



**Drycleaning Institute of Australia Limited**  
ACN 008 628 073 ABN 43 008 628 073

Australian Competition & Consumer Commission  
470 Northbourne Ave  
Dickson ACT 2602

FILE No

DOC: ~~500~~ / 54898

December 20<sup>th</sup> 2001

For the Attention of: Mr Tim Grimwade  
General Manager Adjudication

A 90816

Your ref: C99/342

Dear Mr Grimwade,  
Re: DIA Application for Authorisation

Enclosed please find our Application for Authorisation for the restriction of the sale of Perchloroethylene solvent used in the Drycleaning Industry to only Accredited drycleaners under both the Exclusionary Provisions and Agreements Affecting Competition.

Both Applications Forms are enclosed together with our cheque for \$9000 to cover the application fees.

Could you please review our Application and let me know what, if any, further documentation you require to assist you with your decision.

We are seeking Authorisation to be granted as soon as possible, effective from April 1<sup>st</sup> 2002.

Our application provides an ongoing incentive for the implementation of the Drycleaning Industry Regulation Standard across the industry. The implementation of the Standard was sponsored by Environment Australia and the Natural Heritage Trust. Please see EA's letter of support for the DIRS and its favourable environmental impacts.

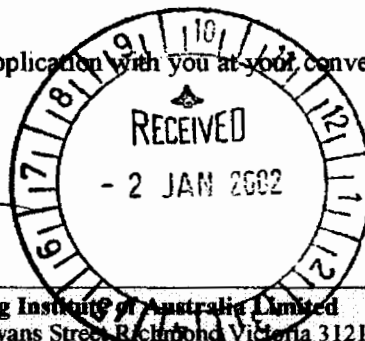
We believe that ACCC Authorisation is a key:

- To the implementation and practice of appropriate environmental and occupation health and safety practices across our industry,
- To contributing to the ongoing availability of Perchloroethylene to the industry without the imposition of heavy taxes as is the case in Europe, and will
- Greatly assist all drycleaners, particularly small drycleaners, in properly discharging their duty of care obligations, and,
- By better managing the present and future environmental practices of the industry greatly assist in the industry addressing and redressing any shortcomings in any past practices,
- The minimisation of future litigation for site remediation against 'ma and pa' drycleaners.

I will be most happy to discuss this application with you at your convenience.

Yours sincerely,

Michael Meere  
Industry Consultant



AUST. COMPETITION &  
CONSUMER COMMISSION  
CANBERRA  
24 DEC 2001

**Drycleaning Institute of Australia Limited**  
Level 1 487 Swans Street, Richmond, Victoria 3121  
ph: 03 9421 4604 fax: 03 9421 4602 mob: 0416 057 451 email: meere@bigpond.com

## Form A

Commonwealth of Australia  
Trade Practices Act 1974 --- Sub-section 88(1)

### EXCLUSIONARY PROVISIONS: APPLICATION FOR AUTHORISATION

To the Australian Competition and Consumer Commission:

Application is hereby made under sub-section 88(1) of the *Trade Practices Act 1974* for an authorisation under that sub-section

- to make a contract or arrangement, or arrive at an understanding, where a provision of the proposed contract, arrangement or understanding would be, or might be, an exclusionary provision within the meaning of section 45 of that Act.
- to give effect to a provision of a contract, arrangement or understanding where the provision is, or may be, an exclusionary provision within the meaning of section 45 of that Act.
- (Strike out whichever is not applicable).

(PLEASE READ DIRECTIONS AND NOTICES ON BACK OF FORM)

- (a) Name of Applicant DRY CLEANING INSTITUTE OF AUSTRALIA LTD  
(See Direction 2 on the back of this Form)

(b) Short description of business carried on by applicant TRADE ASSOCIATION

(c) Address in Australia for service of documents on the applicant  
LEVEL 1, 487 SWAN STREET RICHMOND
- (a) Brief description of contract, arrangement or understanding and, where already made, its date  
SEE ATTACHED APPLICATION

(b) Brief description of those provisions of the contract, arrangement or understanding that are, or would or might be, exclusionary provisions  
SEE ATTACHED APPLICATION  
(See Direction 4 on the back of this Form)

(c) Names and addresses of other parties or proposed parties to contract, arrangement or understanding  
SEE ATTACHED APPLICATION
- Names and addresses (where known) of parties and other persons on whose behalf application is made  
SEE ATTACHED APPLICATION
- (a) Grounds for grant of authorisation  
SEE ATTACHED APPLICATION

(b) Facts and contentions relied upon in support of those grounds  
SEE ATTACHED APPLICATION  
(See Notice 1 on the back of this Form)

5. This application for authorisation may be expressed to be made also in relation to other contracts, arrangements or understandings or proposed contracts, arrangements or understandings, that are or will be in similar terms to the above-mentioned contract, arrangement or understanding.

(a) Is this application to be so expressed .....

(b) If so, the following information is to be furnished: --

(i) the names of the parties to each other contract, arrangement or understanding .....

SEE ATTACHED

(ii) the names of the parties to each other proposed contract, arrangement or understanding which names are known at the date of this application .....

SEE ATTACHED

(See Direction 5 and Notice 2 on the back of this Form)

6. (a) Does this application deal with a matter relating to a joint venture (See section 4J of the Trade Practices Act 1974) .....

NO

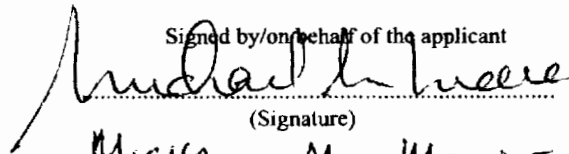
(b) If so, are any other applications being made simultaneously with this application in relation to that joint venture? .....

(c) If so, by whom or on whose behalf are those other applications being made? .....

7. Name and address of person authorised by the applicant to provide additional information in relation to this application ..... MICHAEL MEERE LEVEL 1, 487 SWAN STREET RICHMOND VIC 3121

Dated 20<sup>th</sup> December 2001

Signed by/on behalf of the applicant



(Signature)

MICHAEL M. MEERE

(Full Name)

INDUSTRY CONSULTANT

(Description)

## Form B

Commonwealth of Australia  
Trade Practices Act 1974 --- Sub-section 88(1)  
**AGREEMENTS AFFECTING COMPETITION:  
APPLICATION FOR AUTHORISATION**

To the Australian Competition and Consumer Commission:

Application is hereby made under sub-section 88(1) of the *Trade Practices Act 1974* for an authorisation under that sub-section

- to make a contract or arrangement, or arrive at an understanding, a provision of which would have the purpose, or would have or might have the effect, of substantially lessening competition within the meaning of section 45 of that Act.
- to give effect to a provision of a contract, arrangement or understanding which provision has the purpose, or has or may have the effect, of substantially lessening competition within the meaning of section 45 of that Act.
- (Strike out whichever is not applicable)

(PLEASE READ DIRECTIONS AND NOTICES ON BACK OF FORM)

1. (a) Name of Applicant DRYCLEANING INSTITUTE OF AUSTRALIA LTD

(See Direction 2 on the back of this Form)

