

SUBCHAPTER A: GENERAL PROVISIONS

§§337.1 - 337.4

Effective June 26, 2008

§337.1. Purposes.

The purposes of this chapter are to:

- (1) regulate and remediate certain dry cleaning facilities as prescribed by Texas Health and Safety Code, Chapter 374;
- (2) establish minimum standards and procedures to reasonably protect and maintain the quality of the state's groundwater and surface water resources from contamination that could result from any release from a dry cleaning facility;
- (3) provide for the use of risk-based corrective action; and
- (4) provide for the protection of human health and safety and the environment of the state.

Adopted May 11, 2005

Effective June 1, 2005

§337.2. Applicability.

- (a) This chapter applies to all dry cleaning facilities, dry cleaning drop stations, and distributors.
- (b) This chapter and Texas Health and Safety Code, Chapter 374 do not apply to the following types or categories of businesses:
 - (1) hotels, motels, and similar establishments that meet the definition of a "hotel" in Texas Tax Code, §156.001, unless the business is also a dry cleaning facility or a dry cleaning drop station that accepts garments or other fabrics from retail customers;
 - (2) formal wear and costume rental businesses, including tuxedo and bridal wear rental, as included in the North American Industry Classification System (NAICS) title "Formal Wear and Costume Rental," code 532220, unless the business is also a dry cleaning facility or a dry cleaning drop station that accepts garments or other fabrics from retail customers;
 - (3) linen supply establishments and industrial launderers, including uniform supply, as included in the NAICS titles "Linen Supply," code 812331, and "Industrial Launderers," code 812332, unless the business is also a dry cleaning facility or a dry cleaning drop station that accepts garments or other fabrics from retail customers;
 - (4) businesses that clean uniforms provided by the business for the sole use of the employees of the business using equipment located on the premises of the business, unless the business is

also a dry cleaning facility or dry cleaning drop station that accepts garments or other fabrics from retail customers;

(5) mobile dry cleaning drop stations, meaning any vehicle that is used, in whole or in part, to operate or provide a route service or pickup and delivery service between a retail customer and a dry cleaning facility or dry cleaning drop station;

(6) transporting agents or services that haul garments between dry cleaning facilities and dry cleaning drop stations and that do not operate, in whole or in part, to provide a route service or pickup and delivery service between a retail customer and a dry cleaning facility or dry cleaning drop station; and

(7) governmental bodies as set forth in Texas Health and Safety Code, §374.003.

(c) For the purposes of this chapter, the terms “dry cleaning facility” and “dry cleaning drop station” do not include the types or categories of businesses set forth in subsection (b) of this section.

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§337.3. Definitions.

Definitions set forth in Texas Health and Safety Code, Chapter 374 and §3.2 of this title (relating to Definitions) that are not specifically included in this section also apply. The following words and terms, when used in this chapter, have the following meanings.

(1) **Application for ranking**--The form approved by the executive director for an applicant to provide information pertaining to a dry cleaning facility and which is used, in part, for the prioritization of sites for corrective action.

(2) **Distributor**--A person that:

(A) maintains or uses, permanently or temporarily, directly or indirectly, or through an agent, by whatever name called, an office, place of distribution, sales or sample room, warehouse or storage place, or other place of business that is used, in whole or part, for selling, distributing, or delivering dry cleaning solvent;

(B) has any representative, agent, salesperson, canvasser, or solicitor who operates in Texas under the authority of the distributor to sell, deliver, or take orders for dry cleaning solvent;

(C) uses independent contractors in direct sales, distribution, or delivery of dry cleaning solvent in Texas;

(D) allows a franchisee or licensee to operate under its trade name if the franchisee or licensee is required to collect Texas fees on dry cleaning solvent;

(E) conducts business in Texas through employees, agents, or independent contractors for the purpose of selling, distributing, or delivering dry cleaning solvent; or

(F) otherwise distributes dry cleaning solvent to dry cleaning facilities or dry cleaning drop stations doing business in Texas.

(3) **Dry cleaning machine**--The equipment used for the purpose of cleaning garments or other fabrics using a process that involves any use of dry cleaning solvents; a dry cleaning unit.

(4) **Dry cleaning waste**--The waste, including dry cleaning wastewater, that is generated at a dry cleaning facility and that contains dry cleaning solvents.

