

SUBCHAPTER B: REGISTRATION, CERTIFICATES, AND FEES

§§337.10 - 337.18

Effective June 26, 2008

§337.10. Registration for Dry Cleaning Facilities and Drop Stations.

(a) Registration.

(1) All operating dry cleaning facilities and dry cleaning drop stations must be registered with the agency in accordance with this section.

(2) Any person that owns a new dry cleaning facility or dry cleaning drop station that is placed into service after September 1, 2003, shall register the dry cleaning facility or dry cleaning drop station with the agency in accordance with subsection (c) of this section and receive a registration certificate before operations begin.

(3) The owner of a dry cleaning facility or dry cleaning drop station is responsible for compliance with the registration requirements of this section. An owner may designate a legally authorized representative to complete and submit the required registration information. However, the owner remains responsible for compliance with the provisions of this section by such representative.

(4) All dry cleaning facilities and dry cleaning drop stations are subject to the fee and payment requirements of §337.14 and §337.15 of this title (relating to Registration Fees; and Solvent Fees, respectively). The failure by an owner to properly or timely register any dry cleaning facility or dry cleaning drop station does not exempt the owner from such fee and payment requirements.

(b) Changes or additional information.

(1) The owner of a dry cleaning facility or dry cleaning drop station shall provide written notice to the executive director of any changes or additional information concerning such facilities. Types of changes or additional information subject to this requirement include the following:

(A) change in owner or change in owner information (e.g., legally authorized representative, mailing address, or telephone number);

(B) change in dry cleaning facility or dry cleaning drop station information (e.g., establishment name, legally authorized representative, establishment address, or telephone number);

(C) change in the operational status of any dry cleaning unit (e.g., in service, temporarily out of service, removed from service);

(D) change in the type of cleaning solvents used;

(E) installation of additional dry cleaning units or ancillary equipment at an existing facility;

(F) addition of, or a change in the type of, secondary containment (for dry cleaning units or storage areas) and/or ancillary equipment;

(G) addition of, or a change in the type of, closed direct-coupled delivery system for the dry cleaning unit; and

(H) change in the location of records for the dry cleaning facility or dry cleaning drop station.

(2) Notice of any change or additional information must be submitted on the appropriate agency form that has been completed in accordance with this section. The agency's registration numbers for the dry cleaning facility/drop station must be included in the appropriate spaces on the form.

(3) Notice of any change or additional information must be submitted to the executive director within 30 days from the date of the occurrence of the change or addition.

(c) Required form for providing dry cleaning facility or dry cleaning drop station registration information.

(1) Dry cleaning facility owners and dry cleaning drop station owners shall provide the required information on the current agency registration form.

(2) The dry cleaning facility owner or dry cleaning drop station owner is responsible for ensuring that the registration form is fully complete and accurate. The form must be dated and signed by the owner or a legally authorized representative of the owner, and must be submitted to the agency in accordance with the time frames established in this chapter.

(3) Dry cleaning facility or dry cleaning drop station owners shall complete and submit a separate registration form for each facility or drop station.

(4) If additional information, drawings, or other documents are submitted with new or revised registration data, specific facility identification information (including the facility registration number) must be conspicuously indicated on each document, and all such documents must be attached to and submitted with the form.

(5) When any of the required dry cleaning facility or dry cleaning drop station registration information submitted to the executive director is determined to be incomplete or inaccurate (including illegible or unclear information), the executive director may require the owner to submit additional information. An owner shall submit any such required additional information within 30 days of receipt of such request.

Adopted May 11, 2005

Effective June 1, 2005

§337.11. Dry Cleaner Registration Certificates.

(a) Before the executive director evaluates a registration to determine if a registration certificate should be issued, each registration must be administratively complete. A registration is not administratively complete if:

(1) the registration form has not been completed and submitted to the agency in accordance with this chapter;

(2) the registration form does not contain all requested information with clear, legible, and true responses;

(3) all fees, penalties, and interest owed to the agency have not been paid; or

(4) the comptroller reports to the executive director that the owner is not in good standing with the state or that the owner's application information does not agree with the comptroller's information. However, if the comptroller does not respond to the agency's request for verification within three business days in accordance with Texas Health and Safety Code, §374.102(f), the executive director shall not be prohibited from determining that the registration is administratively complete.