(b) Short description of business carried on by applicant TRADE ASSOCIATION

(c) Address in Australia for service of documents on the applicant  
LEVEL 1 487 SWAN STREET RICHMOND VIC

2. (a) Brief description of contract, arrangement or understanding and, where already made, its date  
SEE ATTACHED APPLICATION

(b) Names and addresses of other parties or proposed parties to contract, arrangement or understanding  
SEE ATTACHED APPLICATION

(See Direction 4 on the back of this Form)

3. Names and addresses (where known) of parties and other persons on whose behalf application is made  
SEE ATTACHED APPLICATION

4. (a) Grounds for grant of authorisation  
SEE ATTACHED APPLICATION

(b) Facts and contentions relied upon in support of those grounds  
SEE ATTACHED APPLICATION

(See Notice 1 on the back of this Form)



**Drycleaning Institute of Australia Inc.**

**Submission**

**to the**

**Australian Consumer Competition  
Commission**

**Drycleaning Institute of Australia Ltd. ACN 088 628 073 ABN 43 008 628 073**

**Level 1 487 Swan Street Richmond Victoria 3121**

**ph: 03 9421 4604 fax: 03 9421 4602 mob: 0416 057 451 email: [meere@bigpond.com](mailto:meere@bigpond.com)**



## Submission to the ACCC

(I) EXECUTIVE SUMMARY .....	4
<b>SECTION A – ACCREDITATION .....</b>	<b>6</b>
1. ACCREDITATION SCOPE .....	6
1.1 Chemical targeted by accreditation .....	6
1.2 Personnel Accreditation Status .....	6
1.3 Premises Accreditation.....	6
1.4 Drycleaning Industry Registration Board (DIRB) .....	6
1.5 Supply of Perchloroethylene .....	7
2. OBJECTIVES OF ACCREDITATION.....	7
3. STRATEGIES FOR ACHIEVING OBJECTIVES .....	7
4. COVERAGE OF ACCREDITATION .....	7
5. PERSONNEL ACCREDITATION .....	8
6. PREMISES ACCREDITATION .....	8
7. DRYCLEANING INDUSTRY REGISTRATION BOARD (DIRB).....	10
8. ACCC AUTHORISATION.....	10
<b>B. INDUSTRY, COMPETITION AND PUBLIC BENEFIT ISSUES.....</b>	<b>11</b>
1. SITUATION ANALYSIS .....	11
1.1.1 Industry Profile - Introduction.....	11
1.1.2 Industry Spread by State and DIA Membership.....	11
1.1.3 Industry Revenue by Turnover and % of Drycleaners .....	11
1.1.4 Industry Employment .....	12
1.1.5 Unique Australian Profile.....	12
1.1.6 Profile Summary .....	12
1.2 CHANGE FACTORS.....	13
1.3 EXTERNAL FACTORS WILL CONTROL THE INDUSTRY UNLESS IT TAKES CONTROL OF ITSELF.....	16
1.4 WESTERN AUSTRALIA – MANAGEMENT OF SOLVENT WASTES .....	16
2. INDUSTRY PROCESSES .....	19
2.1 PROCESS DESCRIPTION.....	19
2.2 THE DRY CLEANING SOLVENTS .....	19
2.2.1 Perchloroethylene (CAS No 127-18-4) PCE .....	19
2.2.2 Perc Material Safety Data Sheet.....	23
2.2.3 Government Reviews of Perchloroethylene .....	23
2.3 FUTURE TRENDS.....	24
2.4 EMISSIONS TO AIR.....	24
2.5 EMISSIONS TO WATER.....	26
2.6 SOLID WASTES .....	26
3. DUTY OF CARE.....	27
3.1 GENERAL ENVIRONMENT DUTY OF CARE.....	27
3.2 DANGEROUS GOODS AND HAZARDOUS SUBSTANCES LEGISLATION AND REGULATIONS .....	27
3.3 NATIONAL OCCUPATIONAL HEALTH AND SAFETY COMMISSION .....	28
3.4 COMMON LAW .....	29
3.5 DUTY OF CARE AND INSURANCE.....	29
3.6 DUTY OF CARE, DIRS AND THE SAFE HANDLING OF PERCHLOROETHYLENE COURSE .....	29
4. NATIONAL POLLUTANT INVENTORY.....	31
5. DRYCLEANING INDUSTRY REGULATION STANDARD.....	32
5.1 BACKGROUND .....	32
5.2 DRYCLEANING INDUSTRY REGULATION STANDARD (1998) (DIRS).....	32
5.3 GOAL.....	32
5.4 OBJECTIVE .....	33
5.5 RESEARCH.....	33
6. IMPLEMENTATION OF THE DRYCLEANING INDUSTRY REGULATION STANDARD .....	35



Commission

6.1	ENVIRONMENT AUSTRALIA.....	35
6.2.	ACCESSIBILITY.....	35
6.3	BRIEFINGS.....	35
6.4	NEWSLETTERS.....	35
6.5	WEBSITE.....	35
7.	<b>SAFE HANDLING OF PERCHLOROETHYLENE TRAINING PROGRAM</b> .....	36
7.1	TRAINING PROGRAM.....	36
7.2	DEPARTMENT OF EDUCATION, EMPLOYMENT AND TRAINING REGISTRATION.....	36
7.3	COURSE REVISED.....	36
7.5	COURSE AVAILABILITY.....	36
7.6	COURSE OUTCOME.....	36
7.8	DIA ACCREDITED LICENSE.....	36
8.	<b>SUPPLY AND WASTE DISPOSAL</b> .....	37
8.1	SUPPLIERS.....	37
8.2	PRODUCT STEWARDSHIP – INTERIM CODE OF PRACTICE AND IMPLEMENTATION GUIDE.....	37
8.3	SUPPLY OF PERC ONLY TO ACCREDITED PERSONS.....	37
8.4	WASTE DISPOSAL.....	37
9.	<b>PUBLIC BENEFITS</b> .....	38
9.1	EFFECT ON PRICES.....	38
9.2	EFFECT ON COMPETITION.....	38
9.3	INDUSTRY COMPETITION.....	38
9.4	EFFECT ON ENVIRONMENT.....	38
9.5	IMPROVEMENT IN THE QUALITY AND SAFETY OF SERVICES.....	38
9.6	ANTI-COMPETITIVE DETRIMENT.....	38
10.	<b>CONCLUSIONS AND RECOMMENDATIONS</b> .....	39
	ATTACHMENTS.....	40
	APPENDIX A: DRYCLEANING INDUSTRY REGULATION STANDARD.....	40
	APPENDIX B: PERC MATERIAL SAFETY DATA SHEET.....	40
	APPENDIX C: NATIONAL INDUSTRIAL CHEMICALS NOTIFICATION AND ASSESSMENT SCHEME (NICNAS).....	40
	APPENDIX D: ENVIRONMENT AUSTRALIA COPY LETTER 9/11/2001.....	40
	APPENDIX C: SUPPLIERS LETTER'S OF SUPPORT.....	40



(i) Executive Summary

The Drycleaning Industry Regulation Standard has been developed by the Drycleaning Industry, under the auspice of the Drycleaning Institute of Australia Limited, to provide Industry participants with a simple framework to responsibly and safely manage their enterprises and to comply with their obligations under various State Legislation and Regulations.

