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Dry Cleaner Advisory Committee Meeting Minutes
Texas Commission on Environmental Quality
September 9, 2005

Advisory Committee Members Present:

Charles Riggs
Jim Cripe
Shirley French Reichstadt
Chuck Franklin

TCEQ Staff Present:

Dorca Zaragoza-Stone, Jackie Hardee, Michael Bame, Caroline Sweeney, Barbara Watson, Derek Chapin, Don Kennedy, Nathan Weiss, Paul Lewis, Bob Patton, John Racanelli, Alan Batcheller

Debra Clonts of Representative Elkins' Office was present.

This meeting was a series of presentations for the Advisory Committee by the different areas of the agency that implement the Dry Cleaner Program. The presentations were:

Registration and Fees
Revenues
Small Business
Texas Risk Reduction Program
Enforcement
Dry Cleaner Remediation Program

These presentations are available at:

[http://www.tceq.state.tx.us/assets/public/remediation/dry_cleaners/advisory/dryclean_not
es090905.pdf](http://www.tceq.state.tx.us/assets/public/remediation/dry_cleaners/advisory/dryclean_notes090905.pdf)

A summary of questions and discussions that took place after the various presentations is provided below.

- **Discussion on dry cleaner registration:** Amendment to law (HB2376) allowed a facility or drop station that had never used perc another chance to opt out or not participate in program, but they must file a property owner consent form. Consent form needed to be completed for every location that met the criteria. An owner could have some participating sites and non participating sites, if property owner

- decided not to sign form. Certificates are good for full year if owner pays in full, if they pay quarterly payment, the owner will only receive a quarterly certificate. Also, verification with comptroller of the sites gross receipts is new. The gross receipts are by location, not all grouped together under one location, meaning if an owner or tax id has a number of outlets, it is determined on an individual basis.
- **Discussion on late registrations:** Are there going to be late fees? Statue calls for Maximum of \$50 per day in late fees. Trying to figure a way for Enforcement to get involved in assessing a penalty for this. Do we have a comparison of how many were registered in 2004 versus 2005? Yes, we do have the numbers. It is likely that some dry cleaners have gone out of business since the first filing. Are there field office people looking for sites that are not registered? That has not happened yet, but there is discussion on that subject with field ops right now. Discussion about where the money is going as far as personnel working in the dry cleaning program. Suggested that some money should go to field ops and enforcement personnel.
 - **Discussion on changes from facility to drop station:** Would the fee change if the type of cleaner changed correct? The answer is yes. Would a facility be eligible for remediation if it changes to a drop station, because they are paying the drop station registration fee now? As long as the site is paying its fees, whichever it is, then it is eligible for remediation.
 - **Questions and comments from members in the audience:**
 - **Why don't you go through the yellow pages to find dry cleaners in the state?** The TCEQ has used that method to find unregistered dry cleaners.
 - **Statement from the Executive Dir of Southwest Dry Cleaners Assoc, that he would be glad to post things on their web page and in their newsletters to their members.**
 - **Mr. Johnson from Corpus Christi said he is concerned about the unregistered sites and he goes around Corpus looking for unregistered sites. He is also pleased with the new legislation of verifying with the Comptroller's Office.**
 - **Mr. Brown of Jack Brown cleaners would like an online registration.**
 - **Derek Chapin and John Racanelli did a presentation on revenues from the dry cleaner program for FY2004 and FY2005.** Handouts were given out with their data on them. Discussed that FY2005 is the first full fiscal year for fees. The proposed budget for FY2006. Most of the money is for salary expenditures for the people directly working in the program. John spoke of the change in the fees for drop station and facilities. He also spoke of the quarterly installment billing plan. Because of the quarterly billing, revenues are able to start assessing late fees when it is not paid within 30 days. He also mentioned that you can pay your fees electronically by credit card (up to \$500) or electronic checking.

More questions from Advisory Committee Members:

- **It was asked if it is determined that a location is not a retail site and they have registered and paid fees, will they get a refund?** Yes, they will get a refund. It is hard to tell just by the form whether a dry cleaners falls into this

category. It would be determined that they are exempt only if the cleaner contacts us. This also brought up the need for field ops to do investigations on sites that are in question, so we make sure they actually do or don't need to be registered.

- **What do we do now if we think a dry cleaner is not registered? Do we contact Field Ops?** Normally, registration would send the dry cleaner a letter and ask them to register and pay fees. The program could contact field ops to investigate and report findings to enforcement if needed.
- **Some concerns that the Advisory Committee Members wanted to address:**
 - They wanted a point of contact with the agency
 - They were concerned that some sites in remediation were ranked and the members thought they were going to be involved in the process
 - Concern with the definition of a facility/plant—"once a plant always a plant" and that a registration should not be allowed to change to a drop if it had ever used solvent at the location. The location would always pay plant fees instead of drop station fees also. Consensus recommendation was that if it had ever been a plant it should continue to be a plant and register as a plant.
 - Concern with using dry cleaning money to clean up abandoned sites in which owners never paid in the fund. It was expressed that the new language tying the registration to NAICS code 812320, should also tie clean up to that business code. If contamination comes from a different source than this business code, then the remediation fund should not clean up the site.
 - It was suggested the agency may want to go back and change the dry cleaner rules to accommodate some of these concerns.

Further discussion concerning the NAICS code. It was brought up that the NAICS code is only mentioned in HB2376 and on the website. Wanted mention of the NAICS code to be put in the Frequently Asked Questions so people would know what the correct code is and also that it is part of the eligibility requirements.

More discussion on what sites are eligible for clean up. General discussion on remediation issues including when sites would be cleaned up or not and how would the agency know if the release came from the dry cleaners versus another type business, such as a gasoline station in years past. *That is something that can be determined by the site assessment.*

Different instances or scenarios were brought up to remediation staff:

If a site was in a lawsuit and the owner got a settlement, would he still get his site cleaned up and get to keep his settlement? *Some of this would be out of the agency's hand. It would have to be looked into on a case by case basis.*

If a site gets cleaned up from the fund and then in 5 years contamination is found again, can it get cleaned up again? Would this be considered in

ranking? *Yes it can be cleaned up again, but there would be questions about the site that needed to be answered first to see if the 2nd release is eligible. It does not have anything to do with ranking, but with eligibility.*

Discussion on changing of the rules or even requiring new statute for possible litigation settlements that should pay for clean up before the fund; something similar to an EPA lien or property windfall for the state. It could be argued that this would be out of the agency's hand.

Discussion on Drop Stations: In HB 1366, mention of drop stations was left out of several key places. The advisory committee wants drop stations to register as a facility if they are a former facility. They do not want a facility to be allowed to change to a drop station. More recent legislation says that you have to register an operating facility and drop station; and also for ranking a site you have to identify the location as a drop station. Abandoned sites were discussed and how to get them to pay into the fund since they would utilize the fund. The solution of making them pay an application fee for a contaminated site in order for it to be ranked since it was not an operating site was discussed. It was determined that this would have to be implemented through statute. The question was asked if a time frame be put on abandoned sites.

Remediation staff reviewed the application and the system of ranking sites. The application collects needed information and then it is entered into the database. There is software in the database that actually does the scoring for the site. The application is available on the website.