

**2001 DRAFTING REQUEST**

**Bill**

Received: **09/15/2000**

Received By: **traderc**

Wanted: **As time permits**

Identical to LRB:

For: **Administration-Budget**

By/Representing: **Wong**

This file may be shown to any legislator: **NO**

Drafter: **traderc**

May Contact:

Alt. Drafters: **jkreye**

Subject: **Environment - env. cleanup**

Extra Copies:

**Pre Topic:**

DOA:.....Wong -

**Topic:**

Dry cleaner program changes

**Instructions:**

See Attached

**Drafting History:**

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/1	traderc 10/11/2000	gilfokm 10/16/2000	pgreensl 10/16/2000	_____	lrb_docadmin 10/16/2000		State
/2	traderc 12/06/2000	gilfokm 12/12/2000	martykr 12/13/2000	_____	lrb_docadmin 12/13/2000		State
/3	traderc 12/29/2000 jkreye 01/02/2001	gilfokm 01/03/2001	rschluet 01/05/2001	_____ _____ _____	lrb_docadmin 01/05/2001		State
/4	traderc	gilfokm	martykr	_____	lrb_docadmin		State

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	01/09/2001 jkreye 01/09/2001	01/09/2001	01/10/2001	_____	01/10/2001		
/5	traderc 01/12/2001	gilfokm 01/13/2001	kfollet 01/14/2001	_____	lrb_docadmin 01/14/2001		State

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/4	traderc	gilfokm <i>15-1/13-01 King</i>	martykr <i>1/14</i>	_____	lrb_docadmin		State

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*km 1/90*      *RS*  
*km 1/10*

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FE Sent For:

*13-1/3-01 King*

*1-4-01*

*1-4-01 JF*

<END>

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1?	traderc	11-10/16 trmg	10/16 P61	10/16 P65 KCM			

FE Sent For:

<END>

## 2001-2003 Statutory Language Proposals

Division: CUSTOMER ASSISTANCE AND EXTERNAL RELATIONS

Bureau: COMMUNITY FINANCIAL ASSISTANCE AND REMEDIATION  
AND REDEVELOPMENT

Issue/Topic: LIMITS ON WAIVER OF DEDUCTIBLE

Proposed Change: S. 292.65(8)(g) should read:  
Notwithstanding par. (e), the department may waive the requirement that an owner or operator pay the deductible amount if the department determines that the owner or operator is unable to pay. This waiver is limited to the calculation of deductible under s. 292.65(8)(e)1. regardless of the operational status of the facility. (continue with the remaining statutory language under (g).

Explanatory Note: The current statute allows the department to waive deductible if the department determines the owner or operator is unable to pay. However, the deductibles are dependent on the operating status of the facility. Active facility deductibles range from \$10,000 to \$34,000. Closed facility deductibles are significantly higher and would range from approximately \$110,000 up to \$140,000. The department would not support waiving these higher deductibles, as that would have a significant impact on the fund. This statutory change would require the waiver be limited to the deductible amount calculated for active facilities, regardless of the operational status of the facility. Industry supports this change.

Desired Effective Date: Effective date of budget act

Contact Person: Lance Potter, (MB/5), 7-7418; Robin Schmidt, (RR/3), 7-7569

## 2001-2003 Statutory Language Proposals

Division: CUSTOMER ASSISTANCE AND EXTERNAL RELATIONS

Bureau: COMMUNITY FINANCIAL ASSISTANCE AND REMEDIATION  
AND REDEVELOPMENT

Issue/Topic: POLLUTION PREVENTION ENHANCEMENTS

Proposed Change: S. 292.65(5) should read:  
(a) The owner or operator of a dry cleaning facility is not eligible for an award under this section unless the owner or operator has implemented the enhanced pollution prevention measures described in par. (b). Delete (a) 2. Add that this will become effective for facilities constructed prior to October 14, 1997 one year after the effective date of the bill.

Explanatory Note: Currently these enhanced pollution prevention requirements apply only to facilities constructed after October 14, 1997, unless there has been a previous discharge from a facility that has already been remediated by the owner or operator. Industry has requested that we include these pollution prevention enhancements for all facilities, but provide a lead time for older facilities (i.e. ones constructed prior to 10/14/97) to comply. This will require some facilities to provide additional containment for potential releases from their facilities, but should not be an onerous requirement on them., and will provide additional safety from environmental discharges.

Desired Effective Date: Effective date of budget act

Contact Person: Lance Potter, (MB/5), 7-7418; Robin Schmidt, (RR/3), 7-7569

## 2001-2003 Statutory Language Proposals

Division: CUSTOMER ASSISTANCE AND EXTERNAL RELATIONS

Bureau: COMMUNITY FINANCIAL ASSISTANCE AND REMEDIATION  
AND REDEVELOPMENT

Issue/Topic: DRY CLEANER ENVIRONMENTAL RESPONSE FUND  
PROGRAM (DERF) - INTERIM ACTIONS

Proposed Change: Delete s. 292.66, Wis. Stats. specific to interim actions at drycleaners.

Explanatory Note: Interim actions at DERP sites will continue to be allowed as one of the options in NR 700. The artificial boundaries on the implementation of interim actions included in s. 292.66, Wis. Stats., results in disincentives for dry cleaners to implement interim actions when it is appropriate. By deleting this statute, we no longer need to change dates for when interim action awards may be made.

Desired Effective Date: Effective date of budget act

Contact Person: Lance Potter, (MB/5), 7-7418; Robin Schmidt, (RR/3), 7-7569

## 2001-2003 Statutory Language Proposals

Division: CUSTOMER ASSISTANCE AND EXTERNAL RELATIONS

Bureau: COMMUNITY FINANCIAL ASSISTANCE AND REMEDIATION AND REDEVELOPMENT

Issue/Topic: DRY CLEANER ENVIRONMENTAL RESPONSE PROGRAM - FEES FOR CLOSED FACILITIES

Proposed Change: 

1. Eliminate the language for Closed Facilities Deductibles - s. 292.65(8)(e)3, Wis. Stats., and make this retroactive to the original statute of 10/14/97.
2. Change s. 292.65(8)(a) regarding the date prior to which closed facilities must apply to the program from August 30, 2003 to August 30, 2005.

Explanatory Note: The current statutory language provides that drycleaners who relocate their business or consolidate their businesses to one location are subject to the significantly higher deductibles assigned to facilities that have closed and are no longer in the drycleaning business. In fact, these businesses continue to generate fees into the program, however, are technically "closed" facilities under the current language. In particular, the current language provides a disincentive for dry cleaners using older equipment to consolidate their operations and use new, higher efficiency processes and equipment. This language change would result in eliminating those disincentives for that type of consolidation.

Since rules were not in effect until 2/1/2000, changing the date by which facilities that closed prior to September 1, 1998 may apply to the program allows more time for those who have recently learned about the program to conduct their cleanups. Investigations and cleanups, even if initiated in 2000 when the program began, are likely to take at least 3 - 4 years to complete.

Desired Effective Date: Effective date of budget act

Contact Person: Lance Potter, (MB/5), 7-7418; Robin Schmidt, (RR/3), 7-7569

## 2001-2003 Statutory Language Proposals

Division: CUSTOMER ASSISTANCE AND EXTERNAL RELATIONS

Bureau: COMMUNITY FINANCIAL ASSISTANCE AND REMEDIATION  
AND REDEVELOPMENT

Issue/Topic: POLLUTION PREVENTION FOR THE DRY CLEANER  
ENVIRONMENTAL RESPONSE PROGRAM

Proposed Change: Revise 292.65(4)(n), Wis. Stats., to read: The owner or operator of a dry cleaning facility that is operating at the time that the owner or operator applies for assistance under this section certifies that any perchloroethylene delivered to the dry cleaning facility is delivered using a closed, direct-coupled delivery system.

Explanatory Note: The elimination of S. 292.66 [in accompanying dry cleaner program statutory language change titled "Interim Actions"] results in the deletion of a critical pollution prevention requirement. This change puts that requirement in the appropriate location in ch. 292.65.

Desired Effective Date: Effective date of budget act

Contact Person: Lance Potter, (MB/5), 7-7418; Robin Schmidt, (RR/3), 7-7569

*DNote*

## 2001-2003 Statutory Language Proposals

Division: CUSTOMER ASSISTANCE AND EXTERNAL RELATIONS

Bureau: COMMUNITY FINANCIAL ASSISTANCE AND REMEDIATION  
AND REDEVELOPMENT

Issue/Topic: DEFINITION OF DRY CLEANING FACILITY

Proposed Change: Modify s. 292.65(1)(d) to read: "'Dry cleaning facility" means a facility for cleaning apparel or household fabrics using a non-aqueous material from which a discharge occurred, other than a facility that is one of the following..." In addition, s. 77.996(2) should also be amended to read "Dry cleaning facility" means a facility that cleans apparel or household fabrics for the general public using a non-aqueous material, other than the following facilities:..." Note that this definition is slightly different than s. 292.65(1)(d) because there does not need to be a discharge associated with that facility for it to be required to be licensed and for the fees to apply.

Explanatory Note: This change serves two purposes - first it requires that the discharge be associated with the drycleaning facility, and secondly it provides that as new technologies are developed and new cleaning processes established, fees will continue into the program to cover all cleaning processes that use anything other than water as a cleaning agent.

Desired Effective Date: Effective date of budget act

Contact Person: Lance Potter, (MB/5), 7-7418; Robin Schmidt, (RR/3), 7-7569

## 2001-2003 Statutory Language Proposals

Division: CUSTOMER ASSISTANCE AND EXTERNAL RELATIONS

Bureau: COMMUNITY FINANCIAL ASSISTANCE AND REMEDIATION  
AND REDEVELOPMENT

Issue/Topic: ELIGIBILITY CLARIFICATION

Proposed Change: Amend s. 292.65(8)(d)8 to read : The dry cleaning solvent discharge was caused by a person who provided services or products to the owner or operator or to a prior owner or operator of the dry cleaning facility prior to 10/14/97.

