



**Texas Commission on Environmental Quality
Dry Cleaner Environmental Response
Program
Status Report**

Fiscal Year 2012

**Prepared for the
Dry Cleaner Advisory Committee**

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Dry Cleaner Environmental Response Program

The Dry Cleaner Environmental Response Program (Program) protects the state's environmental resources by using a risk-based approach for the assessment and cleanup of releases of solvents from dry cleaning facilities. The Program collects registration fees from dry cleaning facilities, dry cleaning drop stations, property owners, and preceding property owners, and solvent fees from solvent distributors. These fees are deposited into the Dry Cleaning Facility Release Fund (the Fund). The Fund is used to process registrations and to conduct corrective action at dry cleaning sites.

The Program affects owners of dry cleaning facilities and drop stations, current owners and certain previous owners of property on which a dry cleaning facility or drop station is or was located and solvent distributors.

The Program is administered through the Texas Commission on Environmental Quality (TCEQ) Office of Waste by the Dry Cleaner Remediation Program (DCRP) of the PST/DCRP Section in the Remediation Division, and by the Dry Cleaner Registration Team in the Permitting and Registration Support Division. The DCRP accepts applications for ranking, ranks and prioritizes sites, and conducts corrective action at sites once they have been accepted into the Program. The Dry Cleaner Registration Team processes registrations for solvent distributors, dry cleaning facilities and drop stations, as well as for property owners and preceding property owners.

To be eligible for the DCRP the applicant must be one of the following: 1) a current or former owner of a dry cleaning facility or drop station; 2) an owner of property on which a dry cleaning facility or drop station is or was located; or 3) a preceding owner of property on which a dry cleaning facility or drop station is or was located, who entered into an agreement with the current property owner establishing that the previous property owner is responsible for costs associated with the cleanup of contamination.

DCRP applicants must submit an application for ranking the site, which documents a release of dry cleaning solvent into the environment from a currently registered or former retail dry cleaning facility. The applicant must pay a nonrefundable deductible of \$5,000 for corrective action costs incurred as a result of a release from the dry cleaning facility or drop station, and must sign an affidavit stating that perchloroethylene (Perc) will not be used at the site once the DCRP has begun corrective action at the site.

The DCRP cannot commence corrective action at a site until the site/application has been ranked and prioritized except for sites that require emergency action. Site ranking is based on potential impacts to human health or the environment from the site. Site prioritization includes site ranking, but also takes into account non-risk factors such as cost of implementing corrective action. The DCRP utilizes contractors to conduct corrective action at sites.

Registration

State law requires all dry cleaning drop stations and facilities in Texas to register with the TCEQ annually. Annual Renewal Registration Forms for dry cleaning drop stations and facilities are due by August 1st of each year. Registration fees are billed on a quarterly basis.

The following table is a breakdown of FY 2012 registrations.

Registration Type	Total FY 2012 Registrations
Facilities	1,509
Drop Stations	1,766
Property Owners and Preceding Property Owners	193
Solvent Distributors	26

A facility/drop station's participating/non-participating status defines their fees and registrations costs. The terms "participating" and "non-participating" refer to a facility/drop station's eligibility to receive benefits from the Fund. The following table illustrates the differences in the Program's fee structure.

Type	Number of Locations	Solvent Fees Collected	Registration Fee	
			Gross Receipts >\$150,000	Gross Receipts ≤\$150,000
Facility (<i>aka: Participating Facility</i>)	1,182	Yes (<i>perchloroethylene: \$20 per gal / other solvent: \$3 per gal</i>)	\$2,500	\$250
Participating Non-Perchloroethylene Facility (<i>type will not transfer to new owner</i>)	54	No (<i>should not be receiving perchloroethylene</i>)	\$2,500	\$250
Non-Participating Non-Perchloroethylene Facility (<i>type will transfer to new owner</i>)	273	No (<i>should not be receiving perchloroethylene</i>)	\$250	\$250

Drop Station (<i>aka: Participating Drop Station</i>)	1,631	Not Applicable (<i>should not be receiving solvent</i>)	\$750	\$250
Non-Participating Non-Perchloroethylene Drop Station (<i>type will transfer to new owner</i>)	135	Not Applicable (<i>should not be receiving solvent</i>)	\$125	\$125
Total	3,275	Not Applicable	Not Applicable	Not Applicable

Registration of Dry Cleaning Facilities, Drop Stations, Property Owners and Previous Property Owner (2004-2012)

Registrations by Fiscal Year	Property Owner	Facilities	Drop Stations	Total
Fiscal Year 04	n/a	2,110	1,763	3,873
Fiscal Year 05	n/a	1,999	1,706	3,705
Fiscal Year 06	n/a	1,946	1,933	3,879
Fiscal Year 07	n/a	1,814	1,777	3,591
Fiscal Year 08	192	1,668	1,635	3,303
Fiscal Year 09	192	1,542	1,529	3,071
Fiscal Year 10	192	1,470	1,418	2,888
Fiscal Year 11	183	1,419	1,384	2,803
Fiscal Year 12	193	1,509	1,766	3,275

Dry Cleaning Registration Initiative

The Permitting and Registration Support Division Dry Cleaner Registration Initiative was developed in an effort to combat unregistered dry cleaners evading fees owed to the TCEQ and gaining an unfair competitive advantage over compliant dry cleaning facilities.