(b) Upon the executive director's determination that a submitted registration is administratively complete, a registration certificate will be issued for the dry cleaning facility or dry cleaning drop station, as applicable, as long as the executive director has no reason to deny the registration certificate under this section. This certificate is necessary to receive the delivery of dry cleaning solvents under §337.4(b) of this title (relating to General Prohibitions and Requirements).

(c) The agency's issuance of a registration certificate for a dry cleaning facility or dry cleaning drop station does not constitute agency certification or affirmation of the compliance status of the location in question with this chapter, the Texas Water Code, or the Texas Health and Safety Code; and this issuance does not preclude the agency from investigating these locations and pursuing enforcement actions when apparent violations are discovered.

(d) Certificate availability.

(1) The owner of a dry cleaning facility or dry cleaning drop station shall make available to a person delivering dry cleaning solvent a valid, current agency registration certificate for that establishment before the delivery of dry cleaning solvent can be made or accepted.

(2) The owner of the dry cleaning facility or drop station shall immediately display, upon request by agency staff, a valid, current agency registration certificate for that establishment.

(3) The dry cleaning facility or dry cleaning drop station owner shall ensure that a valid, current agency registration certificate is displayed at a facility or drop station. The original registration certificate must be posted in a public area where the document is clearly visible.

(4) In the event of the sale of a dry cleaning facility or a dry cleaning drop station, the previous owner's valid, current certificate may be used to purchase dry cleaning solvent for 30 days after the effective date of sale.

(e) Annual registration certificate renewal.

(1) The initial registration certificate issued for a dry cleaning facility or dry cleaning drop station will be valid until the expiration date indicated on that certificate. It is the responsibility of the owner to ensure that an application for renewal of that certificate is properly and timely submitted to the agency.

(2) A registration certificate is renewed by timely and proper submission of a new registration form to the agency. The agency will not issue a new registration certificate for registration forms that are determined by the executive director to be incomplete or inaccurate.

(3) A new registration form must be completed by the owner of a dry cleaning facility or dry cleaning drop station and submitted to the agency by August 1st of each year.

(f) Revocation or denial of a certificate by the executive director.

(1) The executive director may revoke or deny issuance of a certificate:

(A) if the certificate was acquired by fraud, misrepresentation, or knowing failure to disclose material information;

(B) if the owner of a dry cleaning facility or dry cleaning drop station is in violation of any of the requirements of this chapter or Texas Health and Safety Code, Chapter 374; or

(C) for any reason the executive director determines to be good cause for denial or revocation.

(2) Prior to revocation or denial of a certificate pursuant to this subsection, the executive director shall provide notice to the owner of the dry cleaning facility or dry cleaning drop station of the facts alleged to warrant revocation or denial. The notice must be in writing and sent via certified mail, return receipt requested. If the certified mail is returned to the executive director as unclaimed, notice is presumed to be received by the owner five days after mailing when:

(A) the notice was sent to the address indicated on the owner's most current registration; and

(B) the notice was sent simultaneously via first class mail, postage paid.

(3) The owner shall have 30 days after receipt of notice to demonstrate to the executive director whether or not compliance has been maintained with all requirements of law for the retention of the certificate. The executive director shall make a determination whether to revoke or deny the certificate and shall provide such determination in writing to the owner.

(4) The owner may appeal for commission review of the executive director's determination to revoke or deny a certificate pursuant to this subsection. An appeal must be in writing and filed by United States mail, facsimile, or hand delivery with the commission's Office of the Chief Clerk no later than 23 days after the date the agency mails notice of the executive director's determination to

revoke or deny a certificate. The original and 11 copies of the appeal must be filed. If the appeal is filed by facsimile, the owner must file with the Office of the Chief Clerk the original and 11 copies by mail or hand delivery within three days. If an appeal meeting the requirements of this subsection is not filed within the time period specified, the executive director's determination is final.