Explanatory Note: This provision was changed in the 1999 – 2001 biennial budget and was intended to serve as a pollution prevention measure. The addition of the language above will provide that measure. Industry identified concerns with this provision because prior to 1997, when the DERP program was enacted, many solvent suppliers and service providers did not have insurance to cover their liabilities if releases should occur as a result of their actions. The department agreed to propose this change for the 2001 - 2003 biennial budget process.

Desired Effective Date: Effective date of budget act

Contact Person: Lance Potter, (MB/5), 7-7418; Robin Schmidt, (RR/3), 7-7569



## **2001-2003 Statutory Language Proposals**

**Division:** CUSTOMER ASSISTANCE AND EXTERNAL RELATIONS

**Bureau:** COMMUNITY FINANCIAL ASSISTANCE AND REMEDIATION  
AND REDEVELOPMENT

**Issue/Topic:** MULTIPLE RESPONSIBLE PARTIES

**Proposed Change:** Create a requirement in s. 292.65(8)(a) applications - to require where there are multiple responsible parties that only one applicant per facility per response action will be allowed to submit applications following program requirements, similar to the way the financial cap is limited to \$500,000 per facility.

**Explanatory Note:** The Department is concerned that multiple parties may submit separate applications for a facility and may request reimbursement for different cleanup strategies. The proposed language will require that the responsible parties communicate with each other prior to and during remedial activities so that only one remediation strategy is carried forward for a site. Suggested language: If multiple responsible parties exist for a facility, only one applicant per facility will be accepted by the department.

**Desired Effective Date:** Effective date of the budget act

**Contact Person:** Lance Potter, (MB/5), 7-7418; Robin Schmidt, (RR/3), 7-7569

## **2001-2003 Statutory Language Proposals**

Division: CUSTOMER ASSISTANCE AND EXTERNAL RELATIONS

Bureau: COMMUNITY FINANCIAL ASSISTANCE AND REMEDIATION  
AND REDEVELOPMENT ✓

Issue/Topic: CLARIFY DEFINITION OF OWNER AND OPERATOR

Proposed Change: In ss. 292.65(1)(i) and (j), the definition of owner and operator should be changed to include past and present owners and operators of dry cleaning facilities.

Explanatory Note: The current statute defines owner and operator only in the present tense, thus past owners and operators are not eligible for the program. The industry intended for this program to cover all dry cleaners, regardless of whether they currently own or operate a dry cleaning facility. The current language makes it difficult to administer and determine the current operating or ownership status of the applicant.

Desired Effective Date: Effective date of the budget act

Contact Person: Lance Potter, (MB/5), 7-7418; Robin Schmidt, (RR/3), 7-7569

## Tradewell, Becky

---

**From:** Stewart, Joy L  
**Sent:** Monday, September 18, 2000 1:29 PM  
**To:** Tradewell, Becky  
**Cc:** Potter, Lance; Felker-Donsing, Susan  
**Subject:** FW: Remaining CAER Division Statutory Language

RE: Item #62: Dry Cleaner Statutory Language

This memo is a follow-up to our phone conversation from this morning regarding the status of the dry cleaner statutory language changes in item #62 below. I was concerned that some of the material that you received might be out of date. I had been on vacation last week and wasn't sure which versions had been sent to you, especially since the only functioning electronic versions that we had when I left were out of date.

As it turns out, there was only one item that needed correction. You received 10 separate statutory language proposals, and there are actually only 9. I have deleted the unneeded language, which was the "Limits" document. (This proposal had been submitted as back-up in case a preferred option failed, and you already have the preferred option.)

Otherwise, all the language that you received is current. So I am just forwarding the original message with the one document deleted.

I am sorry about the confusion. I hadn't realized that Lance Potter had taken over on these items while I was gone, and that he had collected new, current electronic versions. He will be your contact in the future on all of these dry cleaner requests.

Thanks for your patience on this.

---

**From:** Felker-Donsing, Susan  
**Sent:** Friday, September 15, 2000 1:02 PM  
**To:** Tradewell, Becky  
**Cc:** DNR\_MB\_BUDGET\_STAFF  
**Subject:** Remaining CAER Division Statutory Language

Becky, here is the balance of the statutory language for the Customer Assistance and External Relations Division (CAER). The numbers refer to the master list of statutory language I sent you earlier.

**#s 50-52, and 56:**



Statutory language\_CS  
SL-Tran...



Statutory language\_CS  
SL-Dupl...



Statutory language\_CE  
SL-NR M...



Statutory  
language\_Frv. Inprov...

**#62 (this includes 10 different WORD documents):**



Unlicensed.doc



Pollution Prevention  
Enhanceme...



Interim.doc



Closed.doc



Pollution  
Prevention\_Perchlor....



Definition.doc



Eligibility.doc



Multiparty.doc



Clarify Operator.doc

**#s 64 and 66 and 68:**



Urban LAG biennial  
approp.doc



Muni Flood & Riparian  
Rest.doc...



Statutory language\_CS  
SL-Misc...



State of Wisconsin  
2001 - 2002 LEGISLATURE

LRB-0320/1

SOEN

RCT: King

DOA:.....Wong - Dry cleaner program changes

FOR 2001-03 BUDGET - NOT READY FOR INTRODUCTION

DNate

DON'T Gen  
cat

1 AN ACT ...; relating to: the budget.

*Analysis by the Legislative Reference Bureau*

**ENVIRONMENT**

**HAZARDOUS SUBSTANCES AND ENVIRONMENTAL CLEANUP**

Under current law, DNR administers the dry cleaner environmental response program (DERP) which provides reimbursement for a portion of the costs of responding to discharges of dry cleaning solvents. ~~This program~~ is funded by dry cleaning license and solvent fees which are paid by owners and operators of dry cleaning facilities. DERP

Under current law, the deductible under DERP generally ranges from \$10,000 to \$76,000, depending on the amount of eligible costs. However, for a dry cleaning facility that has closed before the owner or operator applies under DERP, the deductible is increased by amount equal to 30 times the average license fee for the year in which the award is made and an amount equal to the average amount of solvent fees paid by operating dry cleaning facilities for that year. This bill eliminates the higher deductible for closed dry cleaning facilities. CM

~~Under current law, owners and operators are eligible for reimbursement under the dry cleaner environmental response program.~~ An owner is either: 1) a person who owns property on which a licensed dry cleaning facility is located or on which a dry cleaning facility that has ceased operation, but that was licensed before it ceased operation, is located; or 2) a person who owns, or has possession or control of, or who receives or received consideration from the operation of, a licensed dry DERP

cleaning facility or a closed dry cleaning facility. If the dry cleaning facility was closed on or after October 14, 1997, it must have been licensed before it was closed. An operator is a person who holds a license from DOR for a dry cleaning facility or a person who operated a dry cleaning facility that closed before October 14, 1997.

*DERP* This bill changes eligibility for ~~the dry cleaner environmental response program~~ by changing the definitions of "owner" and "operator". Under this bill, "owner" includes a person who formerly owned a dry cleaning facility or who formerly owned land on which a dry cleaning facility is located and "operator" includes a person who formerly held the license for a dry cleaning facility.

Currently under DERP, the owner or operator of a dry cleaning facility on which construction began after October 4, 1997, is required to have implemented specified pollution prevention measures. This requirement does not generally apply to older dry cleaning facilities. Under this bill, beginning one year after this bill takes effect, all dry cleaning facilities must have the pollution prevention requirements in order to be eligible under DERP.

Currently, the owner or operator of a dry cleaning facility is not eligible under DERP if the discharge of dry cleaning solvent was caused by a person who provided <sup>(S)</sup> service or products to the owner or operator. This bill changes that provision so that it only applies if the provider caused the discharge after October 14, 1997.

This bill provides that only one owner or operator is eligible for DERP with respect to any one discharge of dry cleaning solvent.

Under a part of DERP, the owners of certain dry cleaning facilities are eligible for reimbursement for the costs of preliminary site screening and interim remedial equipment to begin the cleanup of dry cleaning discharges before the completion of full-site investigations and cleanup plans. Under this part of the program, the reimbursement for preliminary site screening and interim remedial equipment is 50% of the eligible costs, but not more than \$20,000, of which not more than \$3,000 may be for the cost of the preliminary site screening. This bill eliminates the part of DERP relating to preliminary site screening and interim remedial equipment.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

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*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

- 1           **SECTION 1.** 20.370 (2) (eq) of the statutes is amended to read:
- 2           20.370 (2) (eq) *Solid waste management — dry cleaner environmental response.*
- 3           From the dry cleaner environmental response fund, the amounts in the schedule for
- 4           review of remedial action under ss. s. 292.65 and 292.66. ✓

History: 1971 c. 40, 95; 1971 c. 125 ss. 101 to 121, 522 (1); 1971 c. 211, 215, 277, 330, 336; 1973 c. 12 s. 37; 1973 c. 90, 100; 1973 c. 243 s. 82; 1973 c. 296, 298, 301, 318, 333, 336; 1975 c. 8, 39, 51, 91, 198; 1975 c. 224 ss. 7d, 7f, 7m, 17 to 19p; 1977 c. 29 ss. 181 to 234, 1657 (34); 1977 c. 274, 370, 374, 376, 377; 1977 c. 418 ss. 95 to 110, 929 (37); 1977 c. 421, 432; 1977 c. 447 ss. 42 to 44, 210; 1979 c. 34 ss. 199 to 322, 2102 (39) (a); 1979 c. 221; 1979 c. 361 s. 113; 1981 c. 1, 20, 86, 95, 131, 294, 330; 1981 c. 374 ss. 6, 7, 148, 150; 1983 a. 27 ss. 216m to 269, 2202 (23); 1983 a. 75, 181, 243, 397; 1983 a. 410 ss. 5m to 11, 2202 (38); 1983 a. 413; 1983 a. 416 ss. 1, 19; 1983 a. 426; 1985 a. 16, 22; 1985 a. 29 ss. 282d to 356, 3202 (26) (a), (39) (a), (c), (dm), (i); 1985 a. 46, 60, 65, 120, 202, 296; 1987 a. 27, 98, 110, 290, 295, 298, 305; 1987 a. 312 s. 17;

1987 a. 384, 397, 399, 403, 418; 1989 a. 31, 128, 284, 288, 326; 1989 a. 335 ss. 22nn to 30g, 89; 1989 a. 336, 350, 359, 366; 1991 a. 32; 1991 a. 39 ss. 326b to 394, 594c; 1991 a. 254, 269, 300, 309, 315; 1993 a. 16, 75, 166, 213, 343, 349, 415, 421, 453, 464; 1993 a. 490 ss. 18, 271; 1995 a. 27, 201, 225, 227, 296, 378, 459; 1997 a. 27, 35; 1997 a. 237 ss. 33 to 38d, 727g; 1997 a. 248; 1999 a. 9, 32, 74, 92; 1999 a. 150 s. 672; 1999 a. 185.