The principle solvent used in the Drycleaning Industry is tetrachloroethylene, or perchloroethylene (Perc) as it is more commonly referred. Widespread use of Perc since it was introduced in 1934 has shown that under normal conditions of operation Perc is chemically and thermally stable, however, the inappropriate storage, use and disposal of Perc can be an environmental hazard. Perc was listed in the National Pollutant Inventory in 1998.

The Standard and Codes of Practice set out policies and procedures developed from industry experience and extensive National and International research to enable industry participants to operate at current world best practice. The Standard has been reviewed by State Environmental Regulatory Authorities and amended to incorporate their improvement suggestions.

The Standard was formally adopted on February 20<sup>th</sup> 1998. It has achieved recognition in the USA, Germany and Japan.

The Standard does not redress a fundamental weakness in the supply, storage, use, and disposal cycle of Perc in the Drycleaning Industry – supply of Perc to unqualified persons. Whilst the chemical can only be disposed of by properly licensed persons there is no qualification on who it can be supplied to. Indeed, whilst the manufacturers, transporters and disposers of Perc must all be licensed, anyone can use it. This represents a very significant gap in ensuring the safe handling and disposal of Perc.

The most pragmatic way to resolve this matter is for supply to be restricted to Perc accredited operators. Industry suppliers support this position, subject to ACCC approval. Whilst this could constitute a breach of the Trade Practices Act through the primary boycott provisions contained in Part IV of the Act which make it illegal for competitors to agree to supply to a particular class of persons, ACCC exemption would rectify/clarify the issue.

Drycleaners face an onerous general duty of care under Environmental and Occupational Health and Safety legislation as well as at Common Law. They have a duty to take all reasonable and practicable measures to prevent or minimise any activity that causes, or is likely to cause, foreseeable damage. Becoming accredited is a pragmatic step in taking all 'reasonable and practicable measures'; indeed not to do so could constitute a breach of the duty.

The Drycleaning Industry submits that the environmental benefits to the public, in addition to improvements in the quality and safety of drycleaning services any anti-competitive effects of supplying only to qualified persons.





**Commission**

Participation in the approved course is open to all. Prior leaning and experience in the use of Perc is recognised. Effectively there is no barrier or restraint to any person who wishes to become qualified from doing so. The industry submits that this measure has no anti-competitive effect.

Similarly, accreditation of premises is open to all drycleaners who

- comply with existing legislation and regulations;
- have a management system in place to manage their environmental and occupational health and safe obligations;
- have at least one Perc Accredited operator available (at all practicable time) to supervise the operation of Perc machinery; and
- annually submit a DIRS Compliance declaration.

These conditions are not onerous. Essentially they involve compliance with the laws of the land and good management practice.

The benefit to the individual drycleaner, to drycleaning staff, to the Drycleaning Industry as a whole and to the public, of the Industry being able to publicly demonstrate that it is acting with environmental responsibility far out way any inconvenience caused with demonstrating that compliance.



## Section A – Accreditation

### 1. Accreditation Scope

The Drycleaning Institute of Australia Ltd (DIA) is applying for Australian Competition and Consumer Commission for authorisation for the following:

#### 1.1 Chemical targeted by accreditation

- Perchloroethylene (Perc) CAS-No: 127 –18-4 Molecular Formula: C2 – C14  
Synonyms: Tetrachloroethylene, PCE, Perc, Ethylene tetrachloride, Carbon dichloride, Perchlroethylene, 1,1,2,2-Tetrachloroethylene;
- Spotting and other solvents commonly used in drycleaning

#### 1.2 Personnel Accreditation Status

- Successful completion of an approved NTC-096 Safe Handling of Perchloroethylene Training Program (a module from Certificate II in Textile Care (Drycleaning) TAS 3153.
- Registration of Personnel Accreditation and issuing of a Perc Accreditation License
- Annual renewal of a Drycleaning Industry Registration Board (DIRB) Accreditation License
- Successful completion within two years of a refresher course in the event of substantive revision of the above course and/or in the event of substantive changes of practice storage, handling, use and disposal of Perc and/or drycleaning solvents.
- Registration Fees: from 1 April 2002 the fee is to be set such that personnel accreditation is self-funding. It is envisage that the Registration be is \$50 and the annual fee is \$30.

#### 1.3 Premises Accreditation

- The Drycleaning Industry Regulation Standard requires that “as much as practicable at least one person be on site during Perchloroethylene equipment operating hours and that only accredited personnel supervise the operation of Perchloroethylene machinery”.
- Eligibility:
  - From 1 April 2002, all drycleaning premises that store, handle, use and dispose of Perc and other drycleaning solvents must be accredited by the DIRB.
  - Eligibility Criteria:
    - Annual lodgement of a Statutory Declaration of compliance with the Drycleaning Industry Regulation Standard;
    - At least one Perc Accredited person per premises;
- Annual Registration Fees: from 1 April 2002 the annual fee is to be set such that premises accreditation is self-funding. It is envisage that the fee will be \$100.

#### 1.4 Drycleaning Industry Registration Board (DIRB)

- From 1 April 2002, the Drycleaning Industry Registration Board (DIRB) will implement and manage the accreditation program;
- The Drycleaning Industry Regulation Board (DIRB) will be a wholly owned subsidiary of the Drycleaning Institute of Australia Ltd, but will have independent representation.



### 1.5 Supply of Perchloroethylene

From 1 April 2002 supply of Perc and other drycleaning solvents be permitted only to Accredited premises.

### 2. Objectives of Accreditation

- To ensure that in drycleaning operations Perc and other drycleaning solvents are stored, handled, used and disposed of in accordance with statutory and common law regulations and standards.
- To ensure that as much as practicable all individuals in drycleaning operations who store handle, use and disposal of Perc and other drycleaning solvents have received proper training in the principles of safe, effective and legal use of this product and drycleaning operations.
- To ensure as much as possible that all individuals in drycleaning operations are in a position to adequately discharge their duties of care.
- To ensure that the drycleaning industry can demonstrate that it can manage its existing and future environmental obligations and therefore be able to manage any issues arising from past use of solvents in the drycleaning industry
- To demonstrate that the industry can competently manage its use and disposal of solvents and therefore not be subjected to the possibility of the restriction or abolition of supply of these solvents as is being introduced in Europe and the United States of America.
- To protect the investment drycleaners, particularly small drycleaners, have in their businesses.
- To offer due regard for the protection of the environment in these and any other activities which may be developed from time to time.

### 3. Strategies for Achieving Objectives

- Training and accreditation of drycleaning personnel who use Perc and other drycleaning solvents.
- Accreditation of drycleaning premises where Perc and other drycleaning solvents are used
- Supply of Perc to only those premises and personnel who are Perc accredited.
- Placing on a public website a list of those premises that are Perc accredited and that have Perc accredited personnel. This will ensure the transparency of all arrangements. All suppliers and the public can see which drycleaners are Accredited and those who aren't.

