



National Steering Committee

Donovan Grimwood, Chair
Tennessee Department of Environment
and Conservation
(629) 266-1862
Donovan.Grimwood@tn.gov

Christopher Lynch, Vice-Chair
University of Nevada, Reno
(775) 834-3687
clynch@unr.edu

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Comments on Perchloroethylene (PCE) Regulation under the Toxic Substance Control Act (TSCA)

Dear EPA:

The National Steering Committee (NSC) for the national network of state Small Business Ombudsman (SBO) and Small Business Environmental Assistance Programs (SBEAPs) appreciates the opportunity to comment on the U.S. Environmental Protection Agency (EPA) *Perchloroethylene (PCE) Regulation under the Toxic Substance Control Act (TSCA)* (Docket ID: EPA-HQ-OPPT-2020-0720-0024).

The NSC has concerns about the phase out of PCE for use in drycleaning operations and multiple other uses. The primary concern is that the time frames provided may be too short for many businesses, particularly small and medium sized businesses, to find suitable alternatives to the use of PCE and that drycleaning machines often have a longer lifespan than EPA estimates. In addition, there is an added concern that the drycleaning industry consists primarily of small businesses and many are minority owned.

The proposed rule currently has multiple phase out time frames, depending on whether the use of PCE is for industrial or dry-cleaning purposes. The NSC feels that the deadlines of 12-months for manufacturing, 15-months for processing, 18-months for distribution to retailers, 21-months for retail distribution, and 24-months for industrial or commercial use will be too short a time frame for those users that do not currently have a tested and cost-effective viable alternative. Also, the 24-month deadline is significantly shorter than other EPA programs. For consistency, the NSC recommends that EPA look to the National Emission Standards for Hazardous Air Pollutants program which typically provides 36-month compliance periods to allow ample time to find new solvents or processes or reconfigure processes to comply with a rule change. An extended time period will be critical for industries that rely on high precision and clean surfaces such as the aerospace industry. The NSC proposes extending each of the deadlines: 18-months for manufacturing, 21-months for processing, 24-months for distribution to retailers, 30-months for retail distribution, and 36-months for industrial or commercial use. This will allow for a more adequate timeframe for phasing out current stock, allow for testing of replacement solvents, and still achieve the staged phase out desired by EPA.

Due to the extensive use of PCE in some industries, a further recommendation would be to allow for a petition process to either request an extension to find a replacement solvent or request an exemption from replacing PCE. The facility

requesting the extension or exemption would need to follow all sections of the workplace chemical protection program, demonstrate research and testing of alternate solvents, provide data on why a replacement solvent was not suitable, and demonstrate controls of PCE emissions.

It has been stated by numerous industries potentially affected by this proposed phase out on PCE – electrical contractors, the medical device industry, and the aerospace sector – that there is not a viable alternative to PCE in very specific instances due to strict cleaning requirements for energized electrical equipment and wires. Some alternative solvents create other health and safety issues such as flammability (hydrocarbons) or they might not be compatible with the material it is being used on. In addition, switching to alternative solvents creates other logistical issues such as cost of replacement and supply chain issues.

For drycleaners, the phase out of PCE will severely impact the industry. The majority of drycleaners are small businesses, and many are owned by minority small business owners. As the proposed rule in the federal register stated, “EPA estimates that 6,000 drycleaners still use PCE, a majority of which are small businesses. EPA has not been able to estimate the number of drycleaning facility closures that may be associated with this phase out.” If this is the case, then we think that EPA should take a conservative approach and estimate that upwards of 6,000 drycleaners will ultimately be adversely affected and thus no longer be in business due to this rulemaking. While there are alternative solvents available, there are no drop-in replacement solvents for a PCE machine. Changing to a new solvent requires the purchase of an entirely new drycleaning machine. New machines typically require a capital investment of at least \$50,000 to \$75,000. At this time, our research also shows that all new drycleaning machines must be imported.

The NSC agrees with the 3-year deadline for eliminating all third-generation machines. These are older machines that do not have the level of controls found in more recent generation drycleaning machines. Based on a recent survey of four states able to collect data on generations of drycleaning machines in operation, the survey found that third generation machines still represent about 28% of the existing 498 PCE drycleaner machines in those states. Extrapolating this number nationally suggests that there may be as many as 1,743 third generation machines in use. However, this is a simple extrapolation as the survey did not include states that have larger drycleaner facility populations. The bottom line is that this proposed ban will cause a short term (3 year) need to replace a large number of PCE drycleaning machines amongst a small business community and assistance will be needed.

For the more extended phase out of PCE for the remaining generations of drycleaning machines, NSC recommends that the proposed 10-year phase out be extended to 15 years. Out of the four states surveyed on machine generations, three were able to provide information on the age of drycleaning machines. This survey indicated that 74% of operating drycleaning machines in those states were older than 15 years, with a fewer older than 25 years. EPA’s estimate of a 10-year lifespan for PCE drycleaning machines is unrealistically short; most appear to be kept in service for 15-25 years. EPA’s supporting documentation for this proposal notes that approximately 6,000 facilities are still using PCE drycleaning machines today. Based on that information, 15 years seems a more reasonable phase out period.

It should also be noted that facilities with newer PCE drycleaning machines already have the most up-to-date controls, lowest emission rates, and follow stringent NESHAP requirements for operations and maintenance. These later generation drycleaning machines represent a significant investment of funds for any small business. There is also the issue that there is no United States-based manufacturer of drycleaning machines

and they are all imported, usually from Europe. Supply chain issues will be a major concern during the phase out period and allowing a longer phase out would help alleviate this issue to some degree.

The drycleaning industry sector was already severely impacted by the pandemic and is still in a state of financial recovery. Extending phase out times for both drycleaners and other industries that use PCE will help with the eventual shift to different solvents while lessening the impact on the businesses, especially those that are small.

Finally, there is reference in the press release for this rule that “President Biden’s Fiscal Year 2024 budget request proposed funding for new pollution prevention grants that would support small businesses with transitioning to TSCA compliant practices and mitigate economic impacts. If implemented, these grants could be used to support small businesses like drycleaners in their transition away from PCE.” First, we certainly think that a P2 grant program should be created specifically targeted at small businesses to ease financial burdens and help transitions to alternative technologies or safer chemicals, so please strongly consider a follow-up to this proposed funding idea. Next, for any new pollution prevention grant funding, the NSC urges EPA to target the grant funding to utilize the national network of SBEAPs to provide outreach, education, and technical assistance to assist the drycleaning industry and not fund the creation of a new infrastructure of technical assistance providers unfamiliar with the industry.

The national network of SBO/SBEAPs has worked hand-in-hand with the drycleaning sector, primarily comprised of small businesses, since the 1990’s and the first NESHAPs. The national network of SBO/SBEAPs has well established industry connections and is already highly knowledgeable on existing alternative drycleaning technologies and the financial and technical challenges to switching away from PCE. These challenges are not insurmountable, but absolutely require education and technical assistance to help business owners learn how to purchase and operate new machines and seek effective alternative spotting agents.

Thank you for your consideration of these comments and please do not hesitate to reach out if you have questions or would like additional information.

Sincerely,

Donovan Grimwood, Chair, National Steering Committee

Christopher Lynch, Vice Chair of the National Steering Committee

CC: David Rostker, U.S. Small Business Administration, Office of Advocacy
Rhonda Wright, U.S. EPA, Office of Air Quality Planning and Standards
Paula Hoag, U.S. EPA, Office of Small and Disadvantaged Business Utilization