1 **SECTION 2. 20.370 (6) (eq) of the statutes is amended to read:**

2 **20.370 (6) (eq) *Environmental aids — dry cleaner environmental response.***

3 **Biennially, from the dry cleaner environmental response fund, the amounts in the**  
 4 **schedule for financial assistance under ss. s. 292.65 and 292.66 and to make**  
 5 **transfers required under s. 292.65 (11).**

**History:** 1971 c. 40, 95; 1971 c. 125 ss. 101 to 121, 522 (1); 1971 c. 211, 215, 277, 330, 336; 1973 c. 12 s. 37; 1973 c. 90, 100; 1973 c. 243 s. 82; 1973 c. 296, 298, 301, 318, 333, 336; 1975 c. 8, 39, 51, 91, 198; 1975 c. 224 ss. 7d, 7f, 7m, 17 to 19p; 1977 c. 29 ss. 181 to 234, 1657 (34); 1977 c. 274, 370, 374, 376, 377; 1977 c. 418 ss. 95 to 110, 929 (37); 1977 c. 421, 432; 1977 c. 447 ss. 42 to 44, 210; 1979 c. 34 ss. 199 to 322, 2102 (39) (a); 1979 c. 221; 1979 c. 361 s. 113; 1981 c. 1, 20, 86, 95, 131, 294, 330; 1981 c. 374 ss. 6, 7, 148, 150; 1983 a. 27 ss. 216m to 269, 2202 (23); 1983 a. 75, 181, 243, 397; 1983 a. 410 ss. 5m to 11, 2202 (38); 1983 a. 413; 1983 a. 416 ss. 1, 19; 1983 a. 426; 1985 a. 16, 22; 1985 a. 29 ss. 282d to 356, 3202 (26) (a), (39) (a), (c), (dm), (i); 1985 a. 46, 60, 65, 120, 202, 296; 1987 a. 27, 98, 110, 290, 295, 298, 305; 1987 a. 312 s. 17; 1987 a. 384, 397, 399, 403, 418; 1989 a. 31, 128, 284, 288, 326; 1989 a. 335 ss. 22nn to 30g, 89; 1989 a. 336, 350, 359, 366; 1991 a. 32; 1991 a. 39 ss. 326b to 394, 594c; 1991 a. 254, 269, 300, 309, 315; 1993 a. 16, 75, 166, 213, 343, 349, 415, 421, 453, 464; 1993 a. 490 ss. 18, 271; 1995 a. 27, 201, 225, 227, 296, 378, 459; 1997 a. 27, 35; 1997 a. 237 ss. 33 to 38d, 727g; 1997 a. 248; 1999 a. 9, 32, 74, 92; 1999 a. 150 s. 672; 1999 a. 185.

6 **SECTION 3. 20.370 (9) (nq) of the statutes is amended to read:**

7 **20.370 (9) (nq) *Aids administration — dry cleaner environmental response.***

8 **From the dry cleaner environmental response fund, the amounts in the schedule to**  
 9 **administer ss. s. 292.65 and 292.66.**

**History:** 1971 c. 40, 95; 1971 c. 125 ss. 101 to 121, 522 (1); 1971 c. 211, 215, 277, 330, 336; 1973 c. 12 s. 37; 1973 c. 90, 100; 1973 c. 243 s. 82; 1973 c. 296, 298, 301, 318, 333, 336; 1975 c. 8, 39, 51, 91, 198; 1975 c. 224 ss. 7d, 7f, 7m, 17 to 19p; 1977 c. 29 ss. 181 to 234, 1657 (34); 1977 c. 274, 370, 374, 376, 377; 1977 c. 418 ss. 95 to 110, 929 (37); 1977 c. 421, 432; 1977 c. 447 ss. 42 to 44, 210; 1979 c. 34 ss. 199 to 322, 2102 (39) (a); 1979 c. 221; 1979 c. 361 s. 113; 1981 c. 1, 20, 86, 95, 131, 294, 330; 1981 c. 374 ss. 6, 7, 148, 150; 1983 a. 27 ss. 216m to 269, 2202 (23); 1983 a. 75, 181, 243, 397; 1983 a. 410 ss. 5m to 11, 2202 (38); 1983 a. 413; 1983 a. 416 ss. 1, 19; 1983 a. 426; 1985 a. 16, 22; 1985 a. 29 ss. 282d to 356, 3202 (26) (a), (39) (a), (c), (dm), (i); 1985 a. 46, 60, 65, 120, 202, 296; 1987 a. 27, 98, 110, 290, 295, 298, 305; 1987 a. 312 s. 17; 1987 a. 384, 397, 399, 403, 418; 1989 a. 31, 128, 284, 288, 326; 1989 a. 335 ss. 22nn to 30g, 89; 1989 a. 336, 350, 359, 366; 1991 a. 32; 1991 a. 39 ss. 326b to 394, 594c; 1991 a. 254, 269, 300, 309, 315; 1993 a. 16, 75, 166, 213, 343, 349, 415, 421, 453, 464; 1993 a. 490 ss. 18, 271; 1995 a. 27, 201, 225, 227, 296, 378, 459; 1997 a. 27, 35; 1997 a. 237 ss. 33 to 38d, 727g; 1997 a. 248; 1999 a. 9, 32, 74, 92; 1999 a. 150 s. 672; 1999 a. 185.

10 **SECTION 4. 77.996 (2) (intro.) of the statutes is amended to read:**

11 **77.996 (2) (intro.) “Dry cleaning facility” means a facility that dry cleans**  
 12 **apparel or household fabrics for the general public using a nonaqueous substance,**  
 13 **other than the following facilities:**

**History:** 1997 a. 27; 1999 a. 9

14 **SECTION 5. 292.65 (1) (intro.) of the statutes is amended to read:**

15 **292.65 (1) DEFINITIONS. (intro.) In this section and s. 292.66:**

**History:** 1997 a. 27; 1999 a. 9, 185 ss. 143 to 145, 188 to 190.

16 **SECTION 6. 292.65 (1) (d) (intro.) of the statutes is amended to read:**

1           292.65 (1) (d) (intro.) “Dry cleaning facility” means a facility for dry cleaning  
2           apparel or household fabrics for the general public using a nonaqueous substance,  
3           other than a facility that is one of the following:

4           History: 1997 a. 27; 1999 a. 9, 185 ss. 143 to 145, 188 to 190.

4           **SECTION 7.** 292.65 (1) (h) 1. of the statutes is amended to read:

5           292.65 (1) (h) 1. A person who holds or held the license under s. 77.9961 (2) for  
6           a dry cleaning facility.

7           History: 1997 a. 27; 1999 a. 9, 185 ss. 143 to 145, 188 to 190.

7           **SECTION 8.** 292.65 (1) (i) 1. (intro.) of the statutes is amended to read:

8           292.65 (1) (i) 1. (intro.) A person who owns, owned, or has possession or control  
9           of, and who receives or received direct or indirect consideration from the operation  
10          of, any of the following:

11          History: 1997 a. 27; 1999 a. 9, 185 ss. 143 to 145, 188 to 190.

11          **SECTION 9.** 292.65 (1) (i) 3. (intro.) of the statutes is amended to read:

12          292.65 (1) (i) 3. (intro.) A person who owns or owned the property on which one  
13          of the following is located:

14          History: 1997 a. 27; 1999 a. 9, 185 ss. 143 to 145, 188 to 190.

14          **SECTION 10.** 292.65 (1) (i) 3. b. of the statutes is amended to read:

15          292.65 (1) (i) 3. b. A dry cleaning facility that has ceased operation but that,  
16          if it ceased operation on or after October 14, 1997, was licensed under s. 77.9961 (2)  
17          before it ceased operation.

18          History: 1997 a. 27; 1999 a. 9, 185 ss. 143 to 145, 188 to 190.

18          **SECTION 11.** 292.65 (4) (e) of the statutes is amended to read:

19          292.65 (4) (e) *Investigation.* After notifying the department under par. (c) 1.,  
20          if applicable, and before conducting remedial action activities, an owner or operator  
21          shall complete an investigation to determine the extent of environmental impact of  
22          the dry cleaning solvent discharge, except as provided in ~~pars. par.~~ par. (g) and (h).

23          History: 1997 a. 27; 1999 a. 9, 185 ss. 143 to 145, 188 to 190.

23          **SECTION 12.** 292.65 (4) (f) of the statutes is amended to read:



1           292.65 (4) (f) *Remedial action plan.* After completing the investigation under  
2           par. (e) and before conducting remedial action activities, an owner or operator shall  
3           prepare a remedial action plan, based on the investigation under par. (e), that  
4           identifies specific remedial action activities proposed to be conducted, except as  
5           provided in ~~pars.~~ par. (g) and (h).<sup>✓</sup>

6           History: 1997 a. 27; 1999 a. 9, 185 ss. 143 to 145, 188 to 190.

6           **SECTION 13.** 292.65 (4) (h)<sup>✓</sup> of the statutes is repealed.