(A) In addition to filing the appeal with the Office of the Chief Clerk, the owner shall mail or deliver a copy of the appeal to:

- (i) the executive director; and
- (ii) the Office of the Public Interest Counsel.

(B) An appeal filed under this subsection must:

- (i) provide a copy of the owner's registration information;
- (ii) specify the executive director determination for which commission review is being sought;
- (iii) request commission consideration of the executive director determination; and
- (iv) explain the basis for the appeal.

(C) A proceeding based upon an appeal filed under this subsection is not a contested case for purposes of Texas Government Code, Chapter 2001.

(g) In addition to subsection (f) of this section, the executive director may seek to revoke a certificate by filing a petition in accordance with the procedures set forth in Chapter 70 of this title (relating to Enforcement) if the executive director determines that any of the reasons in subsection (f)(1) of this section exist.

(h) Revocation of a certificate under subsection (f) or (g) of this section is cumulative of any other remedies available to the agency by law.

Adopted June 4, 2008

Effective June 26, 2008

§337.12. Registration for Distributors.

(a) Registration.

(1) Any distributor as defined in §337.3 of this title (relating to Definitions) in operation on or after September 1, 2003, shall register with the agency in accordance with this section.

(2) The distributor is responsible for compliance with the registration requirements of this section. A distributor may designate a legally authorized representative to complete and submit the

required registration information. However, the distributor remains responsible for compliance with the provisions of this section by such representative.

(b) Changes or additional information.

(1) The distributor shall provide written notice to the executive director of any changes or additional information to the registration information. Types of changes or additional information subject to this requirement include change in owner, change in owner information (e.g., mailing address, contact person, and telephone number), or change in the location of records.

(2) Notice of any change or additional information must be submitted on the appropriate agency form, which has been completed in accordance with this section. The distributor's registration number must be included in the appropriate space on the form.

(3) Notice of any change or additional information must be submitted to the agency within 30 days from the date of the occurrence of the change or addition.

(c) Required form for providing distributor registration information.

(1) A distributor submitting registration information to the executive director shall provide the required information on the current agency dry cleaning solvent distributor report form.

(2) The distributor is responsible for ensuring that the dry cleaning solvent distributor report form is fully complete and accurate. The form must be dated and signed by the owner or a legally authorized representative of the owner, and must be submitted to the executive director prior to commencing operations or as set forth in subsection (a)(1) of this section.

(3) Distributors that maintain or use more than one place of business shall complete and submit a separate form for each place of business.

(4) When any of the required distributor registration information submitted to the executive director is determined to be incomplete or inaccurate (including illegible or unclear information), the executive director may require the distributor to submit additional information. A distributor shall submit any such required additional information within 30 days of receipt of such request.

Adopted May 11, 2005

Effective June 1, 2005

§337.13. Distributor Registration Certificate.

(a) Completion of the dry cleaning solvent distributor report form. Upon the executive director's determination that a submitted dry cleaning solvent distributor report form has been completed in accordance with this chapter and that all fees, penalties, and interest owed to the agency have been paid, a distributor registration certificate will be issued for the place of business covered by that registration. This certificate is necessary for the delivery of dry cleaning solvent under §337.4 of this title (relating to General Prohibitions and Requirements).

(b) Incomplete or inaccurate dry cleaning solvent distributor report form or nonpayment. The executive director will not issue a distributor registration certificate for dry cleaning solvent distributor report forms determined by the executive director to be incomplete or inaccurate (including illegible or unclear information) or if any fees, penalties, or interest are owed to the agency. In order for a form to be complete, the form must contain all requested information with clear, legible, and true responses.

(c) Issuance of a registration certificate. The executive director's issuance of a registration certificate for a distributor does not constitute agency certification or affirmation of the compliance status of a location with this chapter, the Texas Water Code, or the Texas Health and Safety Code; or preclude the agency from investigating a location and pursuing enforcement action when apparent violations are discovered.