### 4. Coverage of Accreditation

- Accreditation applies to the safe storage, handling, use and disposal of Perc and other drycleaning solvents in drycleaning operations.
- Accreditation targets chemicals and solvents used in the drycleaning industry which are:
  - Schedule 5 Poisons;
  - Schedule 6 Poisons;
  - Schedule 7 Poisons; and/or
  - Dangerous Goods and/or Hazardous Substancesand which are not otherwise
  - Common home-use cleaning products.



## 5. Personnel Accreditation

- Objectives of Personnel Accreditation

To ensure that personnel in the drycleaning industry who store, handle, use and/or dispose of Perc and other drycleaning solvents:

- Understand all relevant safety and regulatory obligations;
- Can fulfil appropriate 'duty of care' obligations; and
- Are aware of and can use appropriate safety measures.

- Strategy for Personnel Accreditation

Personnel accreditation is achieved as a result of:

- Successful completion of an approved NTC-096 Safe Handling of Perchloroethylene Training Program (a module from Certificate II in Textile Care (Drycleaning) TAS 3153.
- Registration of Accreditation and issuing of a Perc Accreditation License
- Annual renewal of a Drycleaning Industry Registration Board (DIRB) Accreditation License
- Successful completion within two years of a refresher course in the event of substantive revision of the above course and/or in the event of substantive changes of practice storage, handling, use and disposal of Perc and /or other drycleaning solvents.
- Commitment to the elements, policies and procedures of the Drycleaning Industry Regulation Standard.

- Eligibility for Personnel Accreditation.

Personnel Accreditation applies to all personnel who:

- Store;
- Handle;
- Use;
- Dispose of; or otherwise
- Take responsibility for the safety of Perc and/or other drycleaning solvents,

in drycleaning operations.

## 6. Premises Accreditation

- Objectives of Premises Accreditation

To ensure that drycleaning operations in Australia minimise risk to people, property and the environment by complying with:

- The Drycleaning Industry Regulation Standard;
- Relevant legislation and common law obligations in such areas as Environmental Protection and in Occupational Health and Safety.

- Strategy

There are three phases to the achievement of premises accreditation:



- Phase I    **DIRS Compliance Statutory Declaration**  
Annual self-assessment against the DIRS and lodgement of a DIRS Compliance Statutory Declaration.
- Phase II    **Public Database**  
Publication of a website database ([drycleanersweb.com.au](http://drycleanersweb.com.au)) of drycleaners who have lodged a completed DIRS compliance Statutory Declaration and who have at least a drycleaner or staff member who holds a current DIA Perc Accreditation license.

The first step for a premises to be accredited is to implement the DIRS and then lodge their DIRS compliance Statutory Declaration.

This strategy requires premises to meet standards appropriate to the risks inherent in the volume(s) and type(s) of drycleaning solvents used.

Current practices across a variety of industries demonstrate that an adequate safety management strategy requires that:

- Hazards are known and understood;
- Equipment is 'fit for purpose' and meets product standards and regulatory requirements;
- Policies, systems and procedures are in place to ensure the competency and effectiveness of an operation;
- Staff are competent; and that
- Fire and Emergency procedures are in place.

The strategy for accreditation of both personnel and premises is designed to address these safety requirements.

The requirements for premises accreditation are appropriate to address the duty of care and regulatory obligations impacting on drycleaners.

Through accreditation, drycleaners, their staff, their suppliers, Government and Regulators and the public can have reasonable confidence that drycleaners are maintaining environmental and occupational health and safety standards.

• **Eligibility for Premises Accreditation**

All premises where drycleaning operations are conducted using Perc and or other drycleaning solvents.

• **Cost of Premise Accreditation**

The annual fee for accredited premises will be set so that premises accreditation is a financially viable but non-profit activity. The fee is applicable to each premises where drycleaning operations are carried out. The fee is expected to be \$100.00 pa.



**7. Drycleaning Industry Registration Board (DIRB)**

A legal entity the Drycleaning Industry Registration Board (DIRB), which is a wholly owned non-profit making subsidiary of the DIA, will come into existence in June 2002. Its structure has been designed to safeguard its purpose, whilst providing leadership and management.

Appropriate external participation will take place to ensure transparency.

**8. ACCC Authorisation**

The DIA submits that the environmental benefits to the public, improved occupational health and safety practices and protection of the investment drycleaners have in their businesses in addition to improvements in the quality and safety of drycleaning services far outweigh any anti-competitive effects of supplying only to qualified persons.

Thus, DIA seeks ACCC authorisation to:

- impose the accreditation fees; and
- permit the supply of perc and other drycleaning solvents to only Accredited premises.

**B. Industry, Competition and Public Benefit Issues****1. Situation Analysis****1.1.1 Industry Profile - Introduction**

There are some 1200 on-site drycleaning enterprises Australia wide employing some 9,000 people. The drycleaner's product is the service of cleaning clothes conveniently. Services also provided may include complementary services such as pressing, finishing, garment repairs and uniform hire. The drycleaning market can be divided into two broad customer segments: -

- . the vast majority of customers who shop for price and will accept adequate quality, and
- . a small but growing segment who buy quality cleaning with price being less of a concern.

Customers access dry cleaning through: -

- . 'drop sites' - drop-off and collection depots at newsagents established for customer convenience but where no cleaning takes place,
- . retail sites traditionally located in 'high streets' and
- . high capacity commercial /industrial sites.

Commercial/industrial sites cater for commercial and institutional customers.

**1.1.2 Industry Spread by State and DIA Membership**

This table sets out the number of drycleaners across Australia by State and by DIA Membership, non-membership. Whilst DIA members represent about one third of industry participants, members account for some two thirds of industry turnover.

State	DIA Members	Non Members	Total Drycleaners
ACT	21	3	24
NSW	70	311	387
NT	1	10	11
QLD	51	98	149
SA	23	85	108
TAS	20	9	29
VIC	110	273	383
WA	45	86	131
<b>Total</b>	<b>340</b>	<b>879</b>	<b>1219</b>

**1.1.3 Industry Revenue by Turnover and % of Drycleaners**

There are no current accurate census figures available. The following table is on based on a % distribution of drycleaners and averaged revenue within turnover ranges. The estimate is consistent with qualitative industry research.

\$ Turnover '000K	% of Stores	# Based on 1200 stores	Average turnover '000	Turnover '000by segment
150k – 200k	70%	840	175	147,000
200k – 300k	15%	180	250	45,000
300k – 500k	5%	60	400	24,000
500k – 750k	6%	72	625	45,000
750k – 1m	3%	36	875	31,500
1m – 1.5m	1%	12	1,250	15,000



Commission

Total		1200		307,500
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#### 1.1.4 Industry Employment

The following table shows the changes in the total number of sites by employment across the period 1979/80 to 1997

Enterprise size by category	1979-80 (June)		1986-1987 (June)		1997 (September)	
	#	%	#	%	#	%
0-4 persons			1087	68.75	1573	68.97
5-9 persons			286	18.08	441	19.34
0-9 persons	2299	90.58	1373	86.83	2014	88.29
10-19 persons	138	5.44	120	7.59	164	7.19
20-49 persons	68	2.68	63	3.99	82	3.59
50-99 persons	18	0.71	13	0.83	11	0.48
100+ persons	15	0.59	12	0.76	10	0.43
Total	2538	100	1581	100	2281	100

DIA members employ some 1224 staff representing 53.66% of industry employment.