7           **SECTION 14.** 292.65 (5) (a) 2. of the statutes is amended to read:

8           292.65 (5) (a) 2. The Beginning on the first day of the 13th month beginning  
9           after the effective date of this subdivision .... [revisor inserts date], the owner or  
10          operator of a dry cleaning facility on which construction began on or before October  
11          14, 1997, is ineligible for an award under this section ~~with respect to a discharge that~~  
12          ~~occurs on or after the 91st day after the day on which the department issues a case~~  
13          ~~closure letter with respect to an earlier discharge of dry cleaning solvent from the dry~~  
14          ~~cleaning facility,~~ unless the owner or operator has implemented the enhanced  
15          pollution prevention measures described in par. (b).

16          History: 1997 a. 27; 1999 a. 9, 185 ss. 143 to 145, 188 to 190.

16          **SECTION 15.** 292.65 (7) (a) (intro.) of the statutes is amended to read:

17          292.65 (7) (a) *General.* (intro.) Subject to pars. (c), (ce), (cm)<sup>✓</sup> and (d), eligible  
18          costs for an award under this section include reasonable and necessary costs paid  
19          incurred because of a discharge of dry cleaning solvent at a dry cleaning facility for  
20          the following items only:

21          History: 1997 a. 27; 1999 a. 9, 185 ss. 143 to 145, 188 to 190. ✓

21          **SECTION 16.** 292.65 (7) (a) 13. of the statutes is repealed.

22          **SECTION 17.** 292.65 (8) (a) (intro.) of the statutes is amended to read:

23          292.65 (8) (a) *Application.* (intro.) An owner or operator shall submit an  
24          application on a form provided by the department. An owner or operator may not

1 submit an application before September 1, 1998. An owner or operator may not  
2 submit an application after August 30, 2003 2005, if the application relates to a dry  
3 cleaning facility that ceased to operate before September 1, 1998. An owner or  
4 operator may not submit an application after August 20, 2008, if the application  
5 relates to any other dry cleaning facility. The department shall authorize owners and  
6 operators to apply for awards at stages in the process under sub. (4) that the  
7 department specifies by rule. An application shall include all of the following  
8 documentation of activities, plans<sup>✓</sup> and expenditures associated with the eligible  
9 costs incurred because of a dry cleaning solvent discharge from a dry cleaning  
10 facility:

History: 1997 a. 27; 1999 a. 9, 185 ss. 143 to 145, 188 to 190.

11 **SECTION 18.** 292.65 (8) (d) 8. of the statutes is amended to read:

12 292.65 (8) (d) 8. The dry cleaning solvent discharge was caused after October  
13 14, 1997, by a person who provided services or products to the owner or operator or  
14 to a prior owner or operator of the dry cleaning facility, including a person who  
15 provided perchloroethylene to the owner or operator or prior owner or operator of a  
16 dry cleaning facility using a system other than a closed, direct-coupled delivery  
17 system.

History: 1997 a. 27; 1999 a. 9, 185 ss. 143 to 145, 188 to 190.

18 **SECTION 19.** 292.65 (8) (d) 9. of the statutes is created to read:

19 292.65 (8) (d) 9. The department previously received an application from a  
20 person other than the applicant with respect to the discharge to which the  
21 application relates.

22 **SECTION 20.** 292.65 (8) (e) 1. of the statutes is renumbered 292.65 (8) (e) and  
23 292.65 (8) (e) (intro.), as renumbered, is amended to read:

*I Deductible.*

1           292.65 (8) (e) (intro.) The department may reimburse the owner or operator of  
2           a dry cleaning facility ~~that is operating at the time that the owner or operator applies~~  
3           ~~under par. (a)~~ only for eligible costs incurred at each dry cleaning facility that exceed  
4           the following deductible:

History: 1997 a. 27; 1999 a. 9, 185 ss. 143 to 145, 188 to 190.

5           **SECTION 21.** 292.65 (8) (e) 3. of the statutes is repealed.

6           **SECTION 22.** 292.65 (13) <sup>✓</sup> of the statutes is amended to read:

7           292.65 (13) COUNCIL. The dry cleaner environmental response council shall  
8           advise the department concerning the ~~programs~~ program under this section and s.  
9           ~~292.66~~ <sup>✓</sup>. The dry cleaner environmental response council shall evaluate the program  
10          under this section at least every 5 years, using criteria developed by the council.

History: 1997 a. 27; 1999 a. 9, 185 ss. 143 to 145, 188 to 190.

11          **SECTION 23.** 292.66 of the statutes is repealed.

(END)

*INET*  
*7-11*

*Note*

Insert 2-11 ✓

Section #. 292.99 (1m) of the statutes is amended to read:

292.99 **(1m)** Any person who violates s. 292.65 (12m) ~~or 292.66 (5)~~ shall forfeit not less than \$10 nor more than \$10,000.

History: 1995 a. 227; 1999 a. 9.

**DRAFTER'S NOTE**  
**FROM THE**  
**LEGISLATIVE REFERENCE BUREAU**

LRB-0320/1dn

RCT:.....

*Kmg*

This is a draft of changes to the dry cleaner response program. We have divided the DNR request relating to the dry cleaner program into two drafts. Joe Kreye drafted LRB-0320, which contains the requested changes relating to operating without a license.

The drafting request asks that the definition of dry cleaning facility be changed for two purposes. One is to ensure that the program applies to facilities that use new cleaning processes. This draft changes the definition so that it refers to "nonaqueous substances." Please review s. 292.65 to determine whether any other changes need to be made to accommodate this concern. For example, please review the definition of "dry cleaning solvent." The second purpose of the requested change was to require that the discharge be associated with a dry cleaning facility. I think that this is a substantive concern that is better addressed directly, rather than by complicating the definition. Please see the treatment of s. 292.65 (7) (a) (intro.) in this draft.

The drafting request indicates that the definitions of owner and operator in s. 292.65 should be modified to include past owners and operators. The definitions are complex and there are probably several ways they could be changed to cover past owners and operators. Please carefully review current s. 292.65 (1) (h) and (i) and the changes that this draft makes to those provisions to determine whether this draft does what you want.

The drafting request says to add s. 292.65 (4) (n) to require that an owner or operator certify that PERC is delivered using a closed, direct-coupled delivery system. Section 292.65 (5) (b) requires the use of such a system. With the change, in this draft, to make the requirements in s. 292.65 (5) (b) apply to all facilities beginning a year after the budget takes effect, the addition of s. 292.65 (4) (n) seems unnecessary. Please let me know if I am missing something here.

Please carefully review the treatment in this draft of s. 292.65 (8) (d) 8. That provision currently specifies that DNR must deny an application if the discharge was caused by a service provider. The drafting request indicates that there is concern about this provision because in the past the service providers did not have insurance. To respond to this concern, this draft changes s. 292.65 (8) (d) 8. so that DNR must deny the application only if the discharge was caused **after** October 14, 1997. Please let me know if this is not consistent with the department's intent.

The drafting request indicated that the department is concerned about multiple applications for reimbursement for different clean-up strategies at the same site. I wonder whether this has ever been a problem under PECFA. If this really is a potential problem, it should be noted that the request makes more persons eligible under the program by broadening the definitions of owner and operator, potentially increasing the number of eligible persons for any site. At any rate, this draft creates s. 292.65 (8) (d) 9. in response to the concern about multiple applicants. Please review that provision carefully.

As requested, this draft repeals <sup>2</sup>s. 292.65 (8) (e) 3. This means that a person with a dry cleaning facility that ceased to operated before the person paid any of the fees that support this program and who is not conducting dry cleaning at any other location will get the same size grant as a person who is paying the fees. Is that consistent with your intent? I do not think that it is necessary to include any language about the retroactivity of this change unless the department has paid some grants using the higher deductible. Please let me know if this is the case.

The drafting request said to repeal s. 292.66. There are several provisions of the statutes that cross-reference s. 292.66 and that, therefore, had to be changed. This draft repeals s. 292.65 (4) (h) and (7) (a) 13. If this is not consistent with your intent, please let me know what changes you want instead.

Rebecca C. Tradewell  
Managing Attorney  
Phone: (608) 266-7290  
E-mail: becky.tradewell@legis.state.wi.us

**DRAFTER'S NOTE**  
**FROM THE**  
**LEGISLATIVE REFERENCE BUREAU**

LRB-0320/1dn  
RCT:kmg:pg

October 16, 2000

This is a draft of changes to the dry cleaner response program. We have divided the DNR request relating to the dry cleaner program into two drafts. Joe Kreye drafted LRB-0320, which contains the requested changes relating to operating without a license.

The drafting request asks that the definition of dry cleaning facility be changed for two purposes. One is to ensure that the program applies to facilities that use new cleaning processes. This draft changes the definition so that it refers to "nonaqueous substances." Please review s. 292.65 to determine whether any other changes need to be made to accommodate this concern. For example, please review the definition of "dry cleaning solvent." The second purpose of the requested change was to require that the discharge be associated with a dry cleaning facility. I think that this is a substantive concern that is better addressed directly, rather than by complicating the definition. Please see the treatment of s. 292.65 (7) (a) (intro.) in this draft.

The drafting request indicates that the definitions of owner and operator in s. 292.65 should be modified to include past owners and operators. The definitions are complex and there are probably several ways they could be changed to cover past owners and operators. Please carefully review current s. 292.65 (1) (h) and (i) and the changes that this draft makes to those provisions to determine whether this draft does what you want.

The drafting request says to add s. 292.65 (4) (n) to require that an owner or operator certify that PERC is delivered using a closed, direct-coupled delivery system. Section 292.65 (5) (b) requires the use of such a system. With the change, in this draft, to make the requirements in s. 292.65 (5) (b) apply to all facilities beginning a year after the budget takes effect, the addition of s. 292.65 (4) (n) seems unnecessary. Please let me know if I am missing something here.

