

Annual Report to the
North Carolina General Assembly

**The Dry-Cleaning Solvent
Cleanup Act Program**

October 2002



NORTH CAROLINA DEPARTMENT OF
ENVIRONMENT AND NATURAL RESOURCES

Superfund Section
Division of Waste Management
www.wastenot.enr.state.nc.us
www.ncdsca.org

Department of Environment and Natural Resources

Michael F. Easley
Governor

William G. Ross Jr.
Secretary
NC Department of Environment and Natural Resources

Dexter R. Matthews
Director
Division of Waste Management

DENR
Division of Waste Management
Superfund Section
1646 Mail Service Center
Raleigh, NC 27699-1646
(919) 733-2801

DRY-CLEANING SOLVENT CLEANUP ACT ANNUAL REPORT

Executive Summary

As required by the Dry-Cleaning Solvent Cleanup Act (DSCA) of 1997 and amendments (G.S. 143-215.104A *et seq.*), this report provides an annual update on activities conducted in the DSCA Program in 2002. Significant progress has been made over the course of 2002. The areas showing the most progress are: Rule Making, Program Development, Contracting, Prioritization Assessment Agreements, Prioritization Assessment Ranking, Guidance Development, Database Development and Outreach. Table 1 (see page 2) summarizes the DSCA Program process from start to finish in the left hand column. Progress made by the Program to date for each of these steps is displayed in the right hand column of the same table.

The DSCA of 1997 and its amendments created a fund for cleanup of environmental contamination originating from the use of solvents at dry-cleaning facilities and wholesale distribution facilities. As of October 1, 2002, the only claims against the Fund were for costs incurred during past investigative/remediation actions taken in response to an order or notice of violation from North Carolina's Department of Environment and Natural Resources. Reasonable and documented costs incurred during the period from October 1997 through June 2001 may be reimbursable. Petitioners were allowed to submit claims until June 30, 2002. No additional claims will be accepted. Twenty-four sites submitted claims for reimbursement from the Fund. The claims total approximately \$1,885,000.

Program Status

The DENR has continued to implement the DSCA Program with consistent input and cooperation from the DSCA Stakeholder Group. Periodic meetings of the DSCA Stakeholder Group included the following stakeholders:

- ◆ DENR representatives and its attorney from the Department of Justice;
- ◆ interested dry cleaners from leadership of the North Carolina Association of Launderers and Cleaners;
- ◆ environmental consultants;
- ◆ representatives from environmental advocacy organizations;
- ◆ representatives from the halogenated solvent industry;
- ◆ representatives from an alternative dry-cleaning technology company;
- ◆ North Carolina State University's School of Textiles faculty; and
- ◆ private attorneys representing dry cleaners and shopping centers.

A summary of significant progress achieved in the DSCA Program over the past year follows. Specific areas of discussion include Rule Making, Program Development, Contracting, Prioritization Assessment Agreements, Prioritization Assessment Ranking, Guidance Development, Database Development and Outreach.