#### 1.1.5 Unique Australian Profile

The profile of drycleaning in Australia is unique in many aspects when compared to common practices in both Europe and North America. Generally, the uptake of technology has been much quicker and more penetrating in Australia than elsewhere, particularly in respect of closed circuit machinery. Similarly, industry practices regarding solvent management have been much more rigorous.

#### 1.1.6 Profile Summary

The Australian Drycleaning Industry is dominated by 'Ma and Pa', 'High Street' retail operations turning over \$150,000 - \$200,000pa. Some 90% of Industry employment is in these enterprises.

Typically, the business represents the operators superannuation fund and/or savings.

These stores are not in a ready position do major equipment upgrades and must achieve the economic life of their drycleaning machines (10 – 15 years) before replacing them. Some 99% of machines used in Ma and Pa stores are perchloroethylene machines. These operators would be significantly disadvantaged if restrictions or an/or environmental taxes were perchlorethylene before full economic use of their machines was achieved.

If this were to occur many small operators would be forced to quit the industry resulting in decreased competition and a distortion of the market.





### 1.2 Change Factors

A number of factors have influenced the development of the Drycleaning Industry has undergone considerable change in the last 20 years. These factors include:-

- . the type of technology used,
- . the relationship between domestic and commercial cleaning services and consumer use of these,
- . the real cost of drycleaning,
- . the internationalisation of the Australian market
- . changes in clothing materials and styles, and most particularly,
- . the development of environmental awareness and legislation and regulation.

The following table set out the Global Issues influencing the Australian Drycleaning Industry

Driving Forces for Global Changes			
Solvents	Machinery	Personnel	Garments
<ul style="list-style-type: none"> <li>• Environmental Reasons</li> <li>• Toxicological Reasons</li> <li>• Adaptation to garment properties</li> <li>• Sustainable Development</li> </ul>	<ul style="list-style-type: none"> <li>• Changes in type of solvent</li> <li>• Economical reasons</li> <li>• Environmental regulations (emissions)</li> <li>• Facilitation</li> </ul>	<ul style="list-style-type: none"> <li>• Shortage of skilled staff</li> <li>• Health &amp; safety aspects</li> <li>• Economically higher efficiency</li> </ul>	<ul style="list-style-type: none"> <li>• Fashion</li> <li>• Properties of new fabrics and accessories</li> <li>• Ecological demands of customers</li> </ul>

- Kurz J. Hohenstein Institute 'Global Perspectives on our Changing Industry' Presentation to the U.S. Environmental Protection Agency, Design for the Environment Conference Washington 31/3/98-2/4/98 An eye to the Future.

Of these driving forces for global change, environmental reasons are the most influential facing Australia. Environmental reasons have become more evident since public awareness for the environment took on political dimension.

The European Community is moving to regulate the use of Perc through taxation and heavy regulation for example:

- Since 1/1/2000 Norway has imposed a £2.00 (sterling) environmental tax per kilogram of Perc and a £50 (sterling) tax per kilogram of perc waste removed – some 20 times to cost of the solvent – effectively imposing a ban on perc;
- Denmark imposes a £2 (sterling) environmental tax per on Perc purchases and £2 (sterling) on Perc Waste. Additionally it has set a limit of .01 mg/m3 value of Perc in both air and water;
- Sweden imposes a £1 (sterling) environment tax on Perc purchases;
- Since 1/1/2000 Switzerland been imposing a (CHF) 2.00 per kg tax on all solvents. This will rise to (CHF) 3.00 from 1/1/2001
- Holland has adopted an emission standard of 0.25ppm machine-value of perc by 2005 which will further reduce if an alternate solvent to Perc is readily available by 2003;
- The World Health Organisation (WHO) has set a maximum stand of 0.25mg/m3 in air;
- The EC has agreed an acceptable average distillation of residue not greater than 23k of solvent based residue per annum per site.

The EU working group on the classification and labeling of dangerous products has confirmed the classification and labeling of perc under R60 although Sweden proposed an additional classification – R64, which was rejected.

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Globally, there are many factors impacting on the industry. Each of these issues is pertinent to Australia and will impact (with varying force) over the next decade.

There are also Australia specific forces impacting on the Industry.

<b>Forces Driving Change in Drycleaning Australia</b>			
<b>Government</b>	<b>Pressure Groups</b>	<b>Customers</b>	<b>Industry</b>

Commission			
<ul style="list-style-type: none"> <li>• NPI</li> <li>• EPA – NSW               <ul style="list-style-type: none"> <li>- ACT</li> <li>- QLD</li> </ul> </li> <li>• Natural Heritage Trust</li> <li>• Environment Australia Programs               <ul style="list-style-type: none"> <li>. Clear the Air \$m's</li> <li>. Air Pollution in Major Cities \$16m</li> <li>. Living Cities \$100m</li> <li>. Air Toxics \$5m</li> <li>. Urban Stormwater \$?m</li> </ul> </li> <li>• Local Govt.</li> </ul>	<ul style="list-style-type: none"> <li>• Environmental Lobbyists i.e. Greenpeace abolition of perc</li> <li>• Litigation Solicitors – site - contamination</li> <li>• Manufacturers care labeling</li> </ul>	<ul style="list-style-type: none"> <li>• Exploiting Marketplace Changes -               <ul style="list-style-type: none"> <li>. demographics</li> <li>. psychographics</li> </ul> </li> <li>• Image/perception Issues</li> <li>• Fashion</li> </ul>	<ul style="list-style-type: none"> <li>• Drycleaning Industry Regulation Standard.</li> <li>• Environment Issues</li> <li>• OHS</li> </ul>

The Industry is not the major driver of changes impacting on it. It is far from being the master of its own destiny. This makes it vulnerable to the agendas of others, particularly in the area litigation.

The Federal Government will pour money into environmental issues over the next five years eg. 1999 Budget Papers *“Two environment programs worth \$100m each will improve air quality, waste disposal and suburban waterways. The \$1.25b Natural Heritage Trust will grow by \$250m ....”* Budget papers.

In his speech launching the Drycleaning Industry Regulation Standard, Mr Bruce Billson, Chairman of the Federal Government’s Environment Committee set out the Government’s position and initiatives on a range of pertinent issues:

“Living Cities is a \$100 million, three-year program, which targets urban environmental problems. Living Cities will address four broad themes: wastes, chemicals management, air and water quality.

\$5 million from this fund is being allocated to a new Air Toxics Program, which is the government’s second stage response to the air Inquiry. This program is of particular relevance to the drycleaning industry because perc, as well as toluene and xylene, are characterised as air toxics.

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The Natural Heritage Trust and the Living Cities Program also address water quality. The Living Cities Program will implement an Urban Stormwater Program ...



The Drycleaning Industry Standard suggests measures to avoid spills of perc and other chemicals to stormwater drains. Acting on these measures will complement the Governments initiatives in this area.”

Site contamination is a major issue that needs a carefully devised response put in place as ‘insurance’ against the inevitable. For anyone sceptical of the need for this should visit the perc-advisory.org Internet site. Information, education and self-regulation are strong proactive tools available to the industry to address these issues.