Please carefully review the treatment in this draft of s. 292.65 (8) (d) 8. That provision currently specifies that DNR must deny an application if the discharge was caused by a service provider. The drafting request indicates that there is concern about this provision because in the past the service providers did not have insurance. To respond to this concern, this draft changes s. 292.65 (8) (d) 8. so that DNR must deny the application only if the discharge was caused **after** October 14, 1997. Please let me know if this is not consistent with the department's intent.

The drafting request indicated that the department is concerned about multiple applications for reimbursement for different clean-up strategies at the same site. I wonder whether this has ever been a problem under PECFA. If this really is a potential problem, it should be noted that the request makes more persons eligible under the program by broadening the definitions of owner and operator, potentially increasing the number of eligible persons for any site. At any rate, this draft creates s. 292.65 (8) (d) 9. in response to the concern about multiple applicants. Please review that provision carefully.

As requested, this draft repeals s. 292.65 (8) (e) 3. This means that a person with a dry cleaning facility that ceased to operated before the person paid any of the fees that support this program and who is not conducting dry cleaning at any other location will get the same size grant as a person who is paying the fees. Is that consistent with your intent? I do not think that it is necessary to include any language about the retroactivity of this change unless the department has paid some grants using the higher deductible. Please let me know if this is the case.

The drafting request said to repeal s. 292.66. There are several provisions of the statutes that cross-reference s. 292.66 and that, therefore, had to be changed. This draft repeals s. 292.65 (4) (h) and (7) (a) 13. If this is not consistent with your intent, please let me know what changes you want instead.

Rebecca C. Tradewell  
Managing Attorney  
Phone: (608) 266-7290  
E-mail: becky.tradewell@legis.state.wi.us



## Tradewell, Becky

---

**From:** Potter, Lance  
**Sent:** Wednesday, November 08, 2000 11:00 AM  
**To:** Tradewell, Becky  
**Subject:** LRB-0320/1dn

Becky,

Here are the comments by the program and legal staff at the DNR in reference to your draft of LRB-0320/1dn. The comments they are making are in reference to the different paragraphs (and the questions within the paragraphs) of the drafter's note. If these changes and agreements are not clear, please e-mail me back.

Thanks,

Lance

-----  
**From:** Schmidt, Robin R  
**Sent:** Monday, November 06, 2000 9:51 AM  
**To:** Soellner, Jeffrey K; Gauberti, Leslie C  
**Subject:** draft changes

- ✓ 1. 2nd paragraph - with respect to the definition of dry cleaning solvent - the statute makes several references to actions taken in response to discharges of dry cleaning solvents at dry cleaning facilities. While other compounds are not a major problem right now, we are seeing significant changes in technologies and the products being marketed now which may not technically be classified as solvents, per our definition of a dry cleaning solvent. For the purpose of assessing solvent fees, we believe the definition of solvent should remain, but that the text of the statute should refer to discharges of *hazardous substances used to clean apparel or household fabrics at a dry cleaning facility*. There are several places where this change would have to be made, such as

292.65(4)(b) report. An owner or operator shall report the discharge of a hazardous substance used to clean apparel or household fabrics to the department in a timely manner, as provided in s. 292.11.

We can't limit it to just discharges of hazardous substances at a dry cleaning facility because some of them may have fuel oil tanks for heating or other purposes not relating to dry cleaning operations, which should not be reimburseable from the DERF program.

- ✓ 2. 3rd paragraph - The changes accurately reflect the requested changes.
- ✓ 3. 4th paragraph - In reviewing the changes made, we have a couple of comments. Actually, the current pollution prevention requirements of 292.65(5)(b) 1, 2, and 5 really should apply to all facilities, giving facilities that were constructed prior to 10/14/97 a 1 year compliance timeline. The other pollution prevention requirements (292.65(5)(h) 3 and 4) should remain and be only for new facilities or ones that have already cleaned up a past release for an older facility.

We do not have specific language suggestions because when we tried this, it became very lengthy. We are hoping the drafters can find a way of having there be pollution prevention requirements for two scenarios - one for all facilities (to include a 1 year transition time for older facilities) that would include 1, 2 and 5 of the current requirements, and one for new facilities and second discharges from older facilities for items 3 and 4 of the current statute.

- ✓ 4. 5th paragraph - The drafter made the correct change to this section.
- ✓ 5. 6th paragraph - The drafter asks whether this is a problem with PECFA and I don't know the answer to that - but we have had at least one situation where there was the potential for multiple applications. The text provided by the drafter will meet our needs.
- ✓ 6. 7th paragraph - It is our intent to have only one sliding scale deductible for the program, regardless of the operating status of the facility. It should be retroactive, however, because the department has, indeed, held some applicants to

the higher deductible limit and will need to revise their reimbursements accordingly.

✓ 7. 8th paragraph - It is our intent to repeal 292.66 - and the references to that statute. However, in repealing that language, we find that 292.65(4)(h) needs to be revised to mimic 292.65(4)(g). It should read: " Interim action. An owner or operator is not required to complete an investigation or prepare a remedial action plan before conducting an interim action activity if the department determines that an interim action is necessary."

## Tradewell, Becky

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**From:** Potter, Lance  
**Sent:** Monday, November 13, 2000 8:57 AM  
**To:** Tradewell, Becky  
**Cc:** Schmidt, Robin R  
**Subject:** FW: solvent definition - LRB - 0320/1

Becky -

Here is an additional change to LRB - 0320/1.

In the drafter's note you asked for a review of the definition of "dry cleaning solvents".

This is definition submitted by the program, based on the Florida State definition:

"Drycleaning solvents" means any and all nonaqueous solvents used in the cleaning of apparel or household fabrics for the general public and includes perchloroethylene (also known as tetrachloroethylene) and petroleum-based solvents, and their breakdown products. For purposes of this definition, "drycleaning solvents" only includes those drycleaning solvents originating from use at a drycleaning facility or by a wholesale supply facility.

Please e-mail back if you have questions.

Thanks,

Lance

## Tradewell, Becky

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**From:** Potter, Lance  
**Sent:** Monday, December 04, 2000 4:27 PM  
**To:** Tradewell, Becky  
**Cc:** Schmidt, Robin R  
**Subject:** FW: LRB-0320/1dn

Hello Becky,

Robin wants to change the language in the "definitions" - 292.65 (1) (e) - to reflect the definition of "dry cleaning solvent" as "hazardous substance used to clean apparel or household fabrics at a dry cleaning facility."

If you have questions, please e-mail back.

Thanks,

Lance

---

**From:** Schmidt, Robin R  
**Sent:** Friday, December 01, 2000 10:53 AM  
**To:** Potter, Lance  
**Cc:** Soellner, Jeffrey K; Gauberti, Leslie C  
**Subject:** RE: LRB-0320/1dn

Lance - I've looked over the statutes and this message and I'm confused. What I had proposed was changing the definition of solvent in 292.65(1)e so that when the term "dry cleaning solvent" is used elsewhere in the statute, it would refer back to that definition - the point wasn't to put that definition in the text every place where the words "dry cleaning solvent" is used. Does this make sense?

---

**From:** Potter, Lance  
**Sent:** Tuesday, November 28, 2000 1:38 PM  
**To:** Schmidt, Robin R  
**Subject:** FW: LRB-0320/1dn

Robin,

Did you get a chance to look at this e-mail from LRB? We need to get edits to them soon. Please let me know what you think of shortening the definition of solvent you supplied in some cases?

Thanks

Lance

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**From:** Tradewell, Becky  
**Sent:** Monday, November 20, 2000 3:55 PM  
**To:** Potter, Lance  
**Subject:** RE: LRB-0320/1dn

Lance,

With regard to the first point of Robin Schmidt's message, I need to know whether "dry cleaning solvent" must be changed to "hazardous substance used to clean apparel or household fabrics at a dry cleaning facility" in all of the following places in the statute: 292.65 (1) (b) and (gm), (4) (b), (e), (i), (j) (intro.) and 1., (5) (a) 2. and (b) 1. to 5., (7) (a) 2. and 8., (c) 3. and (d), (8) (a) (intro.) and (d) 8., and (11). In many of these provisions, this would get very wordy. Perhaps we could come up with a different term to define instead, something like "dry cleaning substance" or "dry cleaning product."

Becky



State of Wisconsin  
2001 - 2002 LEGISLATURE

5000

LRB-0320/2

RCT:kmg:pg

YMY

DOA:.....Wong - Dry cleaner program changes

FOR 2001-03 BUDGET - NOT READY FOR INTRODUCTION

In 12/6

Note

discharges of ~~other~~ other kinds of dry cleaning products, in addition to solvents.

DON'T GEN. CAT.

1 AN ACT relating to: the budget.

From dry cleaning facilities

*Analysis by the Legislative Reference Bureau*

**ENVIRONMENT**

**HAZARDOUS SUBSTANCES AND ENVIRONMENTAL CLEANUP**

Under current law, DNR administers the dry cleaner environmental response program (DERP) which provides reimbursement for a portion of the costs of responding to discharges of dry cleaning solvents. DERP is funded by dry cleaning license and solvent fees which are paid by owners and operators of dry cleaning facilities. Under this bill, DERP provides reimbursement for the costs of responding to

Under current law, the deductible under DERP generally ranges from \$10,000 to \$76,000, depending on the amount of eligible costs. However, for a dry cleaning facility that has closed before the owner or operator applies under DERP, the deductible is increased by an amount equal to 30 times the average license fee for the year in which the award is made and an amount equal to the average amount of solvent fees paid by operating dry cleaning facilities for that year. This bill eliminates the higher deductible for closed dry cleaning facilities.

Under current law, owners and operators are eligible for reimbursement under DERP. An owner is either: 1) a person who owns property on which a licensed dry cleaning facility is located or on which a dry cleaning facility that has ceased operation, but that was licensed before it ceased operation, is located; or 2) a person who owns, or has possession or control of, or who receives or received consideration from the operation of, a licensed dry cleaning facility or a closed dry cleaning facility.