On October 10, 2011, letters were mailed to all of the potentially unregistered dry cleaners. Locations that did not respond to the letter received a phone call from Registration and Reporting Section staff.

March 3, 2012, a second letter was sent to locations that had not responded to-date.

Staff prioritized site visits of those sites that failed to register, did not respond to correspondence, or mail was returned. A total of 333 site visits were conducted with the following results:

Registered	92
Closed/exempt	89
Open but failed to register	152

FY 12 Dry Cleaner Initiative Final Results

Identified Locations	2,376
Registered	927
Closed/exempt	760
Open but failed to register	256
Undeliverable	122
No response	311

These efforts resulted in a net increase of 472 registrations and a \$788,256.30 increase in fees invoiced from fiscal year 2011.

Small Business Environmental Assistance

The Small Business Environmental Assistance (SBEA) Division was contacted by 66 different dry cleaners for compliance assistance. In November 2011, SBEA sent 447 reminder postcards to dry cleaners that needed to register with the TCEQ (attachment 1).

Dry Cleaning Facility Release Fund (Fund 5093)

The Dry Cleaning Facility Release Fund (Fund) includes revenues from registration fees, solvent fees, deductibles, penalties, and interest. The following table is a breakdown of FY 2012 revenues.

<u>FY 2012 Fee Collection Report</u>	
Registration Fees	\$ 3,453,086
Solvent Fees	\$ 1,074,338
Deductibles, Penalties, and Interest	\$ 130,892
TOTAL COLLECTIONS	\$ 4,658,316

As of August 31, 2012, the total funds collected in the Program totaled approximately \$53,196,323. The total Fund balance as of November 2, 2012 was approximately \$19,026,930.

Compliance and Enforcement Actions

The TCEQ Office of Compliance and Enforcement conducted 38 investigations for dry cleaning facilities in FY 2012. Thirty-five of those investigations were conducted on-site. The Dallas-Fort Worth region had a regional dry cleaner initiative that resulted in 32 on-site investigations and three record reviews. Two additional investigations occurred in the Houston Region and one occurred in the Corpus Christi region. Nineteen of the investigations resulted in Notice of Violations (NOVs) and eight resulted in Notice of Enforcements (NOEs).

In FY 2012, the TCEQ issued two administrative orders against dry cleaning facility owners for violations. The total penalties assessed equaled \$12,586; \$1,000 was deferred; and \$11,586 was payable.

New Dry Cleaner Legislation

No legislation in 2012. The 83rd Texas Legislative Session begins January 2013.

Corrective Actions

In FY 2012 the TCEQ received 9 applications for ranking. Since the inception of the program, there have been 214 dry cleaner sites accepted into the program.

Corrective Action status of DCRP sites:

Corrective Action Phase	No. of Sites
Pre-Assessment	2
Assessment	122
Remediation	42
Monitoring	1
Closure	47

The DCRP Site Prioritization List dated September 1, 2012 includes the corrective action status of each site (Attachment 2).

Ranking and Prioritizing DCRP Sites

Site Ranking: Once a DCRP Application for Ranking is received and determined to be complete and eligible, it is given a Ranking Score based on the supplied application data. The Ranking Score is intended to be a measure of the risk posed by the site. The applicant's responses to select questions in the DCRP Application are used to calculate a ranking score for each site. The weighting system for site ranking is summarized in the DCRP Site Ranking Scoring System.

Site Prioritization: In accordance with Title 30, Texas Administrative Code (TAC), §337.30, all ranked DCRP sites are prioritized at least semiannually beginning on January 1 and July 1. Administratively and technically complete applications must be received on or before March 1 of each year to ensure consideration for prioritization starting July 1. Applications must be received on or before September 1 of each year to ensure consideration for prioritization starting January 1.

The Priority Factors described in §337.30 are as follows:

- Ranking Score
- Cost / Benefit of Corrective Action
- Effect of interim/immediate remedial measure on future costs
- Available fund amount.
- Cost saving in Corrective Action undertaken during site redevelopment
- Necessity of emergency action
- Any other factor considers relevant by the executive director

The TCEQ has recently revised its Priority Classification system for DCRP Sites. The priority classes are as follows:

Priority Class 1: Known Exposure / Impacted Receptor

Priority Class 2: Potential Exposure / Threatened Receptor

Priority Class 2.5: Potential Residential Exposure

Priority Class 2.6: Ongoing Remediation / Post Remediation Monitoring

Priority Class 2.7: Long Term Postponed Site

Priority Class 3: Site with Minimal Assessment Data - Unknown Exposure Risk

Priority Class 4: Limited Exposure Risk to Receptors

Priority Class 5: Minimal Exposure Risk / no receptors

Re-Prioritization of Sites: Sites will be re-ranked and re-prioritized once the DCRP has completed an Affected Property Assessment and when the TCEQ otherwise receives data that significantly changes the TCEQs understanding of the site.

Postponement of corrective action at low priority sites: In accordance with §337.50(b), the TCEQ may postpone or indefinitely suspend corrective action at a site in order to make money available for corrective action at a site with a higher priority.

Active/Postponed and Closed DCRP Sites

In FY 2012, the DCRP postponed corrective action on lower priority sites based on legislative appropriated funding. As of September 1, 2012, there were 81 active sites and 86 postponed sites.

The DCRP completed corrective action at five sites in FY 2012; to date, the TCEQ has completed corrective action at 47 sites. The list of closed sites is included in Attachment 2.