

**Texas Commission on Environmental Quality
Dry Cleaners Advisory Committee Meeting Minutes
June 28, 2004**

I. CALL TO ORDER

The Dry Cleaners Advisory Committee Meeting was called to order on Monday, June 28, 2004 at approximately 1:30 p.m. in Building B, Room B201A located at 12100 Park 35 Circle, Austin, Texas.

II. ROLL CALL

Those Advisory Committee Members present were Mr. James Cripe, Mr. Chuck Franklin, Ms. Shirley French Reichstadt, Dr. Charles Riggs, and Mr. Michael L. Trollinger. Those present representing Texas Commission on Environmental Quality were Mr. Jay Carsten, Mr. Michael Leckie, Ms. Shannon Minto, and Ms. Caroline Sweeney. Total attendance was approximately 21 people.

III. AGENDA

- Minutes from May 7th Stakeholder meeting
- Application for Ranking
- Registration Information
- Dry Cleaner Issues Table/Rule Draft
- Other Committee Issues

IV. MINUTES FROM MAY 7TH STAKEHOLDER MEETING

Members requested that the minutes from the May 7, 2004 reflect that the morning and afternoon meetings were both part of the Stakeholder meeting, therefore approval from the Members is not necessary.

V. APPLICATION FOR RANKING

Members agree that the statement marked out in the Ranking Application in Section 4 should be deleted. They also recommended to add a list of terms and abbreviation to the Instructions. The Members agreed that the Ranking Application should be a living document, therefore should not be included in the Rule.

VI. REGISTRATION INFORMATION

Mr. Jay Carsten presented an update on the status of registration. There are 3,694 dry cleaning facilities and drop stations registered with the TCEQ as of June 2004. Out of the 3,694 registered dry cleaning facilities and drop stations, 2,089 are facilities and 1,605 are drop stations.

Mr. Don Kennedy, TCEQ's Registration representative, announced that Registration is working on a new registration form, quarterly certificates, and will be mailing letters to the dry cleaning facilities and drop stations.

VII. DRY CLEANER ISSUE TABLE

Issue #1: The statute requires a fee be paid to the TCEQ for each dry cleaning drop station. The statute does not expressly address whether vehicles owned by dry cleaners that are used for the drop-off and pick-up of garments should pay the drop station registration fee.

The Members agree with the decision not to register mobile drop stations.

Issue #2: Should certain businesses that perform dry cleaning activities as ancillary activities be exempt from registration fees and fund benefits? (e.g., hotels, tuxedo rental, linen supply and uniform supply businesses).

No additional comments.

Issue #3: Are dry cleaners that are no longer active eligible for fund benefits?

Members discussed whether former facilities that are currently registered as drop stations should register as facilities. Members also discussed the possibility of registering abandoned sites. The Members do not want to encourage people to abandon facilities and then open up another facility or reincorporate in order to avoid the higher registration fees.

Issue #4: The statute gives the TCEQ discretion whether businesses with gross receipts <\$200,000 should be exempted from the performance standards by rule.

The Members agreed with the interpretation that the facilities with gross receipts of <\$200,000 should be exempted from the deadline not the performance standards. This would give those dry cleaners an extra year to budget for the necessary changes.

Issue #5: The statute uses the term Gross Annual Receipts in relation to setting fees and requirements for performance standards, but does not define the term.

People within the audience recommended that gross annual receipts includes all transactions.

Issue #6: While, the statute requires performance standards for all dry cleaning facilities, certain performance standards are only required for use with chlorinated dry cleaning solvents (perc). Should secondary containment requirements for perc dry cleaners be extended to dry cleaning facilities that use other solvents?

An audience member informed the Committee that many fire departments require performance standards for petroleum solvents. The Members recommended that perc and new facilities should be required to incorporate the performance standards suggested in the law and in EPA guidance.

Issue #7: The statute allows the TCEQ to modify the ranked status or reprioritize sites for investigation and cleanup. However, it does not specify a frequency if this is done.

The Committee did not answer the above question specifically, however they did discuss the possible solutions to a low ranking and/or prioritization.

Issue #8: Statutory definition of “corrective action” includes emergency response; however, sites must be ranked to be eligible for corrective action with fund money. Normal ranking procedures may not occur quickly enough to address an emergency.

No additional comments.

Issue #9: There are no specific requirements for record keeping by dry cleaners or solvent suppliers in the statute; however, the statute allows the commission to adopt any procedures necessary to collect, administer or enforce fee collection.

No additional comments.

Issue #10: The statute does not require solvent suppliers to register with the TCEQ. However, the statute allows the commission to adopt any procedures necessary to collect, administer or enforce fee collection.

No additional comments.

Issue #11: Revise the dry cleaning registration fee structure.

No additional comments.

Issue #12: Expand eligibility of fund to solvent distributors.

No additional comments.

Issue #13: Revise the opt-out section of the law.

No additional comments.

Issue #14: Create new cleanup standards for dry cleaners.

No additional comments.

Issue #15: Require a dry cleaner certification program.

No additional comments.

Issue #16: Clarify liability protection text of law.

No additional comments.

Issue #17: Can sites move into the Dry Cleaning Program from VCP and back to VCP if corrective action is not completed.

No additional comments.

Issue #18: Remove five year ownership requirement for property owners.

The Committee agrees that this is a statutory change, but that it should be handled in a way not to encourage wind fall profits.

Issue #19: Clarify how commingled plumes will be addressed by the fund.

No additional comments.

VIII. RULE DRAFT

The Members recommended that the definition of Dry Cleaning Machine should include the word immersing to address the difference between dry cleaning and spot treating a garment. The Members also requested that some of the dates be changed. Ms. Caroline Sweeney explained that some dates are driven by statute, however she said she would look into it. The Committee agreed to review the Draft Rule and reconvene in two weeks to discuss comments and suggestions.

IV. NEXT MEETING

The next meeting is tentatively set for July 16, 2004 at 9:30 a.m. to 12:00 p.m.

The June minutes will be reviewed by TCEQ staff and e-mailed to the Members for review and comments before they are posted on the TCEQ website.

V. PUBLIC COMMENTS

Floor open to public comments.

Allan Johnson, Peerless Cleaners

Mr. Allan Johnson from Peerless Cleaners gave the Committee a written comment. He was glad to see that work was being done on the rules.

Darrell Sawyer, Carl's Cleaners, Inc.

Mr. Darrell Sawyer from Carl's Cleaners, Inc. asked when the next stakeholder meeting would take place.

Ms. Jackie Hardee explained the rulemaking process.