# Dry Cleaner Program

**Meeting Minutes**

**Wednesday, November 16, 2017**

**Headquarters**

700 NE Multnomah Street

Portland, Oregon 97232

List of Attendees

**Committee members:**

Jim Kincaid, Chair, Cable Huston LLP

Steve Young, ODCA

Kathey Butters, ODCA

Gary Campbell, ODCA

Keri Handaly, City of Gresham

Guy Tanz, PNG Environmental

Brad Berggren, PNG Environmental, Inc.

James Schaff, Criteria Properties

Shinbok Han, KADCA

**DEQ staff:**

Bruce Gilles, Manager, Cleanup and Emergency Response

Rian Hoof, Office of Policy & Analysis

Nancy Cardwell, Dry Cleaner Program

Ed Patnode, Dry Cleaner Program

**Others:**

Korean Daily News

Amy Kim, Clean Faith Cleaners

Leisel Campbell, Campbell’s Cleaners

List of Handouts and Presentation Notes

* Advisory Committee Meeting Minutes (4/13/16)
* Fee Options under Consideration in 2016; How the 2016 Fee Increase proposal would affect Dry Cleaner Facilities
* Current state of the Dry Cleaner Program
* Questions to ask if DEQ retires the Dry Cleaner Program

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| 1:00 | Meeting Commencement Time |
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|  | ITEMS OF DISCUSSION |
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|  | The purpose of the meeting was to update the committee on where it left off in April 2016, review the current state of the Dry Cleaner Program (DCP), and discuss options, including a potential legislative proposal to sunset the program.  Bruce Gilles summarized the past advisory committee discussions/issues (2013-2016). In 2013 DEQ was encouraged to conduct compliance inspections. Twenty-three inspections were conducted which led to unintended enforcement costs. In 2014 the committee discussed the revenue trend analysis provided by Joe Westersund (former Dry Cleaner Program Coordinator). DEQ heard a constant theme that program administration costs should not be more than 10%. The DCP Coordinator is now part-time (.60%) and Ed Patnode is retiring at the end of the month. When Mr. Patnode’s position is filled there will be fewer dry cleaner program duties assigned. Mr. Gilles noted that the DCP fee administration is labor intensive due to the multiple fee structure types which led to a discussion asking DEQ to conduct fee audits to ensure honesty in reporting. Mr. Gilles stated that DEQ worked hard on fee audits and concluded it is not possible to verify revenue. Between 2015 and 2016 the committee looked at various fee structures. The committee came close to a flat fee concept in 2016 but ultimately opposed the proposal ending DEQ’s efforts toward carrying a bill to the 2017 legislative session. Mr. Gillis stated we need a simple fee structure in order to keep administrative costs down or develop a path forward to sunset the program.  Steve Young asked if the program were to sunset who would have oversight over the dry cleaners. Mr. Gilles said DEQ’s air quality permit inspection program would have oversight.  Gary Campbell asked if DEQ could unilaterally sunset the program. Mr. Gilles replied no, that DEQ would need to submit a legislative proposal to the legislature. Sunsetting the program would mean no longer collecting fees, rescinding the requirements for spill prevention, and subjecting dry cleaners to the same liability (joint and several/subject to 3rd party claims) as other facilities statewide.  Bruce Gilles discussed the option of charging 1% of total dry cleaner revenue.  Bruce Gilles said that having cart blanc insurance coverages was not the best at the time because there was no incentive by the operator to do insurance archeology. DEQ has seen two successful cost recoveries in 20 years. The funds helped the balance a few years ago which allowed DEQ to slowly repurpose cleanups and reposition wells as part of cleanup.  Kathey Butters asked how much money is in the DCP account. Mr. Gilles said that as of 8/31/17 the balance was $742,000.  Gary Campbell said the committee worked hard to try and make it work. Ms. Butters said there were issues out of the dry cleaner operators’ control and did not know there was a problem for 10 years.  Bruce Gilles said that DEQ needs to develop a policy option package by end of this year.  Shinbok Han (Danny Han’s wife) said the Koreans want to pay based on revenue and not flat fee. Steve Young asked Shinbok Han why not raise their prices?  James Schaff said that insurance coverage is vital for perc users.  Keri Handaly asked if the dry cleaners could recommend a better way to audit. Steve Young said they pointed out the red flags but no one went after it.  Brad Berggren said we have had a lot of discussions on fee structures already and we should build on what we have (funding mechanisms and how to structure them) going forward.  The dry cleaner operators do not want to sunset/retire the program. They fear that they will lose their leases if they don’t have liability protection.    Bruce Gilles said he could not say exactly how much money DEQ needs to do cleanups but that the DCP needs $800,000 a year to run the program.  Bruce Gilles asked why the sunset clause was removed in 2003. Kathey Butters said it was used by the legislature to motivate dry cleaners to assess their facilities. Gary Campbell said the sunset was removed in 2003 as part of a negotiated fee structure.  Bruce Gilles offered the idea of resurrecting and debating the top two fee structures under consideration in 2016.  Gary Campbell said he would support a gross receipts tax if the facilities were audited and verified.  Bruce Gilles said Joe Westersund spent a lot of time trying to do audits and that DEQ cannot verify fairness because everyone does it differently. He said Mr. Westersund tried to design fair auditing process and determined that revenues are not auditable. Without the ability to verify their system DEQ cannot do enforcement.  Shinbok Han asked if we can get funds from the government. Bruce Gilles said the government cannot give money it does not have.  Steve Young asked what it would cost to buy insurance. Brad Berggren said it would be a huge amount.  Steve Young said he added an environmental service fee on every dry cleaner item. He said his patrons understood and supported it.  Kathey Butters asked Brad Berggren if the program was worth saving. Brad said yes, that all the things are in place and the question is how to manage it equitably. He said it was a good program that benefits a lot of people and the state.  Kathey Butters would like to look at a whole new proposal and meet again in mid-January.  Rian Hoof said 2019 is the long legislative session and that DEQ has to develop a legislative session now to go to the Governor’s office in Spring, 2018.  Jim Kincaid suggested we have a mid-December check-in meeting to see if there is a developing proposal and send out a doodle poll for a mid-January meeting.  Steve Young suggested an annual fee of $4,000 per year. Kathey Butters said there needs to be equity; there are perc users who switched to non-perc and people who still using perc.  Bruce Gilles mentioned another that promotes the EcoBiz dry cleaner certification program to help incentivize perc users to transition to a non-perc system.  Kathey Butters asked that without a program who still stop them from dumping down the sewer. Jim Kincaid said the City of Portland will find them. Steve Young said it is a lot cheaper to pour it down the drain than call Safety Kleen.    Bruce Gilles said there has been a 90% reduction in perc since the DCP started. There is less risk but the risk is still there (high costs associated with legacy pollution).  Bruce Gilles asked whether industry wanted to resurrect a previous proposal or consider other options (fee based on total gross revenue, reported to the IRS, with a cap; or an operating license fee). |
|  | DEQ was hoping to meet again in December to discuss the option of sunsetting the program but with industry’s expressed interest in coming up with a new proposal, we agreed to meet in mid-January.  Next Steps:   * DEQ will send out a doodle poll with some meeting dates for a mid-January meeting. * DEQ will check in with the committee mid-December to see if there is a developing proposal. |
| **3:20pm** | Meeting Adjournment Time |
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