

**Minutes of the Dry Cleaning Advisory Committee Meeting**  
11-07-2008

**Advisory Committee Members in attendance:**

James Cripe  
Rick Sims  
Shirley French Reichstadt  
Dr. Charles Riggs

**TCEQ employees in attendance:**

Brent Wade  
Linda Bookins  
Dorca Zaragoza-Stone  
Bill Shafford  
Barbara Watson  
Chris Hayden  
Michael Bame  
Richard Sharlach  
Vanessa Schiller  
Don Kennedy  
Martha Glasgow  
Wendy Hubbell  
Kathy Vail  
Merri Smith  
Christine Bergren  
Nathan Weiss

TCEQ's new acting Remediation Division Director, Brent Wade, was introduced.

Nathan Weiss presented information on TCEQ's Small Business Program. He noted that it was confidential and separate from Enforcement. The program offers a hotline, technical assistance, consulting (with volunteer attorneys and consultants), environmental audits (if compliance is demonstrated, the facility receives a 1 year waiver from site visits), and has a representative in almost every TCEQ Region. Mr. Weiss also reported on the program's activities in fiscal year 2008 and its plans for fiscal year 2009.

**Small Business activities for drycleaners in FY 2008:**

1. Late registration reminder postcards were sent out to approximately 700 owners
2. Guidance documents sent out on the new EPA rules for perchloroethylene (perc), awareness of rule deadline and a form used to certify compliance
3. Workshops held in Houston and Dallas
4. Article in program's newsletter – The Advocate

Small Business plans for dry cleaners in FY2009:

1. Reminder postcards will be sent again in late November to approximately 670 owners
2. EPA requiring testing on petroleum machines. Small Business is working on how to address "tightness" testing for new machines. There is concern about breaking open a new machine to test it for tightness.
3. Outside consultants are being hired, through a grant, for approximately 70-80 inspections (air, water and waste). The checklist is on the agency web site.
4. The Small Business hot line can be reached at 1-800-447-2827.

It was announced that Brian Christian is the new Division Director of the Small Business and Environmental Assistance Division.

The Draft annual report to the 81<sup>st</sup> Legislature was discussed. Members decided to take public comment on the draft as it was being presented by TCEQ staff.

Don Kennedy reviewed the report's Dry Cleaner registration information. There was a general discussion about why registrations dropped from last year. It was suggested by agency staff that many may have gone out of business, particularly with the current economy. Members of the public shared examples of facilities which were in business previous years, but not in business this year. Compliance and Enforcement staff noted that many of the dry cleaner facilities targeted for inspection during the FY 2006 initiative (aimed at dry cleaners who failed to register) were found to no longer be dry cleaners. The agency was asked if it seeks out sites which do not re-register or does inspections on them. Staff responded that it does some Dry Cleaner inspections, but does not have the man power in the field to do a larger number of Dry Cleaner inspections. For the 2006 initiative, inspectors had to be pulled from numerous other programs and as a result inspections were not done in those programs during the initiative. Staff predicted that the number of registered dry cleaners would go up as January 2009 approached, because businesses will not have current certificates. Also registrations would increase as solvent supplies are depleted. It was suggested that the agency seek out unregistered sites and inspect them or at least call all of them. Dorca Zaragoza Stone agreed to look into the issue.

It was also asked if the sites that have gone out of business, are still eligible for the fund. Staff responded that they were eligible and that only property owners need to be currently registered.

The solvent fees collected for participating facilities was corrected in the draft report from \$15 to \$20 per gallon for perchloroethylene and from \$5 to \$3 per gallon for other solvents.

Shirley French Reichstadt asked if TCEQ knows who is actually using perc. Staff responded that a new database will be able to track that information but at this time it is not easily retrievable. Ms. Reichstadt commented that the figure used in the report (61.2 percent (1017) registered as perchloroethylene (PERC) facilities and the remaining 38.8

percent (645) registered as non-PERC facilities.) did not reflect the public perception that a lot of people have converted from perc. Staff explained that the percentages were based on historic perc use and agreed to change the language in the report to reflect this. Staff also agreed to work on determining the number of dry cleaners currently using perc and to put the number on the agency web page.