(d) Registration certificate availability.

(1) Prior to delivery of any dry cleaning solvent, a distributor shall make available to a person purchasing dry cleaning solvent a valid, current agency distributor registration certificate, or a legible copy of the certificate.

(2) A distributor shall immediately display, upon request by agency staff, a valid, current agency registration certificate for a place of business.

(3) A distributor shall display the original agency registration certificate at the place of business. The original registration certificate must be posted in a public area where the certificate is clearly visible.

(e) Revocation or denial of certificate by the executive director.

(1) The executive director may revoke or deny issuance of a certificate:

(A) if the certificate was acquired by fraud, misrepresentation, or knowing failure to disclose material information;

(B) if the distributor is in violation of any of the requirements of this chapter or Texas Health and Safety Code, Chapter 374, including late remittance of solvent fees and non-remittance of solvent fees; or

(C) for any reason the executive director determines to be good cause for denial or revocation.

(2) Prior to the revocation or denial of a certificate in accordance with this subsection, the executive director shall provide notice to the distributor of the facts alleged to warrant revocation or denial. The notice must be in writing and sent via certified mail, return receipt requested. If the certified mail is returned to the executive director as unclaimed, notice is presumed to be received by the distributor five days after mailing when:

(A) the notice was sent to the address indicated on the distributor's most current registration; and

(B) the notice was sent simultaneously via first class mail, postage paid.

(3) The distributor shall have 30 days after receipt of notice to demonstrate to the executive director whether or not compliance has been maintained with all requirements of law for the retention of the certificate. The executive director shall make a determination whether to revoke or deny the certificate and shall provide such determination in writing to the distributor.

(4) The distributor may appeal for commission review of the executive director's determination to revoke or deny a certificate pursuant to this subsection. An appeal must be in writing and filed by United States mail, facsimile, or hand delivery with the commission's Office of the Chief Clerk no later than 23 days after the date the agency mails notice of the executive director's determination to revoke or deny a certificate. The original and 11 copies of the appeal must be filed. If the appeal is filed by facsimile, the distributor must file with the Office of the Chief Clerk the original and 11 copies by mail or hand delivery within three days. If an appeal meeting the requirements of this subsection is not filed within the time period specified, the executive director's determination is final.

(A) In addition to filing the appeal with the Office of the Chief Clerk, the distributor shall mail or deliver a copy of the appeal to:

(i) the executive director; and

(ii) the Office of the Public Interest Counsel.

(B) An appeal filed under this subsection must:

(i) provide a copy of the distributor's registration information;

(ii) specify the executive director determination for which commission review is being sought;

(iii) request commission consideration of the executive director determination; and

(iv) explain the basis for the appeal.

(C) A proceeding based upon an appeal filed under this subsection is not a contested case for purposes of Texas Government Code, Chapter 2001.

(f) In addition to subsection (e) of this section, the executive director may seek to revoke a certificate by filing a petition in accordance with the procedures set forth in Chapter 70 of this title (relating to Enforcement) if the executive director determines that any of the reasons in subsection (e)(1) of this section exist.

(g) Revocation of a certificate under subsection (e) or (f) of this section is cumulative of any other remedies available to the agency by law.

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§337.14. Registration Fees for Dry Cleaning Facilities and Drop Stations.

(a) Except for registration fees payable for operations conducted before September 1, 2005, each owner of an operating dry cleaning facility or dry cleaning drop station shall pay the registration fees set forth in Texas Health and Safety Code, §374.102. The owner of the dry cleaning facility or dry cleaning drop station on or after September 1 of each state fiscal year is responsible for the registration fees owed for the state fiscal year beginning on September 1. However, if a person acquires a dry cleaning facility or dry cleaning drop station that does not have a current registration certificate, the facility or drop station would have to be registered and the fee paid before a current registration certificate would be issued.

(b) Registration fees payable for operation of a facility or drop station before September 1, 2005, will be assessed and payable at the rates in effect before September 1, 2005.