### 1.3 External Factors Will Control the Industry Unless it Takes Control of Itself.

The DIA was the first industry to self-regulate CFC’s after the Montreal Protocol.

It is recognised at the highest levels of government that the DIA is very pro-active and willing to work with regulators – based on a system of information, education and management tools not penalties. For its role in these issues the DIA is held in high esteem.

Whilst the availability of the DIRS is a major tool for the Industry to be proactive in change management, the real opportunity is in the uptake and implementation of the Standard. Reality suggests that majority of drycleaners will embrace the implementation of the DIRS with reluctance. The uptake of the two Victorian Codes is evidence of this.

Reality is that the destiny of the Industry is being shaped by more powerful and better-resourced forces than the DIA. The Industry has been reluctant to acknowledge and respond appropriately to these challenges – so far. Continued inaction will be to the industry’s detriment.

### 1.4 Western Australia – Management of Solvent Wastes

The Western Australian will regulate drycleaners from April 1<sup>st</sup> 2001 through its Environmental Protection (Controlled Waste) Regulations 2001.

These regulations “will enable the tracking of waste to protect public health and the environment from inappropriate handling and disposal of controlled wastes”.

Drycleaners is one of over 16 industries that will be covered by the regulations.

The WA Department of Environmental Protection (DEP) is introducing the regulations to prevent:

- “Illegal dumping
- Environmental harm
- Negative economic impacts caused by pollution such as potential damage to industries such as agriculture and tourism
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- To protect public health.”

“ It is generally recognised that poor waste management can result in serious and long-term contamination of the land on which wastes are stored, treated and disposed. Pollution of ground water can result from leachates and a potential risk to human health can be created”<sup>1</sup>

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The Regulations provide scope for incentives such as:

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Possible outcomes are:

- Reduced licensing fees for premises.
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DEP WA Registration fees are:

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<b>CONTROLLED WASTE REGS.</b>		
Operator	\$220	\$48

The ACCC’s approval of this Application will provide WA drycleaners the opportunity to:

- Reduce their license fees, and
- Reduce their reporting requirements.

It can also be seen that there is some expense attached to Government administration of regulation. Whilst these can’t be avoided in WA the DIA does not wish to see other governments follow WA’s lead. Inevitably (as with all taxes) fees will rise.

The results of WorkSafe Western Australia Dry Cleaning Industry Project also demonstrates that self-regulation sometimes needs regulatory stimulus to occur. The finds of this WA Department of Consumer and Employment Protection demonstrates the truism that ‘what gets inspected gets done’.

The Health, Chemicals and Personal Services Team of WorkSafe Western Australia conducted its on-site audits of drycleaners during October 2000 to April 2001.

The main hazards noted were:

- Hazardous substances, and
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Of the drycleaners audited:

#### Hazardous Substances

- 82.4% no Hazardous Substances/Material Safety Data Sheet Register
- 47% issued improvement notices for hazardous substances training
- 47% issued improvement notices for the lack of hazardous substances labeling
- 23.5% received improvement notices to review material safety data sheets
- 17.6% for risk assessments on the use of hazardous substances
- 41.2% received improvement notices for personal protective equipment.



5X@PJL

Submission to the Australian Consumer Competition

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@PJL USTATUS OF THE ED = audited

- 82.4% had a spills procedure for perc but 42.85% had not passed this on to their staff.
- 57.14% had sufficient personal protective equipment

Of the sites audited

- 35.3% of owners were trained in the safe use of perc.

#### Drycleaning Machine Maintenance

- 82.3% maintained their dry-cleaning machines on a regular basis.
- The drycleaning machines were very well maintained and in turn this controlled atmospheric levels of perc.

#### Electricity

- 88.2% were issued with notices regarding electricity. This included 13 improvement notices and 2 prohibition notices.
- 35% were issued notices for lack of RCD protection.

Common problems were:

- damaged electrical leads
- double adapter use
- lack of covers for electrical switchboards, and the
- legibility of electrical switchboard legends.

#### Evacuation Procedures

- 64.7% did not have evacuation procedures which are a legislative requirement in every workplace.

#### Training

- In 94.1% of audited sites notices were written for training
- 35.3% for manual handling training
- 11.8% for induction training, and
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#### General Duty of Care

- 10.1% of the improvement notices issued related to the drycleaners general duty of care and covered such things as:
  - puff iron covers
  - electrical switchboard covers
  - repairs to plant
  - provision of matting, and
  - violence.

#### Various Breaches

Other breaches included:

- lack of manual handling assessments
- lack of risk assessment
- a locked fire exit door
- cleanliness of workplace facilities,

Drycleaning Institute of Australia Ltd

Level 1,487 Swan Street Richmond Vic 3121 ph: 03 94214604 fax: 03 9421 4602.



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### Various Breaches

Other breaches included:

- lack of manual handling assessments
- lack of risk assessment
- a locked fire exit door
- cleanliness of workplace facilities,



- securing gas cylinders
- correct use and fitting of personal protective equipment
- assessment of atmosphere
- display of registration of boilers
- proof of maintenance of boilers
- disposal of hazardous substances, and
- provision of material safety data sheets.

The results of the WA can be regarded as representative of the performance of the Industry Australia wide. The granting by the ACCC of this Application will provide a stimulus for better compliance across the industry. This intum will protect the interests of drycleaners and their staff and the public.

## 2. Industry Processes

### 2.1 Process Description

The drycleaning industry is a service industry for the convenient cleaning of clothes, Manchester, leather goods, and other items made of fibres including household furnishings and drapes. Drycleaning operations typically use either synthetic halogenated or petroleum distillate organic solvents for cleaning purposes.

Drycleaning processes garments in a way that avoids saturating fabrics with water. Because drycleaning solvents do not saturate the fibres of the fabric, the swelling and shrinking from water is avoided, allowing nearly all types of fabrics and garments to be safely dry cleaned. There is less wrinkling and shrinkage of fabrics because fibres are less distorted than in other cleaning methods. Also, drycleaning processes enable the use of water to be almost eliminated.

Drycleaning significantly contributes to the longevity of garments, particularly fashion garments, which would otherwise be adversely effected by wet washing. Drycleaning also makes a significant contribution to the health chain through the hygienic cleaning of garments used in hospitals and ambulance services, in addition to as well as those used in industry. Cleaning and steaming acts effectively to eliminates pathogens from garments.

Fabric or garment cleaning consists of three basic functions: cleaning, drying, and finishing. Garments are pre-treated for stains, and then machine cleaned in a solution of solvent and detergents. The solvent is extracted by first draining, and then spinning the clothes. Finally, the garments are dried through a combination of aeration, heat and tumbling, examined for spots, and, when satisfied that they are clean, pressed. This final step of (steam) pressing effectively eliminates any minute residue of the solvent which may remain in a garment at the end of the other processes.

These functions are the core of any fabric cleaning process.

### 2.2 The Dry Cleaning Solvents

#### 2.2.1 Perchloroethylene (CAS No 127-18-4) PCE

In Australia, the principle solvent used is tetrachloroethylene, or perchloroethylene (Perc) as it is more commonly referred to in the industry. A small amount of petroleum solvents are also used.