If the dry cleaning facility was closed on or after October 14, 1997, it must have been licensed before it was closed. An operator is a person who holds a license from DOR for a dry cleaning facility or a person who operated a dry cleaning facility that closed before October 14, 1997.

This bill changes eligibility for DERP by changing the definitions of "owner" and "operator." Under this bill, "owner" includes a person who formerly owned a dry cleaning facility or who formerly owned land on which a dry cleaning facility is located and "operator" includes a person who formerly held the license for a dry cleaning facility.

\* Currently under DERP, the owner or operator of a dry cleaning facility on which construction began after October 4, 1997, is required to have implemented specified pollution prevention measures. This requirement does not generally apply to older dry cleaning facilities. Under this bill, beginning one year after this bill takes effect, all dry cleaning facilities must have the pollution prevention requirements in order to be eligible under DERP. *five*  
*Implemented three of*

\* Currently, the owner or operator of a dry cleaning facility is not eligible under DERP if the discharge of dry cleaning solvent was caused by a person who provided services or products to the owner or operator. This bill changes that provision so that it only applies if the provider caused the discharge after October 14, 1997.

This bill provides that only one owner or operator is eligible for DERP with respect to any one discharge of dry cleaning solvent. *product* ✓

Under a part of DERP, the owners of certain dry cleaning facilities are eligible for reimbursement for the costs of preliminary site screening and interim remedial equipment to begin the cleanup of dry cleaning discharges before the completion of full-site investigations and clean-up plans. Under this part of the program, the reimbursement for preliminary site screening and interim remedial equipment is 50% of the eligible costs, but not more than \$20,000, of which not more than \$3,000 may be for the cost of the preliminary site screening. This bill eliminates the part of DERP relating to preliminary site screening and interim remedial equipment.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

1 SECTION 1. 20.370 (2) (eq) of the statutes is amended to read:

2 20.370 (2) (eq) *Solid waste management - dry cleaner environmental response.*

3 From the dry cleaner environmental response fund, the amounts in the schedule for  
4 review of remedial action under ss. s. 292.65 and ~~292.66~~.

5 SECTION 2. 20.370 (6) (eq) of the statutes is amended to read:

1           20.370 (6) (eq) *Environmental aids — dry cleaner environmental response.*  
2           Biennially, from the dry cleaner environmental response fund, the amounts in the  
3           schedule for financial assistance under ~~ss. s. 292.65 and 292.66~~ and to make  
4           transfers required under s. 292.65 (11).

5           **SECTION 3.** 20.370 (9) (nq) of the statutes is amended to read:

6           20.370 (9) (nq) *Aids administration — dry cleaner environmental response.*  
7           From the dry cleaner environmental response fund, the amounts in the schedule to  
8           administer ~~ss. s. 292.65 and 292.66~~.

9           **SECTION 4.** 77.996 (2) (intro.) of the statutes is amended to read:

10          77.996 (2) (intro.) “Dry cleaning facility” means a facility that dry cleans  
11          apparel or household fabrics for the general public using a nonaqueous substance.  
12          other than the following facilities:

13          **SECTION 5.** 292.65 (1) (intro.) of the statutes is amended to read:

14          292.65 (1) DEFINITIONS. (intro.) In this section and ~~s. 292.66~~:

↓  
Insert  
3-14

15          **SECTION 6.** 292.65 (1) (d) (intro.) of the statutes is amended to read:

16          292.65 (1) (d) (intro.) “Dry cleaning facility” means a facility for dry cleaning  
17          apparel or household fabrics for the general public using a nonaqueous substance.  
18          other than a facility that is one of the following:

↓  
Insert  
3-18

19          **SECTION 7.** 292.65 (1) (h) 1. of the statutes is amended to read:

20          292.65 (1) (h) 1. A person who holds or held the license under s. 77.9961 (2) for  
21          a dry cleaning facility.

22          **SECTION 8.** 292.65 (1) (i) 1. (intro.) of the statutes is amended to read:

23          292.65 (1) (i) 1. (intro.) A person who owns, owned, or has possession or control  
24          of, and who receives or received direct or indirect consideration from the operation  
25          of, any of the following:

1 SECTION 9. 292.65 (1) (i) 3. (intro.) of the statutes is amended to read:

2 292.65 (1) (i) 3. (intro.) A person who owns or owned the property on which one  
3 of the following is located:

4 SECTION 10. 292.65 (1) (i) 3. b. of the statutes is amended to read:

5 292.65 (1) (i) 3. b. A dry cleaning facility that has ceased operation but that,  
6 if it ceased operation on or after October 14, 1997, was licensed under s. 77.9961 (2)  
7 before it ceased operation.

Insert  
4-7

8 SECTION 11. 292.65 (4) (e) of the statutes is amended to read:

9 292.65 (4) (e) *Investigation*. After notifying the department under par. (c) 1.,  
10 if applicable, and before conducting remedial action activities, an owner or operator  
11 shall complete an investigation to determine the extent of environmental impact of  
12 the dry cleaning solvent <sup>product</sup> discharge, except as provided in <sup>stat. plain</sup> ~~par. (g)~~ and <sup>stat. plain</sup> ~~(h)~~.

13 ~~SECTION 12. 292.65 (4) (f) of the statutes is amended to read:~~

14 ~~292.65 (4) (f) *Remedial action plan*. After completing the investigation under~~  
15 ~~par. (e) and before conducting remedial action activities, an owner or operator shall~~  
16 ~~prepare a remedial action plan, based on the investigation under par. (e), that~~  
17 ~~identifies specific remedial action activities proposed to be conducted, except as~~  
18 ~~provided in ~~par. (g)~~ and (h).~~

19 ~~SECTION 13. 292.65 (4) (h) of the statutes is repealed.~~

20 ~~SECTION 14. 292.65 (5) (a) 2. of the statutes is amended to read:~~

21 ~~292.65 (5) (a) 2. The Beginning on the first day of the 13th month beginning~~  
22 ~~after the effective date of this subdivision .... [revisor inserts date], the owner or~~  
23 ~~operator of a dry cleaning facility on which construction began on or before October~~  
24 ~~14, 1997, is ineligible for an award under this section with respect to a discharge that~~  
25 ~~occurs on or after the 91st day after the day on which the department issues a case~~



1 closure letter with respect to an earlier discharge of dry cleaning solvent from the dry  
2 cleaning facility, unless the owner or operator has implemented the enhanced  
3 pollution prevention measures described in par. (b).

✓  
Insert  
5-4

4 SECTION 15. 292.65 (7) (a) (intro.) of the statutes is amended to read:

5 292.65 (7) (a) *General.* (intro.) Subject to pars. (c), (ce), (cm), and (d), eligible  
6 costs for an award under this section include reasonable and necessary costs paid  
7 incurred because of a discharge of dry cleaning ~~solvent~~ <sup>product</sup> at a dry cleaning facility for  
8 the following items only:

✓  
Insert  
5-8

9 SECTION 16. 292.65 (7) (a) 13. of the statutes is repealed.

✓  
Insert  
5-9

10 SECTION 17. 292.65 (8) (a) (intro.) of the statutes is amended to read:

11 292.65 (8) (a) *Application.* (intro.) An owner or operator shall submit an  
12 application on a form provided by the department. An owner or operator may not  
13 submit an application before September 1, 1998. An owner or operator may not  
14 submit an application after August 30, 2003 2005, if the application relates to a dry  
15 cleaning facility that ceased to operate before September 1, 1998. An owner or  
16 operator may not submit an application after August 20, 2008, if the application  
17 relates to any other dry cleaning facility. The department shall authorize owners and  
18 operators to apply for awards at stages in the process under sub. (4) that the  
19 department specifies by rule. An application shall include all of the following  
20 documentation of activities, plans, and expenditures associated with the eligible  
21 costs incurred because of a dry cleaning ~~solvent~~ <sup>product</sup> discharge from a dry cleaning  
22 facility:

23 SECTION 18. 292.65 (8) (d) 8. of the statutes is amended to read:

24 292.65 (8) (d) 8. The dry cleaning ~~solvent~~ <sup>product</sup> discharge was caused after October  
25 14, 1997, by a person who provided services or products to the owner or operator or

1 to a prior owner or operator of the dry cleaning facility, including a person who  
2 provided perchloroethylene to the owner or operator or prior owner or operator of a  
3 dry cleaning facility using a system other than a closed, direct-coupled delivery  
4 system.

5 **SECTION 19.** 292.65 (8) (d) 9. of the statutes is created to read:

6 292.65 (8) (d) 9. The department previously received an application from a  
7 person other than the applicant with respect to the discharge to which the  
8 application relates.

9 **SECTION 20.** 292.65 (8) (e) 1. of the statutes is renumbered 292.65 (8) (e), and  
10 292.65 (8) (e) (intro.), as renumbered, is amended to read:

11 292.65 (8) (e) *Deductible.* (intro.) The department may reimburse the owner  
12 or operator of a dry cleaning facility ~~that is operating at the time that the owner or~~  
13 ~~operator applies under par. (a) only~~ for eligible costs incurred at each dry cleaning  
14 facility that exceed the following deductible:

15 **SECTION 21.** 292.65 (8) (e) 3. of the statutes is repealed.

↓

Insert  
6-15

16 **SECTION 22.** 292.65 (13) of the statutes is amended to read:

17 292.65 (13) COUNCIL. The dry cleaner environmental response council shall  
18 advise the department concerning the ~~programs~~ program under this section ~~and s.~~  
19 ~~292.66.~~ The dry cleaner environmental response council shall evaluate the program  
20 under this section at least every 5 years, using criteria developed by the council.

21 **SECTION 23.** 292.66 of the statutes is repealed.

22 **SECTION 24.** 292.99 (1m) of the statutes is amended to read:

23 292.99 (1m) Any person who violates s. 292.65 (12m) ~~or 292.66 (5)~~ shall forfeit  
24 not less than \$10 nor more than \$10,000.