(c) The annual registration fee may be divided into quarterly payments and billed on dates established by the executive director. Payment in full is due within 30 days of the agency invoice date. The fees must be paid by check, certified check, money order, or electronic funds transfer made payable to the "Texas Commission on Environmental Quality."

(d) The registration certificate will not be issued until registration fees, penalties, and interest assessed are paid in full.

(e) Owners that fail to pay registration fees when due shall pay penalties and interest in accordance with Chapter 12 of this title (relating to Payment of Fees).

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§337.15. Solvent Fees.

(a) Except as provided in subsection (b) of this section, an owner of a dry cleaning facility shall pay to the distributor the fees for the purchase of dry cleaning solvents, including reclaimed or recycled solvents, as set forth in Texas Health and Safety Code, §374.103.

(b) The following are exempt from the fees required in subsection (a) of this section:

(1) a nonparticipating facility or drop station as designated in accordance with Texas Health and Safety Code, §374.104, for which the owner has submitted the appropriate affidavit to the executive director and received a nonparticipating non-perchloroethylene user registration certificate; and

(2) an owner to whom the executive director has issued a participating non-perchloroethylene user registration certificate.

(c) The person that distributes the dry cleaning solvent shall collect the fee when the dry cleaning solvent is sold and remit the fee to the agency as required by this section. Solvent is considered sold when it is paid for in full or when delivered or otherwise distributed to the dry cleaning facility, whichever occurs first. A distributor is required to remit solvent fees due to the agency for any solvent that is considered sold, regardless of whether or when the distributor collected the fee from the dry cleaning facility to which the solvent was delivered or otherwise distributed.

(1) On or before the due dates, the distributor shall submit a report to the executive director, on a form approved by the executive director, and remit the amount of fees required to be collected for the associated reporting period less any amount the distributor is entitled to withhold under the provisions of Texas Health and Safety Code, §374.103(a)(1). The report must set forth each sale of dry cleaning solvent with the associated facility registration numbers, name, address, solvent types and amounts, and dates of delivery. The report also must set forth the total amount of fees collected by the distributor for the period, the amount withheld by the distributor under the provisions of Texas Health and Safety Code, §374.103(a)(1), if any, and the total amount to be remitted to the commission. The following are the due dates and associated reporting periods.

(A) The report and payment for the period of September 1 - November 30 must be received by the agency by December 20.

(B) The report and payment for the period of December 1 - February 28/29 must be received by the agency by March 20.

(C) The report and payment for the period of March 1 - May 31 must be received by the agency by June 20.

(D) The report and payment for the period of June 1 - August 31 must be received by the agency by September 20.

(2) Upon receipt of payment for the solvent or delivery or other distribution to the dry cleaning facility, whichever occurs first, the distributor shall obtain and record the registration number and registration expiration date of the facility to which the solvent is sold, delivered, or otherwise distributed.

(3) The distributor shall retain the invoice or a copy of the invoice or other appropriate record of the sale of the solvent for five years from the date of sale.

(4) For the amount of the fee due, the distributor shall:

(A) separately state the amount on the invoice, bill, or contract to the customer and identify it as the Texas solvent fee;

(B) in the case of a fraction of a gallon, compute the fee by multiplying the fraction by the amount of the fee imposed on a whole gallon;

(C) not include the fee in, or add the fee to, the solvent price for the purpose of calculating the amount of sales tax due, if any; and

(D) not explicitly or implicitly absorb, assume, or refund the fee.

(5) Solvent fees collected by the distributor are held in trust for the agency, are not the property of the distributor, and are not to be used by the distributor for any other purpose. Any amount due to the distributor under the provisions of Texas Health and Safety Code, §374.103(a)(1), does not become property of the distributor until the date on which the distributor remits the remaining amount to the commission.

(6) At any time, the executive director may request in writing that the distributor remit the amount of fees required to be collected up to a date certain as determined by the executive director. The distributor shall remit such amount to the agency within ten days of receiving the executive director's request.