Widespread use of Perc, since it was introduced in 1934, has shown that Perc can be stored, handled and used safely in normal drycleaning practice when proper safety processes and precautions are



practiced. Because it is nonflammable and non-explosive, Perc has made a substantial contribution to safety of drycleaning operations. Under normal conditions of operation Perc is chemically and thermally stable.

Perc can be used safely when proper precautions are observed. However, it does have certain toxic properties. Users should avoid inhalation of excessive concentrations of Perc vapour, prolonged or repeated contact of the liquid with the skin, swallowing the liquid and splashing into the eyes. Manufacturers of drycleaning equipment design their machines with these precautions in mind. When such equipment is operated and maintained in an appropriate manner in facilities that comply with applicable regulations, Perc can be used safely.

Other industries using Perc include textile mills, chemical producers, vapour degreasing, metal cleaners, and rubber coaters. It is also used in solvent soaps, printing inks, adhesives, sealants, polishes, lubricants and silicones. Typewriter correction fluid and shoe polish are among other consumer products that can contain Perc.

When used, stored and disposed of properly Perc is safe. Perc by itself is not likely to cause environment harm at levels normally found in the environment. However, when used, stored or disposed of inappropriately it can be a health and environment risk.

Perc, as tetrachloroethylene, and the white spirit aromatics, toluene and xylene isomers, are listed on the NPI and reporting of emissions is required if thresholds are triggered for their use.

State and Territory Safety Health and Environment Legislation and Regulations impose strict regulation of the use of Perc in the workplace and its disposal.

In Europe, governments are actively discouraging the use of Perc through environmental taxes.

The following two extracts from papers from two of Europe's leading associations convey industry's view in Europe.

#### European Chlorinated Solvent Association

'Solvents used in dry cleaning have attracted the attention of legislators because of concerns about possible environmental effects. These solvents are classified as volatile organic compounds (VOCs).

Legislation is being introduced or is under consideration to restrict the emission of VOC's as a measure to protect human health and the environment.

Like most chemicals, perchloroethylene must be used with care to ensure that concentrations of vapour in the workplace are kept within recognised levels.

There have been extensive tests on any potential longer term effects on perchloroethylene. The EU label -R40 "possible risk of irreversible effects" - relates to effects in laboratory animals, which are unlikely to be relevant to man. Perchloroethylene is also currently the subject of a pregnancy outcome study in the UK.

Perchloroethylene can be readily distilled and reused time and time again. However, the waste produced must be carefully disposed of, as it is not readily biodegradable and may



persist in ground water. Dry cleaners can make use of a service available from suppliers of perchloroethylene or professional waste disposal companies, who undertake to remove waste from their premises and ensure it is disposed of in a way which meets national regulations.

Discharging dry cleaning wastes to drains is illegal. ECSA does not support the landfilling of drycleaning wastes. Distillation/incineration of wastes/residues is the professional approach, which ECSA strongly encourages'.

European Chlorinated Solvent Association. Belgium. Chlorinated Solvents – A sustainable Future Dry Cleaning: Your options considered. March 1996, March 1999.

CINET, the International Organisation of the Textile Care Industry, located in Brussels has welcomed the Environment Ministers adopted the VOC Solvent Emissions Directive on 11 March 99.

The Directive seeks to reduce VOC emissions from solvent-using installations by 67% by 2007 compared to 1990 levels. Combined with other key measures undertaken by the EU, such as Auto-Oil and the IPPC Directive, the Solvents Emissions Directive will make an important contribution to overall EU air quality objectives.

'It provides EU industry with a clear legislative framework to plan investments on a sound basis and to find the most efficient way to meet environmental objectives through responsible solvent use and management.

The VOC Solvents Emissions Directive was approved on March 11<sup>th</sup> 1999. EU Member States shall transpose the new legislation into national law within two years. Once the directive is effective, any new plants must comply with its requirements, while existing plants shall be in compliance by October 30<sup>th</sup> 2007.

Annex II A Thresholds and emission limit values sets total emission limit values for new and existing plants of 20 g/kg, expressed in mass of solvent emitted per kilogram of product cleaned and dried.

This total emission limit value applies to any solvents and any plants used for drycleaning purposes. For example, the value of perchloroethylene amount to cleaning 80 kg of items using 1 litre of solvent.

In view of the fact that solvents contained in waste are not regarded as volatile emissions, a total solvent consumption of  $\pm 4\%$  corresponds to the set limit value of 20 g/kg of cleaned items. This rate may be taken as an initial benchmark'. Cinet Board Papers April 2000

The European Community is moving to regulate the use of Perc through taxation and heavy regulation for example:

- Since 1/1/2000 Norway has imposed a £2.00 (sterling) environmental tax per kilogram of Perc and a £50 (sterling) tax per kilogram of perc waste removed – some 20 times to cost of the solvent – effectively imposing a ban on perc;
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- The EC has agreed an acceptable average distillation of residue not greater than 23k of solvent based residue per annum per site,
- EU Directive 94/60 which is to examine placing restrictions on the marketing to consumers of goods containing perchloroethylene

The EU working group on the classification and labeling of dangerous products has confirmed the classification and labeling of perc under R60 although Sweden proposed an additional classification – R64, which was rejected.

As a direct consequence of an EU VOC directive any drycleaner in Europe emitting more than 200gr of perc in water on a yearly basis will have to report its emissions.

The State of Illinois is representative of developments in the United States regarding the 'management' of Perc.

In recent years the State of Illinois has adopted remediation legislation, drycleaner certification and Third Party auditing of drycleaning plants. It's all part of the state Drycleaner Environmental Trust Fund's compliance program requirements.

In essence, the program requires the drycleaners (perc and petroleum) to be in compliance with the Federal and Illinois EPA requirements for:

- solvent and waste handling (including wastewater)
- air emissions
- record keeping (perc purchase logs, monitoring, leak detection, maintenance)
- operation and maintenance of drycleaning equipment

In addition, the drycleaner and applicable employees must be trained in these compliance areas and they must continue to take courses on compliance related issues, dedicating a minimum of four hours per year to this educational requirement. The plant must be also be inspected by a Third Party to determine compliance with all the applicable environmental regulations.

The Trust Fund has special requirements the drycleaner must meet concerning the storage and handling of solvent and solvent waste. The drycleaning machines must have either a spill containment pan or a spill containment dike (with a solvent impervious base) capable of holding 110% of the largest vessel on the unit.

In addition, chemical storage has to be done on a containment device capable of holding 100% of the largest container or 100% of 10% of the total capacity of all containers stored properly sized containment device.

The disposal of wastewater down a sewer, drain or into the ground is absolutely forbidden, under any and all circumstances.

Canada has in place its Chlorinated Substances Action Plan, which aims to virtually eliminate or significantly reduce the most harmful chlorinated substances from the environment. Drycleaning is



targeted to reduce its use of perchloroethylene from 5500 tonnes in 1994 to 1600 tonnes by 2000. (*Environment Canada, Strategic Options for Management of Tetrachloroethylene in the DryCleaning Sector, 1994*)

### 2.2.2 Perc Material Safety Data Sheet

The Material Safety Data Sheet for Perc provides the following hazards identification information.