(5) **Dry cleaning wastewater**--The separator water and all other water that is generated during the dry cleaning process and that contains dry cleaning solvents.

(6) **Empty**--The status of a dry cleaning machine in which all solvents have been removed as completely as possible by the use of commonly employed and accepted industry procedures.

(7) **Gross annual receipts**--The sum of all payments or compensation, including payments or compensation from laundry and other revenue generating activities, received by a dry cleaning facility or drop station, less any returns, discounts, or allowances. The calculation of gross annual receipts must not be reduced for cost of goods sold, general and administrative expenses, depreciation and amortization, or other operating expenses. Gross annual receipts do not include any taxes imposed on the services provided by any municipality, state, or other governmental unit and collected by the dry cleaning facility or drop station for such governmental unit.

(8) **In service**--The status of a dry cleaning machine that it is being used for cleaning garments or other fabrics with a process that involves any use of dry cleaning solvents.

(9) **Nonparticipating non-perchloroethylene user registration certificate**--A registration certificate issued by the executive director to a facility designated as a nonparticipating facility in accordance with Texas Health and Safety Code, §374.104.

(10) **Operating dry cleaning drop station**--A dry cleaning drop station that has accepted clothes for dry cleaning anytime during the state fiscal year.

(11) **Operating dry cleaning facility**--A dry cleaning facility in which there is at least one operating dry cleaning machine in service anytime during the state fiscal year.

(12) **Participating non-perchloroethylene user registration certificate**--A registration certificate issued by the executive director to an owner designated as a nonuser of perchloroethylene in accordance with Texas Health and Safety Code, §374.103(b)(1) as that subsection existed from September 1, 2003, until August 31, 2005.

(13) **Permanently removed from service**--The status of a dry cleaning machine when its use is terminated by removal from the dry cleaning facility in accordance with this chapter.

(14) **Preceding Property Owner**--a preceding owner of real property as described in Texas Health and Safety Code, §374.1022(a)(2).

(15) **Property Owner**--an owner of real property as described in Texas Health and Safety Code, §374.1022(a)(1).

(16) **Secondary containment**--A containment method by which a continuous barrier is installed around and under the primary storage vessel (e.g., tank or piping) in a manner designed to prevent a release from migrating beyond the secondary barrier.

(17) **Temporarily removed from service**--The status of a dry cleaning machine that is not being used for cleaning garments or other fabrics for a time period not to exceed one year and that has not been permanently removed from service.

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§337.4. General Prohibitions and Requirements.

(a) New dry cleaning facilities must meet the performance standards in §337.20 of this title (relating to Performance Standards).

(b) A distributor is prohibited from selling, delivering, or otherwise distributing any dry cleaning solvent to a dry cleaning facility unless the dry cleaning facility has a valid, current registration certificate issued by the executive director pursuant to §337.11 of this title (relating to Dry Cleaner Registration Certificates). Prior to sale, delivery, or other distribution of the dry cleaning solvent, the distributor must obtain and record the registration number and registration expiration date of the dry cleaning facility's registration certificate.

(c) A distributor shall not sell, deliver, or otherwise distribute the dry cleaning solvent perchloroethylene to a dry cleaning facility with a nonparticipating non-perchloroethylene user registration certificate or a participating non-perchloroethylene user registration certificate.

(d) A person is prohibited from purchasing dry cleaning solvent from a distributor that does not have a valid, current distributor registration certificate issued by the executive director.

(e) A distributor is prohibited from selling or otherwise distributing dry cleaning solvent to a dry cleaning facility unless the distributor has a valid, current distributor registration certificate issued by the executive director.

(f) A person is prohibited from purchasing the dry cleaning solvent perchloroethylene for a dry cleaning facility with a nonparticipating non-perchloroethylene user registration certificate or a participating non-perchloroethylene user registration certificate.

(g) A distributor is prohibited from selling, delivering, or otherwise distributing any dry cleaning solvent to a dry cleaning drop station.

(h) A person is prohibited from purchasing or otherwise obtaining any dry cleaning solvent for a dry cleaning facility unless the dry cleaning facility has a valid, current registration certificate issued by the executive director pursuant to §337.11 of this title.

(i) A person is prohibited from purchasing or otherwise obtaining any dry cleaning solvent for a dry cleaning drop station.

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