(7) The distributor must pay the fees by check, certified check, money order, or electronic funds transfer made payable to the "Texas Commission on Environmental Quality."

(8) Late payment and returned checks.

(A) Distributors that fail to pay quarterly solvent fees when due shall forfeit any right or claim to withhold a portion of fees collected for administrative expenses as provided in Texas Health and Safety Code, §374.103(a)(1), and shall pay penalties and interest in accordance with Chapter 12 of this title (relating to Payment of Fees).

(B) In addition to penalties, interest, and other amounts that may apply, if the distributor does not remit any of the required amount by the due date or a distributor's check is returned for insufficient funds, the executive director may require the distributor to remit collected fees on a different basis and time frame than set forth in this subsection.

Adopted January 11, 2006

Effective February 1, 2006

§337.16. Registration by Property Owner or Preceding Property Owner.

(a) Registration.

(1) To be eligible to participate in Dry Cleaning Facility Release Fund benefits, a property owner or preceding property owner must register with the agency in accordance with this section.

(2) Prior to applying for corrective action at a site under the Dry Cleaning Facility Release Fund, a property owner or preceding property owner must register the site in accordance with subsection (c) of this section and hold a registration certificate in accordance with §337.17 of this title (relating to Property Owner or Preceding Property Owner Registration Certificate).

(3) Registration under this section is due by December 31, 2007. In order to register a site after December 31, 2007, a property owner or preceding property owner must first pay all past annual registration fees and any late fees due pursuant to Texas Health and Safety Code, §374.1022(c).

(4) A property owner or preceding property owner who registers a site under this section is responsible for compliance with the registration requirements of this section. A property owner or preceding property owner may designate a legally authorized representative to complete and submit the required registration information. However, the property owner or preceding property owner remains responsible for compliance with the provisions of this section by such representative.

(5) All sites registered under this section are subject to the fee and payment requirements of §337.18 of this title (relating to Registration Fees for Property Owners and Preceding Property Owners).

(b) Changes or additional information.

(1) Once a site is registered under this section, the property owner or preceding property owner shall provide written notice to the executive director of any changes or additional information concerning the site. Types of changes or additional information subject to this requirement include the following:

(A) change in owner or change in owner information (e.g. legally authorized representative, mailing address, or telephone number);

(B) change in site information (e.g. address or telephone number); and

(C) change in location of records for the site.

(2) Notice of any change or additional information must be submitted on the appropriate agency form that has been completed in accordance with this section. The agency's registration numbers for the site must be included in the appropriate spaces on the form.

(3) Notice of any change or additional information must be submitted to the agency within 30 days from the date of the occurrence of the change or addition.

(c) Required form for providing site registration information.

(1) A property owner or preceding property owner submitting registration information to the executive director shall provide the required information on the current agency registration form.

(2) The property owner or preceding property owner is responsible for ensuring that the registration form is fully complete and accurate. The form must be dated and signed by the property owner or preceding property owner or a legally authorized representative, and must be submitted to the executive director prior to applying for corrective action under the Dry Cleaning Facility Release Fund.

(3) The property owner or preceding property owner shall complete and submit a separate registration form for each site.

(4) If additional information, drawings, or other documents are submitted with new or revised registration data, specific site identification information (including the site registration number) must be conspicuously indicated on each document, and all such documents must be attached to and submitted with the form.

(5) When any of the required registration information submitted to the executive director is determined to be incomplete or inaccurate (including illegible or unclear information), the executive director may require the property owner or preceding property owner to submit additional information. A property owner or preceding property owner shall submit any required additional information within 30 days of receipt of such request.

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Effective June 26, 2008

§337.17. Property Owner or Preceding Property Owner Registration Certificate.

(a) Before the executive director evaluates a registration to determine if a registration certificate should be issued, each registration must be administratively complete. A registration is not administratively complete if:

(1) the registration form has not been completed and submitted to the agency in accordance with this chapter;

(2) the registration form does not contain all requested information with clear, legible, and true responses; or

(3) all fees, penalties, and interest owed to the agency have not been paid.