**Hazards Identification**

Hazardous according to criteria of WorkSafe Australia

**Hazard Category**

Xn Harmful

**R-phrase(s)**

R40 (3) Possible risks of irreversible effects

**Classified as Dangerous Goods for the purpose of transport by road or rail. Refer to relevant regulations for storage and transport requirements**

**Class 6.1 Toxic**

Poisons Schedule (Aust)/Toxic Substances (NZ): S6

This material is a Schedule Poison S6 and must be stored, maintained and used in accordance with the relevant regulations.

Orica Chemicals Material Safety Data Sheet PERCLEAN 1/12/1997

### 2.2.3 Government Reviews of Perchloroethylene

#### 1. National Pollutant Inventory

In February 1998 Perchloroethylene (Perc) was listed on the National Pollutant Inventory (NPI) as a pollutant. The NPI has been established by the Commonwealth Governments and each of the States and Territories as a national database of dangerous chemicals and the businesses that use them.

#### 2. National Industry Chemicals Notification and Assessment Scheme (NICNAS) National Occupational Health & Safety Commission.

The principal aim of NICNAS is to aid in the protection of people at work, the public and the environment from the harmful effects of Industrial chemicals.

NICNAS assessments are carried out in conjunction with Environment Australia and the Therapeutic Goods Administration, which carry out the environmental and public health assessments, respectively.

In Australia, tetrachloroethylene is classified as a carcinogen category 3 (R40), carrying with it a possible risk of adverse effects.

Perchloroethylene is listed by both NICNAS and the Australian High Volume Industrial Chemical List which was established by NICNAS in August 1999. The List will identify manufacturers and importers of high volume chemicals. The data collection and analysis phase of this project is expected to be completed in this year.





NICNAS has conducted a review of perchloroethylene in Australia and released its report Tetrachloroethylene, Priority Existing Chemical Assessment Report No 15 in June 2001 (copy report attached).

The NICNAS report noted three crucial points concerning the use of perchloroethylene in the drycleaning industry:

- the majority of machines used are third and fourth generation machines (or closed loop) – (see 6.4.1 p13 if the NICNAS report),
- the initiatives undertaken by the DIA, however, the report noted “*Given the limited membership of the DIA at this time, the adoption of the ... initiatives by the industry as a whole is questionable*”.
- *All occupational health and safety jurisdictions are recommended to encourage the full use of the hierarchy of controls in all industries using tetrachloroethylene, particularly drycleaning, printing and coat testing. (13. Recommendations. Recommendation 2 p71)*

Granting this application would solve the problems of limited take up of the DIA’s initiatives and would provide drycleaners with the structure to manage the recommended hierarchy of controls.

Again, it should be stated that drycleaners are not required to be members of the DIA and that this application does not seek to impose any requirement of DIA membership.

### 2.3 Future Trends

One important characteristic of the drycleaning industry in Australia is that the machinery used is constantly evolving. The vast majority of machines in use are third and fourth generation machines with some of the newly developed fifth generation machines now being commissioned. First generation machines are no longer in use and only a very few second generation machines are still in operation, indeed already many third generation machines are being replaced.

The third generation machines were designed in the late 1970’s and early 1980’s and are dry-to-dry machines with built-in refrigerated condensers. These are closed loop machines. A closed loop machine does not vent to the atmosphere but recycles it continuously throughout the dry cleaning cycle. The only air exchange with the atmosphere occurs during loading and unloading.

Fourth generation of machines are non-vented, with closed loop processes incorporating additional internal vapour recovery equipment to further reduce emissions.

These technological developments, together with improved industry practices, have led to a major increase in efficiency of solvent used per kilo of garments cleaned. This trend will continue as new equipment is commissioned.

The other solvent used in the drycleaning industry is white spirit. The use of this solvent is very small compared to that of Perc, and accounts for only 2-3% of national drycleaning solvent turnover.

### 2.4 Emissions to Air

The primary drycleaning emissions of solvents are to air through both fugitive and direct emissions at the end of the cycle when the machine door is opened during loading and unloading operations. Other



emissions may occur through poorly fitted or perished gaskets and seals fitted on filters and other integral parts of the machine, that are used to filter and distil the dirty solvent.

The Drycleaning Industry Code of Practice for the Safe Handling for Perc and Code of Practice for Plant in the Drycleaning Industry set out recommended safe procedures and maintenance programmes to manage and eliminate these types of leaks.

In Germany the standard is 250 parts per million (ppm). In Australia the range is often 160-200 ppm.

Australian communities are becoming increasingly aware of, and insistent upon, pollution free environments, particularly from air borne pollutants. Many States have had legislation governing emissions to air since the 1970's and 1980's. However, since the early 90's there has been an increasing focus on air quality.

Under Section 15 of the Natural Heritage Trust of Australia Act (1997), environmental protection includes "preventing, combating or rectifying pollution of the environment (whether natural or otherwise)". Funding for the implementation of the Drycleaning Industry Regulation Standard has been provided by Environment Australia, under the Natural Heritage Trust. This project is part of the "Clear the Air" package, which is the Commonwealth Government's initial response to the independent Inquiry into Urban Air Pollution.

Many planning permits include conditions such as "The use hereby permitted shall be such that the .. processes carried on, the material used or stored, machinery employed and the transportation of materials ... to and from the premises will not cause injury to or prejudicially affect the amenity of the location .... by reason of the emission of .... smell, fumes, vapour, steam, waste products ..." (City of Melbourne May 1997)

The National Occupational Health and Safety Commission (WorkSafe Australia) has set the exposure standard for Perchloroethylene at  $340\text{mg}/\text{m}^3$  (50ppm). The Standards are set as time weighted average levels calculated over an eight-hour working day. This Standard is set at a level that should not cause adverse health effects or undue discomfort to nearly all workers ie. fit healthy workers. They do not apply to the general population or those people who may be extra sensitive to any chemical (including Perc) due to age, illness or hypersensitivity.

Where drycleaners are located in residential/domestic buildings they should also be aware of the air quality standards for non-workplace exposures. One approach to setting these indoor air quality standards is to divide the occupational standard by an appropriate safety factor. For example, in Victoria the Environmental Protection Authority (Publication 327, Sept. 1993) uses a safety factor of 30 which is derived from:

- a protection factor of 3 for exposure over 24 hours in the home rather than 8 hours in the workplace; and
- a protection factor of 10 to protect the sensitive sub-group of the population.

Based on this EPA formula a domestic exposure air quality standard would be  $11.3\text{mg}/\text{m}^3$  (1.67ppm) over 24 hours. For workers in such a building the 3 times safety factor should be adjusted as the exposure is over 8 hours (not 24) giving a figure of  $34.0\text{mg}/\text{m}^3$  (5ppm)

The World Health Organisation (WHO) Air Quality Guidelines for domestic exposure to Perc at  $5\text{mg}/\text{m}^3$  (0.74ppm) over a 24 hour exposure period or  $15\text{mg}/\text{m}^3$  (2.2ppm) exposure for 8 hours.