be used to find currently existing problems and to prioritize those sites to most effectively protect Colorado's natural resources.
- At least 13 other states in the country currently have a fund.
- A similar fund has been in place in Colorado since 1989 to address releases from underground storage tanks. To date, 7,221 UST sites in Colorado have confirmed releases, 6,455 sites have successfully received a no further action determination ("NFA").
- Revenue for the fund would be derived from a fee charged on a percent of gross receipts basis so that operators contribute and the program cost is passed to consumers.
- The group is still considering a variety of funding sources. Potential TABOR restrictions will have to be considered.
- Funds from Colorado Natural Resource Damage settlements potentially are available as seed money to get the fund started and to assist with the initial administration fees.

Program Components

General

- This concept has been developed by a group of industry leaders in partnership with CDPHE and the Attorney General's Office - consultants, attorneys, the City and County of Denver, and Rocky Mountain Fabricare Association.
- This group reviewed other states' programs and identified best practices.

- The proposal would include a percentage fee based on gross receipts, as well as other potential funding sources.
- The dry cleaning industry in other states is generally supportive of this concept in order to help meet the need.
- The group believes that a modest start for the program is realistic. Additional goals can be evaluated in the future once the fund is stable.

Program and Fund Management

- An advisory board should be created to assist CDPHE with developing operating and management procedures, including:
 - Clear and simplified guidance documents
 - Program goals, including number of sites to be handled at one time
 - Site ranking systems and eligibility requirements
 - Efficient administration processes to maximize the amount of money dedicated to characterization and remediation efforts
 - Spending limits for each site
 - Deductible amounts for each site.
- The advisory board would manage the expenditures from the fund.
- CDPHE would continue to manage cleanup work requirements; required cleanup work would continue to be conducted by private consultants.

These are preliminary concepts which are subject to clarification based on input from all interested parties.