DNote

25  
Insert 6-24 ↓

(END)

2001-2002 DRAFTING INSERT  
FROM THE  
LEGISLATIVE REFERENCE BUREAU

LRB-0320/2ins  
RCT:.....

Insert ✓  
3-14

**SECTION 1.** 292.65 (1) (b) of the statutes is amended to read:

292.65 (1) (b) "Case closure letter" means a letter provided by the department that states that, based on information available to the department, no further remedial action is necessary with respect to a dry cleaning solvent product discharge.

History: 1997 a. 27; 1999 a. 9, 185 ss. 143 to 145, 188 to 190.

**SECTION 2.** 292.65 (1) (e) of the statutes is amended to read:

292.65 (1) (e) "~~Dry cleaning solvent product~~" means a ~~chlorine-based or hydrocarbon-based formulation or product that is used as a primary cleaning agent in dry cleaning facilities~~ hazardous substance used to clean apparel or household fabrics.

History: 1997 a. 27; 1999 a. 9, 185 ss. 143 to 145, 188 to 190.

**SECTION 3.** 292.65 (1) (gm) of the statutes is amended to read:

292.65 (1) (gm) "Immediate action" means a remedial action that is taken within a short time after a discharge of dry cleaning solvent product occurs, or after the discovery of a discharge of dry cleaning solvent product, to halt the discharge, contain or remove discharged dry cleaning solvent product, or remove contaminated soil or water in order to restore the environment to the extent practicable and to minimize the harmful effects of the discharge to air, lands, and waters of the state and to eliminate any imminent threat to public health, safety, or welfare.

History: 1997 a. 27; 1999 a. 9, 185 ss. 143 to 145, 188 to 190.

**SECTION 4.** 292.65 (1) (gs) of the statutes is created to read:

292.65 (1) (gs) "Interim action" means a remedial action that is taken to contain or stabilize a discharge of a dry cleaning product, in order to minimize any threats to public health, safety, or welfare or to the environment, while other remedial actions are being planned.

Insert ✓  
4-7

**SECTION 5.** 292.65 (4) (b) of the statutes is amended to read:

292.65 (4) (b) *Report.* An owner or operator shall report a dry cleaning solvent product discharge to the department in a timely manner, as provided in s. 292.11.

History: 1997 a. 27; 1999 a. 9, 185 ss. 143 to 145, 188 to 190.

**SECTION 6.** 292.65 (4) (h) of the statutes is repealed and recreated to read:

292.65 (4) (h) *Interim action.* An owner or operator is not required to complete an investigation or prepare a remedial action plan before conducting an interim action activity if the department determines that an interim action is necessary.

**SECTION 7.** 292.65 (4) (i) of the statutes is amended to read:

292.65 (4) (i) *Review of site investigation and remedial action plan.* The department shall, at the request of an owner or operator, review the site investigation results and the remedial action plan and advise the owner or operator on the adequacy of the proposed remedial action activities in meeting the requirements of this section. The department shall complete the review of the site investigation and remedial action plan within 45 days. The department shall also provide an estimate of when funding will be available to pay an award for remedial action conducted in response to the dry cleaning solvent product discharge.

History: 1997 a. 27; 1999 a. 9, 185 ss. 143 to 145, 188 to 190.

**SECTION 8.** 292.65 (4) (j) (intro.) and 1. of the statutes are amended to read:

292.65 (4) (j) *Remedial action.* (intro.) The owner or operator shall conduct all remedial action activities that are required under this section in response to the dry cleaning solvent product discharge, including all of the following:

1. Recovering any recoverable dry cleaning solvent product from the environment.

History: 1997 a. 27; 1999 a. 9, 185 ss. 143 to 145, 188 to 190.

**SECTION 9.** 292.65 (5) (b) (intro.) of the statutes is amended to read:

↓

Insert ✓  
5-4

✓  
Insert 5-4, continued

292.65 (5) (b) (intro.) An owner or operator who is required to implement enhanced pollution prevention measures under par. (a) shall demonstrate all of the following:

History: 1997 a. 27; 1999 a. 9, 185 ss. 143 to 145, 188 to 190.

**SECTION 10.** 292.65 (5) (b) 1. of the statutes is amended to read:

292.65 (5) (b) 1. That the owner or operator manages all wastes that are generated at the dry cleaning facility and that contain dry cleaning solvent product as hazardous wastes in compliance with ch. 291 and 42 USC 6901 to 6991i.

History: 1997 a. 27; 1999 a. 9, 185 ss. 143 to 145, 188 to 190. ✓

**SECTION 11.** 292.65 (5) (b) 1. of the statutes, as affected by 2001 Wisconsin Act ... (this act), is renumbered 292.65 (5) (c) 1.

**SECTION 12.** 292.65 (5) (b) 2. of the statutes is amended to read:

292.65 (5) (b) 2. That the dry cleaning facility does not discharge dry cleaning solvent product or wastewater from dry cleaning machines into any sanitary sewer or septic tank or into the waters of this state.

History: 1997 a. 27; 1999 a. 9, 185 ss. 143 to 145, 188 to 190. ✓

**SECTION 13.** 292.65 (5) (b) 2. of the statutes, as affected by 2001 Wisconsin Act ... (this act), is renumbered 292.65 (5) (c) 2.

**SECTION 14.** 292.65 (5) (b) 3. of the statutes is amended to read:

292.65 (5) (b) 3. That each machine or other piece of equipment in which dry cleaning solvent product is used, or the entire area in which those machines or pieces of equipment are located, is surrounded by a containment dike or other containment structure that is able to contain any leak, spill, or other release of dry cleaning solvent product from the machines or other pieces of equipment.

History: 1997 a. 27; 1999 a. 9, 185 ss. 143 to 145, 188 to 190.

**SECTION 15.** 292.65 (5) (b) 4. of the statutes is amended to read:

↓

292.65 (5) (b) 4. That the floor within any area surrounded by a dike or other containment structure under subd. 3. is sealed or is otherwise impervious to dry cleaning solvent product.

History: 1997 a. 27; 1999 a. 9, 185 ss. 143 to 145, 188 to 190.

**SECTION 16.** 292.65 (5) (b) 5. of the statutes is amended to read:

292.65 (5) (b) 5. That all dry cleaning solvent product is delivered to the dry cleaning facility by means of a closed, direct-coupled delivery system.

History: 1997 a. 27; 1999 a. 9, 185 ss. 143 to 145, 188 to 190.

**SECTION 17.** 292.65 (5) (b) 5. of the statutes, as affected by 2001 Wisconsin Act ... (this act), is renumbered 292.65 (5) (c) 3. *re*

**SECTION 18.** 292.65 (5) (c) (intro.) of the statutes is created to read:

292.65 (5) (c) The owner or operator of a dry cleaning facility is not eligible for an award under this section unless the owner or operator has implemented the following enhanced pollution prevention measures:

**SECTION 19.** 292.65 (7) (a) 2. of the statutes is amended to read:

292.65 (7) (a) 2. Investigation and assessment of contamination caused by a dry cleaning solvent product discharge from a dry cleaning facility.

History: 1997 a. 27; 1999 a. 9, 185 ss. 143 to 145, 188 to 190.

**SECTION 20.** 292.65 (7) (a) 8. of the statutes is amended to read:

292.65 (7) (a) 8. Maintenance of equipment for dry cleaning solvent product recovery performed as part of remedial action activities.

History: 1997 a. 27; 1999 a. 9, 185 ss. 143 to 145, 188 to 190.

**SECTION 21.** 292.65 (7) (c) 3. of the statutes is amended to read:

292.65 (7) (c) 3. Other costs that the department determines to be associated with, but not integral to, the investigation and remediation of a dry cleaning solvent product discharge from a dry cleaning facility.

History: 1997 a. 27; 1999 a. 9, 185 ss. 143 to 145, 188 to 190.

**SECTION 22.** 292.65 (7) (d) of the statutes is amended to read:

Insert  
5-8

Insert  
5-9

*Insert 5-9, continued*

292.65 (7) (d) *Discharges from multiple activities.* If hazardous substances are discharged at a dry cleaning facility as a result of dry cleaning operations and as a result of other activities, eligible costs under this section are limited to activities necessitated by the discharge of dry cleaning solvent product.

History: 1997 a. 27; 1999 a. 9, 185 ss. 143 to 145, 188 to 190.

**SECTION 23.** 292.65 (11) of the statutes is amended to read:

✓  
*Insert*  
*6-15*

292.65 (11) ENVIRONMENTAL FUND REIMBURSEMENT. If the department expends funds from the environmental fund under s. 292.11 (7) (a) or 292.31 (3) (b) because of a discharge of dry cleaning solvent product at a dry cleaning facility, the department shall transfer from the appropriation account under s. 20.370 (6) (eq) to the environmental fund an amount equal to the amount expended under s. 292.11 (7) (a) or 292.31 (3) (b). The department shall make transfers under this subsection when the department determines that sufficient funds are available in the appropriation account under s. 20.370 (6) (eq).

History: 1997 a. 27; 1999 a. 9, 185 ss. 143 to 145, 188 to 190.

**SECTION 9137. Nonstatutory provisions; natural resources.**

✓  
*Insert*  
*6-24*

(1) DRY CLEANER ENVIRONMENTAL RESPONSE PROGRAM DEDUCTIBLE. The department *of natural resources* shall identify any award made under section 292.65 of the statutes using the deductible under section 292.65 (8) (c) 3., 1999 stats., and recalculate the award using the deductible under section 292.65 (8) (e) of the statutes, as affected by this act. Before July 1, 2002, the department shall pay to the recipient the difference between the amount of the original award and the amount as recalculated under this subsection.