Table 1. Summary of DSCA Process Steps and Program Progress

DSCA Process	Status as of October 1, 2002
Step 1. The dry cleaner or property owner petitions DENR for certification.	The DSCA Program began accepting petitions for certification in July 2001. Sixty-three sites petitioned for entry into the Program. The primary motivating factor for petitioning has been impending property transactions.
Step 2. DENR certifies the site and checks for imminent threats.	<p>Fifty-four sites have been certified into the Program. The remaining nine petitions are either currently in review or were incomplete submittals. DSCA staff have contacted the petitioners that submitted incomplete forms.</p> <p>Each of the petitions has been reviewed for imminent threats to human health and the environment. None of the 54 sites have yet been shown to pose an imminent threat. However, four sites have been identified that are currently in remediation. Evaluation of potential imminent threats will be expedited for these four sites.</p>
Step 3. The dry cleaner signs an assessment agreement with DENR.	<p>The Prioritization Assessment Agreement (PAA) was finalized in September 2002. The PAA is a legally binding agreement between the State of North Carolina and the petitioner that commits the owner/dry cleaner to conduct a prioritization assessment at the site. Twenty PAAs were prepared for petitioners to review and execute as of October 2002. These 20 agreements should all be in force by November 2002.</p> <p>Petitioners have 30 days following execution of the agreement to submit a detailed <i>Prioritization Assessment Work Plan</i>, corresponding cost proposal, and work schedule to the DSCA Program for approval.</p>
Step 4. The dry cleaner conducts a prioritization assessment.	The 54 certified sites shall conduct prioritization assessments (PAs) upon execution of the PAAs. Twenty of these PAAs will be executed by November 2002.
Step 5. DENR ranks the site and checks again for imminent threats.	Information collected during the prioritization assessment in Step 4 will be used by DSCA to rank each site in terms of risk to human health and the environment. The Hazard Ranking System used to rank the sites was developed in conjunction with the DSCA Stakeholders. A database has been prepared for data entry and analysis. As PA data is submitted to the Program, the data will be entered into the Hazard Ranking System, which will score each site. Sites that rank highest will be addressed first.
Step 6. DENR contracts for comprehensive assessment and cleanup.	After the prioritization assessment stage is complete, the dry cleaner will no longer have to contract for any additional work. DENR will contract directly for site investigations and cleanup. DSCA reviewed 31 proposals from environmental and engineering firms and short listed 12 of the firms for state-lead contracts. The 12 firms will be interviewed in early November 2002. Four of the 12 firms will be granted initial contracts totaling \$2.4 million. Additional contracts will be processed as necessary.

Rule Making

DENR continued to lay the framework to implement and finalize the Title 15A NCAC Subchapter 2S Rules that support the DSCA Program. After the temporary rules were adopted in July 2001, DENR developed permanent rules with stakeholder input and support. These rules were adopted, on schedule, as permanent rules on August 1, 2002. The rules cover minimum management practices and the process dry cleaners and/or dry-cleaning property owners will use to petition for entry into the Program.

Program Development

The DSCA Program began by developing forms for dry cleaners and other responsible parties to use when petitioning the Program for certification of their sites. DSCA staff worked with DSCA stakeholders to develop forms that were simple to complete, but still provided the information required to certify sites as per the DSCA statute. The Program has used its Web site (www.ncdsca.org) as the primary means to deliver these forms to the applicants.

The DSCA Program began accepting petitions for certification in July 2001. During late 2001 and early to mid 2002, DSCA staff reviewed petitions, determined site eligibility as per the statutory requirements, and populated its database with data from the petitions. The database was validated simultaneously with data entry. Fifty-four sites were determined to be eligible and were certified.

After a site has been certified into the Program, the petitioner signs a Prioritization Assessment Agreement (PAA). The PAA is a legally binding agreement committing the owner/dry cleaner to conduct a Prioritization Assessment (PA). Information collected during the PA will be used by DSCA to rank each site in terms of risk to human health and the environment.

In 2002, DSCA finalized the following:

- ◆ Prioritization Assessment Agreements;
- ◆ Prioritization Assessment Ranking Forms;
- ◆ Guidance Document describing methods, procedures, and requirements for completing a PA;
- ◆ Guidance Document describing the procedure for obtaining pre-approval for PA activities;
- ◆ Guidance Document detailing the selection and oversight of an environmental consultant for use in conducting PA;
- ◆ Guidance Document detailing containment requirements to prevent future releases of dry-cleaning solvents to the environment.

The DSCA Program also made significant progress toward establishing State-Lead contracts for the assessment and remediation of sites in 2002. The DENR determined it would be necessary to contract through the State Building Commission. In April, the

Program invited environmental engineering firms interested in providing investigation and remediation services for selected DSCA-certified State-Lead sites to submit proposals. Thirty-one environmental consulting firms responded. Each firm was evaluated and ranked in terms of experience directly related to the assessment and remediation of chlorinated solvent contamination in the state of North Carolina. Twelve firms were short listed and will be interviewed in November 2002.

Finally, the DSCA Program has continued its association with dry-cleaning Programs in other states through its participation in the State Coalition for the Remediation of Drycleaners. The DSCA Program uses this organization to gather best practices from other states to improve Program development decisions and help make the Program run more efficiently.