Michael Bame reviewed the report's remediation information. The TCEQ has received 167 applications to the DCRP fund for corrective action. For those applications, 133 work orders have been issued and 8 sites are closed. Legislative Budget Board (LBB) commitments require TCEQ to close 9 sites in FY 2009 and 10 in FY2010. TCEQ plans to close over 20 each year. Staff discussed the 2 types of closure: Type A (no further action required) and Type B (monitoring and maintenance required because of contamination left in place). When asked if monitoring and maintenance could be required after sunset of the PST Reimbursement Program, staff replied that it could and that the landowner may be required cover the cost (as was done in one case in Dallas).

The remediation program is appropriated 6.5 million to spend a year. Money not spent in a fiscal year stays in the fund. The estimated fund balance was \$17,460,217 as of August 31, 2008. In December, the Remediation Program will increase its contractors from 2 to 7 which will include 4 site assessment contractors and 3 engineering firm contractors.

A question was asked about the Former Kwik Wash Laundry and why it was determined to be ineligible for DCRP after funds had been expended. Staff reported that it was determined to be ineligible during the assessment phase when it was discovered to be a coin operated facility. Staff also noted that it has been taken off the ranking list.

The fact that some non-perc users may have perc on their site because of previous activities was discussed. A question was asked about the number of non-perc sites. The importance of this information as it relates to liability for clean-up costs and pollution insurance was discussed. It was suggested that the Small Business program could help characterize the cost of clean-up at petroleum sites.

Questions regarding the fund were asked. The committee and the public were concerned that money was in the fund, but it was not being used for additional dry cleaner inspectors. Staff explained how legislative agency appropriations and full time employee (FTE) caps impacted TCEQ's ability to hire additional inspectors. Staff explained that the legislature designated how much of the fund may be used and for what purposes in each biennium. If the money is not spent or obligated, it stays in the fund. Also appropriated money can be rolled over within that biennium, but not across different bienniums. Staff also explained that the agencies have FTE caps which they can not exceed, even if the money is available to hire additional staff. Members of the committee and public expressed their understanding of this difference between government and private business, but were still frustrated with not being able to secure more Dry Cleaner inspectors.

The Remediation Division will send the advisory committee a site prioritized list twice a year so they will know what the Remediation Division is doing. It will also be published on the website. Staff stated that in the future there are going to be more sites and not enough money to cover them all, possibly resulting in some sites not being addressed under the program. The ones with the highest risk are going to be prioritized higher. TCEQ will budget \$5000 to \$6000 per site to do an inspection to insure that nothing is being missed that would impact prioritization.

When asked how the agency knew contractors were spending money appropriately, staff responded that contractors doing work will have a performance review which includes quality assurance. This will allow the Remediation Division to know who is doing the best work. Even if a contractor is under contract with the TCEQ, it does not mean that he will get the work. The contractors that do the best work will get the most projects.

There was a question concerning secondary containment at non chlorinated sites and solvent storage areas. It will be looked into and answered at a later time.

The advisory committee voted unanimously to finalize the report to the 81<sup>st</sup> Texas Legislature with a change in the wording of one sentence regarding perc users and the updating of solvent fees for participating facilities.

No additional public comments were made.

The meeting was adjourned.

Action Items:

#	Topic	Requestor	Assigned to
1	When is the deadline for testing old machine and still comply with EPA regulations?	Rick Sims	Nathan Weiss
2	Number of inspections done in FY08	Charles Riggs	Christine Bergeren
3	How many dry cleaners are using perc?	Shirley French Reichstadt	Don Kennedy
4	How many sites that are not registered are operating? Phone call to locations	Rick Sims	Don Kennedy Dorca ZaragozaStone
5	How many sites is TCEQ cleaning that are perc users?	Alan Johnson	Michael Bame
6	Secondary containment and storage area at non-chlorinated sites.		Barbara Watson Nathan Weiss
7	Send an up-to-date of site prioritization twice a year and publish on web site		Michael Bame