**SECTION 9437. Effective dates; natural resources.**



(1) DRY CLEANER POLLUTION PREVENTION. The treatment of section 292.65 (5) (c) (intro.) of the statutes and the renumbering of section 292.65 (5) (b) 1., 2., and 5. of the statutes take effect on first day of the 13th month beginning after publication.

end of insert



**DRAFTER'S NOTE**  
**FROM THE**  
**LEGISLATIVE REFERENCE BUREAU**

LRB-0320/2dn

RCT:.....

*King*

This is a redraft of the dry cleaner program draft. I changed the term "dry cleaning solvent" to "dry cleaning product" in s. 292.65 because the revised definition includes substances that are not solvents. Should "nonaqueous" be added to the definition? I did not include "at a dry cleaning facility" because that language seems unnecessary.

Please contact me with any questions about this redraft.

Rebecca C. Tradewell  
Managing Attorney  
Phone: (608) 266-7290  
E-mail: [becky.tradewell@legis.state.wi.us](mailto:becky.tradewell@legis.state.wi.us)

*I did not change the definition of "dry cleaning solvent" in s. 77.996(3). If you want to change that definition, please consider how s. 77.9962 should be changed.*

**DRAFTER'S NOTE**  
**FROM THE**  
**LEGISLATIVE REFERENCE BUREAU**

LRB-0320/2dn  
RCT:kmg:km

December 12, 2000

This is a redraft of the dry cleaner program draft. I changed the term "dry cleaning solvent" to "dry cleaning product" in s. 292.65 because the revised definition includes substances that are not solvents. Should "nonaqueous" be added to the definition? I did not include "at a dry cleaning facility" because that language seems unnecessary. I did not change the definition of "dry cleaning solvent" in s. 77.996 (3). If you want to change that definition, please consider how s. 77.9962 should be changed.

Please contact me with any questions about this redraft.

Rebecca C. Tradewell  
Managing Attorney  
Phone: (608) 266-7290  
E-mail: [becky.tradewell@legis.state.wi.us](mailto:becky.tradewell@legis.state.wi.us)

## Tradewell, Becky

---

**From:** Wong, Manyee  
**Sent:** Thursday, December 21, 2000 10:22 AM  
**To:** Tradewell, Becky  
**Subject:** FW: LRB 0320/2 - Dry Cleaning

Hi Becky,

Here are DNR's comments on dry cleaner statutory changes. They all look fine to me. Please make all requested changes.

Thanks.  
Manyee

-----Original Message-----

**From:** Potter, Lance  
**Sent:** Thursday, December 21, 2000 8:56 AM  
**To:** Wong, Manyee  
**Subject:** LRB 0320/2 - Dry Cleaning

Hi Manyee,

Here are comments on the dry cleaning statutory language from Robin Schmidt, with some additions from legal services. Robin mentioned that you had a conversation earlier in the week discussing some of these issues. I have tried to organize the comments in an easy to understand fashion. Note that a number of the comments are requesting the drafter to make a judgment call on the language adjustment. Let me know if you have questions.

Thanks,

Lance



Stat Changes to  
LRB0320.doc

**Suggested changes to LRB – 0320/2**

**Section 4, Page 3, Line 10 and new Section 5**

**Create a new Section 5:**

Sec. 77.996(3) should be the same definition as in 292.65 for dry cleaning product (see the comment below about carbon dioxide).

**Change 77.9962, Section 4:**

To assess the \$5/gal for perc, and 75 cents per gallon for all other dry cleaning products sold. This continues the funding for alternative compounds like green earth, rynex, the polymers added to carbon dioxide cleaners, and df 2000 without having to argue as to whether they are hydrocarbon based solvents or not - and other compounds would be included as well, as they are developed.

**SECTION 4.** 77.996 (2) (intro.) of the statutes is amended to read:

77.996 (2) (intro.) "Dry cleaning facility" means a facility that dry cleans apparel or household fabrics for the general public using a nonaqueous substance, other than the following facilities: 2,

**Section 8, Page 4, Line 1**

✓ **SECTION 8.** 292.65 (1) (e) of the statutes is amended to read:

292.65 (1) (e) "Dry cleaning product" means hazardous substance used to clean apparel or household fabrics.

**Change definition to reflect addition:**

**SECTION 8.** 292.65 (1) (e) of the statutes is amended to read:

292.65 (1) (e) "Dry cleaning product" means hazardous substance used to clean apparel or household fabrics excluding wetcleaning compounds.

**Reason:**

Changing the term solvent to product is a great idea and will work - but we need to specifically exclude hazardous substances associated with wetcleaning compounds

**Further comments:**

\* The only concern I have with this definition is the situation we have with carbon dioxide. There is a large plant in the Stevens Point area that has converted to carbon dioxide. While the carbon dioxide itself is relatively harmless, the polymers added to it could be considered a hazardous substance. I don't think this is a problem for the use of this definition for this chapter, but I want to make sure it works for the discussion on new section #5 above, where we use it to determine the fees for perc and other dry cleaning products - we would want to charge a fee for the polymers added to the carbon dioxide, but not the carbon dioxide itself.

✓ **Section 27, Page 7, Line 10**

**SECTION 27.** 292.65 (5) (b) 5. of the statutes is amended to read:  
292.65 (5) (b) 5. That all dry cleaning product is delivered to the dry cleaning facility by means of a closed, direct-coupled delivery system.

**Change definition:**

**SECTION 27.** 292.65 (5) (b) 5. of the statutes is amended to read:  
292.65 (5) (b) 5. ~~That all dry cleaning product~~ Perchloroethylene is delivered to the dry cleaning facility by means of a closed, direct-coupled delivery system.

**Reason:**

**Section 27.** 292.65(5)(b)5 should be specific to **perchloroethylene** being delivered through a closed, direct-coupled delivery system. Other forms of solvents are not available to be delivered through this type of a system - only perc.

Although closed loop systems may only be available for perc. at this time, perhaps the statute could be drafted to require that or similar technology for other products if/when they become available

**Sections 20 - 29**

✓ I am confused about the pollution prevention requirements; the point we are trying to make is that all **new** facilities (post 1997) have to comply with the existing b1 through b 5, and **all** facilities have to comply with b 1, b 2 and b 5. So, I think what is being done is there is a new section c with b 1, b 2 and b 5 in it, but when I read the text I'm not sure that those b's stay as b's or if they are changed to c's and then wouldn't apply to new facilities? If the drafter can clarify this that would be helpful.

✓ **Section 38**

I'm not sure this does what we need it to do - what we want to specify is that we will only accept one application per *cleanup phase per time period* - in other words - if people split the costs, they need to submit only one application for the costs that were incurred and divide it up among themselves how they see fit. Another example would be if one RP starts a cleanup and another RP doesn't like what they are doing - we'd only reimburse one application for whatever phase of the activity that was being covered by that application. It has an element of time and response action in it - I think the drafted language gets us close, but we're not quite there yet. We also want to be sure as applications are submitted, that the applicant can change over time - i.e. one rp may do the site investigation, and another do the remedial action and that's ok - it doesn't have to be the same applicant for that time period. This is a difficult concept to communicate and I'm not sure I've done an adequate job here - perhaps the drafter could think about this and propose another suggestion that we would be happy to review and comment on again.

**Remark on drafter's note:**

With respect to the comment that having the words saying "the discharge had to be associated with the facility" may not be necessary, we did have a situation where a property owner of a strip mall was trying to submit a claim for a cleanup that occurred at a former dry cleaning store within the strip mall complex claiming eligibility as the property owner of a licensed dry cleaner - but the licensed dry cleaner was not the source of the contamination and therefore the property owner wasn't really an eligible party (because property owners of unlicensed facilities are specifically excluded from this program). But since it didn't specifically say the discharge had to be from the facility we felt we were on weak grounds in denying the claim. That's why we suggested putting that specific language into the law - since so many property owners are stripmall owners and so many stripmalls had drycleaners at them at one time or another. If we had a preference, I think it would help to say that the discharge had to be associated with the facility eligible for the program in the law.

This statute never really says that the program is to reimburse for costs associated with a discharge from the facility one owns/owned or operates/operated. That is why the argument has been made that someone who owns or operates a facility could be eligible for reimbursement at another facility. I'm not sure of the best way to handle this from a drafting standpoint.

## Tradewell, Becky

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**From:** Potter, Lance  
**Sent:** Friday, December 29, 2000 9:27 AM  
**To:** Tradewell, Becky  
**Cc:** Schmidt, Robin R  
**Subject:** RE: LRB-0320/2, dry cleaning draft

Hello Becky,

Robin Schmidt and I recently talked about the problems with definitions and language in LRB 0320/2. In addition, she talked to people at the Fabric Care Institute and mentioned your suggestions. We want to go with "laundering" as you proposed.

Thanks for your work on this.

I lappy New Year.

Lance

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**From:** Tradewell, Becky  
**Sent:** Friday, December 22, 2000 11:49 AM  
**To:** Potter, Lance  
**Subject:** RE: LRB-0320/2, dry cleaning draft

If I cannot use "nonaqueous," I am not certain how to proceed. I could use "laundering" (which the dictionary defines as "to wash in water") if DNR feels that is clear enough. Otherwise, I will need more information on how describe clearly what distinguishes dry cleaning from wet cleaning. If Robin will be back next week, we can wait for her to get back.

Becky

-----Original Message-----

**From:** Potter, Lance  
**Sent:** Friday, December 22, 2000 11:25 AM  
**To:** Tradewell, Becky  
**Subject:** RE: LRB-0320/2, dry cleaning draft

Hello Becky,

There were a number of e-mails between the program staff and legal services about this language problem. I think Robin Schmidt, who in my view is the closest to the issues of dry cleaning, did not accept this language. My impression is that nonaqueous is not appropriate here. Robin is out of the office until after the new year; however, I do have her home number if you would like me to confirm with her.

Thanks,

Lance

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**From:** Tradewell, Becky  
**Sent:** Friday, December 22, 2000 8:20 AM  
**To:** Potter, Lance  
**Subject:** RE: LRB-0320/2, dry cleaning draft

Would saying that dry cleaning products are nonaqueous solve the problem?