Prioritization Assessment Agreements

After being certified into the DSCA Program, petitioners must sign a PAA to continue within the Program. The PAA is a legally binding agreement between the State of North Carolina and the Petitioner that commits the owner/dry-cleaner business operator to conduct a prioritization assessment at the site. DSCA staff worked closely with its stakeholders and DENR legal counsel to develop this document.

Database Application

Significant progress was made in developing and refining a database application to increase Program efficiency. Major modules that were developed during 2002 included a priority ranking system, data analysis, project milestone tracking, geographic information system, and cost tracking.

Outreach

DENR continues its outreach efforts to educate dry cleaners about the Minimum Management Practices Rules (15A NCAC 2S) and how DENR plans to certify sites into the Program. DSCA Program staff have spoken at NCALC and Korean dry cleaners association meetings to provide the regulated community with information regarding the requirements of the 15A NCAC 2S Rules. They also provided “how to” information regarding petitioning and certification process. Other outreach efforts have been made to shopping mall owners, environmental service providers and the legal community.

The Program also obtained a new streamlined web address, www.ncdsca.org. It uses this Web site to provide programmatic guidance documents, rules and downloadable forms to assist the public and the regulated community.

Annual Report Elements Required by G.S. 143-215.104U

(1) DRY-CLEANING SOLVENT CONTAMINATION REPORTED TO THE DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES

The DSCA Program is voluntary, in that a responsible party or owner must petition the Program for entry. The Program developed temporary rules that provide a framework for the site certification process. These rules were adopted by the Environmental Management Commission in May 2001. The Program was formally implemented and began accepting petitions from responsible parties in July 2001. DENR notified dry cleaners and others of the commencement through a mass mailing. Petition forms, which were developed with stakeholder involvement, were made available to interested parties via mail and on the Program’s Web site, www.ncdsca.org . Most petitioners report the forms are easy to download and use.

For a site to be certified, a potentially responsible party must present evidence of dry-cleaning solvent contamination from a dry cleaning facility in its petition. A total of 63 sites have petitioned for entry into the Program. This number represents approximately half of the 138 dry-cleaning sites contained in DENR’s files that are suspected to be contaminated with dry-cleaning solvents.

(2) SITES CERTIFIED BY THE COMMISSION

The Program must review a petition to determine if the site and the petitioner meet the DSCA-statute criteria for certification into the Program. Of the 63 sites that have petitioned for Program entry, 54 have been certified into the Program. The 9 petitions that have not yet been certified are currently under review. The most frequent reason for not being certified is an incomplete petition. DSCA staff have contacted these petitioners and requested the information necessary to continue the certification process. A list of currently certified sites is presented in Table 2.

Table 2. Sites Certified into the DSCA Program

Site Name	Site ID	City	County
Towngate Cleaners	100001	Southport	Brunswick
Swannanoa Cleaners	110001	Asheville	Buncombe
Coastal Dry Cleaning	160001	Morehead City	Carteret
Folks Cleaners	230001	Shelby	Cleveland
Mayflower Laundry and Dry Cleaners	260001	Fayetteville	Cumberland
Kore-O-Mat	260004	Fayetteville	Cumberland
Triangle Square Cleaners	320003	Durham	Durham
Former Tingen's Cleaners - Woodcroft	320005	Durham	Durham
W.P. Ballard & Co., Inc	320008	Durham	Durham
Camelot Cleaners - Kernersville	340007	Kernersville	Forsyth
Dilling Property	340008	Winston-Salem	Forsyth
Camelot Cleaners - Waughtown	340011	Winston-Salem	Forsyth

U.S. \$1.75 Cleaners	410003	Greensboro	Guilford
Eastgate Cleaners	410006	High Point	Guilford
Everhart Dry Cleaners	410009	Greensboro	Guilford
Master Cleaners	410014	Greensboro	Guilford
Johnsons Cleaners	490002	Statesville	Iredell
Lincoln Cleaners	550001	Lincolnton	Lincoln
Minute Man Cleaners	600004	Charlotte	Mecklenburg
Mitchells Formal Wear, Inc.	600005	Charlotte	Mecklenburg
Sno-White Dry Cleaners	600008	Charlotte	Mecklenburg
Domestic Laundry	600012	Charlotte	Mecklenburg
One Price Drycleaning	600014	Charlotte	Mecklenburg
Prestown Cleaners	600023	Charlotte	Mecklenburg
60 Minute Cleaners	600024	Charlotte	Mecklenburg
Ho Cleaners	600025	Matthews	Mecklenburg
Elite Cleaners, Inc., d/b/a Sno-White Cleaners	600026	Charlotte	Mecklenburg
Sharon Cleaners	600028	Charlotte	Mecklenburg
Old Pinehurst Hotel	630001	Pinehurst	Moore
Carter's Laundry & Cleaners	630003	Southern Pines	Moore
Hamlet Cleaners, Inc., DBA Soapy Bubles	630004	Aberdeen	Moore
Williams Cleaners	650005	Wilmington	New Hanover
Southern Uniform, Inc.	670002	Jacksonville	Onslow
Village Cleaners	670005	Midway Park	Onslow
KSP Cleaners, Eastgate Shopping Center	680001	Chapel Hill	Orange
Southgate Koretizing	700001	Elizabeth City	Pasquotank
Brock's Cleaners	750001	Tryon	Polk
Shuping Cleaners	800001	Spencer	Rowan
Modern Laundry and Dry Cleaners	860001	Mount Airy	Surry
Pro-Cleaners, Towne North Shopping Center	920001	Raleigh	Wake
Former Rainbow Cleaners & Laundry	920003	Raleigh	Wake
Hilker's Cleaners	920006	Raleigh	Wake
Brothers Cleaners	920007	Raleigh	Wake
Johnsons Dry Cleaners, Ridgewood	920008	Raleigh	Wake
Medlin-Davis Cleaners, MacGregor Village	920011	Cary	Wake
Former Newtons Cleaners - Cameron Village	920012	Raleigh	Wake
Medlin-Davis Cleaners - Cameron Village	920013	Raleigh	Wake
Capital Square (Former Glam-O-Rama)	920014	Raleigh	Wake
Emporium Plaza Shopping Center	920015	Raleigh	Wake
New Hope Cleaners	920016	Raleigh	Wake
Brothers Cleaners - North Hills Plaza	920017	Raleigh	Wake
Koretizing Cleaners-Ward Blvd.	980001	Wilson	Wilson
Discount Cleaners	980002	Wilson	Wilson

Data from these petitions have been compiled to evaluate the characteristics of the sites. A summary is presented in Table 3 (see page 7). The majority of the petitioners are property owners (50), as opposed to dry cleaner business owners/operators (22). Of the sites that applied, 73 percent are abandoned sites.

Table 3. DSCA Site Petitions Statistics

Petition Status	Number	Percent of Total
Site Petitioned in Program	63	----
Sites Certified	54	86
Sites with Information Pending	9	14
<i>Site Classification</i>		
Abandoned	46	73
Wholesale Distribution	1	2
Operating	14	22
Undetermined	2	3
<i>Size Distribution of Operating Sites</i>		
Small Size (1-5 employees)	4	29
Medium Size (6 - 9 employees)	3	21
Large Size (> 10 employees)	7	50
<i>Distribution and Classification of Petitions ¹</i>		
Property Owners	50	70
Dry Cleaning Business Owners/Operator	22	30

(3) COST ESTIMATE FOR ASSESSMENT AND REMEDIATION OF CERTIFIED SITES

The site certification process has just begun. Comprehensive assessment and remediation of these sites is still pending as we set up contracts with state lead contractors. It is difficult to estimate the cost for the sites in the Program thus far. Actual costs are anticipated to vary widely from site to site. Costs vary depending on site conditions and the chemical nature of the solvents released. There is an annual cap on spending of \$200,000 per site unless they pose an imminent threat to public health. In these cases, annual expenditures are capped at \$400,000.

The statute was designed so that most dry cleaners would not attempt to enter the Program at inception. Many of the currently operating or abandoned sites will not petition to enter the Program within the first 10 years. As a result, the costs of assessment and remediation will be borne over many years.

At this time, there is no reason to revise the cost estimates from last year's annual report. However, revisions will be made for planning purposes once the Program has more site-specific data. The Program still anticipates an annual \$8 million to \$10 million effort. The Fiscal Note on the DSCA Amendments (S.L. 2000-19) anticipates that the funding mechanisms will provide this amount to the fund.

The time these costs will be incurred, however, is vital. While the DSCA amendments provide a significant funding infusion, it does not arrive until July 2003 when dry-cleaning sales taxes are directed into the fund. As a result, most Program costs will

¹ Reflects multiple petitioners for some sites.

have to be borne after July 2003. Until then, the Program will focus on prioritizing, assessing and addressing imminent hazards at as many sites as possible. However, cost estimates clearly show that the vast majority of cleanup actions, the most expensive activity, will have to be accomplished after July 2003 when earmarked taxes enter the DSCA Fund.

(4) RECEIPTS AND DISBURSEMENTS FOR THE FUND

The dry-cleaning solvent cleanup fund finances through September 2002 are summarized below:

Collections FY 97-98	\$ 474,717.47
Collections FY 98-99	\$ 927,004.50
Collections FY 99-00	\$ 968,993.09
Collections FY 00-01	\$ 740,426.90
Collections FY 01-02	\$1,279,838.94
Collections YTD (9/30/02)	\$ 262,783.54
Total Collections as of September 2002	\$4,653,764.44
Less Dept. of Revenue Expenses (all years)	\$ 5,888.38*
Fund Balance	\$4,647,876.06
DENR Administrative Allowance	\$1,249,766.79
Balance for Assessment and Cleanup of Sites	\$3,395,459.50

* This represents the actual amount charged by the Department of Revenue for its expenses. The Department of Revenue is authorized to charge no more than \$125,000 per year by the Act.

(5) CLAIMS AGAINST THE FUND

Because the DSCA Amendments (S.L. 2000-19) made the Program a largely state-lead Program, minimal claims against the Fund are anticipated. The DENR will spend the bulk of the funds through direct state-lead contracts managed by DSCA Program staff. Therefore, the Program will have few reimbursement activities to conduct.

Primary claimants against the Fund are petitioners that incurred past investigative/remediation costs in response to an order or notice of violation from DENR. Reasonable and documented costs incurred during the period from October 1997 through June 2001 may be reimbursable. Petitioners were allowed to submit claims through June 30, 2002. No additional claims will be accepted.

Twenty-five sites submitted claims for reimbursement from the Fund. One of the 25 submitted a claim, but has not petitioned for entry into the Program. At this point, the claim is ineligible for reimbursement. Of the remaining 24 claims, the majority, 18, were submitted by property owners. The claims total approximately \$1,885,000.

As per the Statute, claims will be paid in order of site priority. Payout of all past cost claims are limited by statute to 10 percent of the income of the fund in the previous year.

None of the sites that petitioned into the Program have conducted prioritization assessments. As a result, no claims have been made for costs that exceed the deductible. Additionally, no special remediation agreements have been executed with responsible parties that would require Fund reimbursement.

(6) RECOMMENDATIONS TO ASSURE THE SOLVENCY OF THE FUND

The DENR has no recommendations regarding fund solvency at this time. However, it is clear that the present fund balance is inadequate to address all of the dry-cleaning sites in the state. We anticipate the Fund will be inadequate until the tax earmarking funding mechanism begins in July 2003. Before the passage of the DSCA Amendments in 2000, DENR indicated that there would be fund solvency questions until an adequate funding mechanism was established. With the passage of the DSCA Amendments (S.L. 2000-19) in July 2000, which established the funding mechanism, the General Assembly took the most important step necessary to assure future fund solvency. When funding from taxes begins in 2003, these sites will have significant resources applied to them. Until that time, Program planning will focus on prioritization, assessment and abatement of imminent hazards at as many sites as possible.

There was a 12 month window of opportunity to apply for past costs incurred during the period of October 1, 1997, through June 30, 2001. Twenty-four past cost claims were made before the deadline. The past cost claims are limited to \$1,885,000. These monies will be paid out over the life of the Program because the Statutory payout is limited to 10 percent of the previous year's revenue. The limitations placed on past cost claims was, as anticipated, vital to maintaining fund solvency.

It is of interest to note that other state dry-cleaning solvent cleanup Programs are examining a sales tax earmarking funding mechanisms, similar to that employed by the North Carolina General Assembly in the DSCA Amendments (S.L. 2000-19).