(b) Upon the executive director's determination that a submitted registration is administratively complete, a registration certificate will be issued to the property owner or preceding property owner, as applicable, for the site covered by the registration form, as long as the executive director has no reason to deny the registration certificate under this section. This certificate is necessary for a property owner or preceding property owner to apply for corrective action under the Dry Cleaning Facility Release Fund.

(c) A property owner or preceding property owner shall immediately display, upon request by agency staff, a valid agency registration certificate for a property.

(d) Revocation or denial of certificate by the executive director.

(1) The executive director may revoke or deny issuance of a certificate:

(A) if the certificate was acquired by fraud, misrepresentation, or knowing failure to disclose material information;

(B) if the property owner or preceding property owner is in violation of any of the requirements of this chapter or Texas Health and Safety Code, Chapter 374, including late remittance and non-remittance of fees; or

(C) for any reason the executive director determines to be good cause for denial or revocation.

(2) Prior to the revocation or denial of a certificate pursuant to this subsection, the executive director shall provide notice to the property owner or preceding property owner of the facts alleged to warrant revocation or denial. The notice must be in writing and sent via certified mail, return receipt requested. If the certified mail is returned to the executive director as unclaimed, notice is presumed to be received by the property owner or preceding property owner five days after mailing when:

(A) the notice was sent to the address indicated on the property owner or preceding property owner's most current registration; and

(B) the notice was sent simultaneously via first class mail, postage paid.

(3) The property owner or preceding property owner shall have 30 days after receipt of notice to demonstrate to the executive director whether or not compliance has been maintained with all requirements of law for the retention of the certificate. The executive director shall make a determination whether to revoke or deny the certificate and shall provide such determination in writing to the property owner or preceding property owner.

(4) The property owner or preceding property owner may appeal for commission review of the executive director's determination to revoke or deny a certificate pursuant to this subsection. An appeal must be in writing and filed by United States mail, facsimile, or hand delivery with the commission's Office of the Chief Clerk no later than 23 days after the date the agency mails notice of the executive director's determination to revoke or deny a certificate. The original and 11 copies of the appeal must be filed. If the appeal is filed by facsimile, the property owner or preceding property owner must file with the Office of the Chief Clerk the original and 11 copies by mail or hand delivery within three days. If an appeal meeting the requirements of this subsection is not filed within the time period specified, the executive director's determination is final.

(A) In addition to filing the appeal with the Office of the Chief Clerk, the property owner or preceding property owner shall mail or deliver a copy of the appeal to:

(i) the executive director; and

(ii) the Office of the Public Interest Counsel.

(B) The appeal filed under this subsection must:

(i) include a copy of the property owner or preceding property owner's registration information;

(ii) specify the executive director determination for which commission review is being sought;

(iii) request commission consideration of the executive director determination; and

(iv) explain the basis for the appeal.

(C) A proceeding based upon an appeal filed under this subsection is not a contested case for purposes of Texas Government Code, Chapter 2001.

(e) In addition to subsection (d) of this section, the executive director may seek to revoke a certificate by filing a petition in accordance with the procedures set forth in Chapter 70 of this title (relating to Enforcement) if the executive director determines that any of the reasons in subsection (d)(1) of this section exist.

(f) Revocation of a certificate under subsection (d) or (e) of this section is cumulative of any other remedies available to the agency by law.

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§337.18. Registration Fees for Property Owners and Preceding Property Owners.

(a) A property owner or preceding property owner who registers a site pursuant to §337.16 of this title (relating to Registration by Property Owner or Preceding Property Owner) shall pay the annual registration fee and any applicable past annual registration fees and late fees set forth in Texas Health and Safety Code (THSC), §374.1022 for each registered site.

(b) The annual registration fee may be divided into quarterly payments and billed on dates established by the executive director. A property owner or preceding property owner who registers a site pursuant to §337.16 of this title on or after the first day of a billing quarter is responsible for the registration fee due for the entire billing quarter.

(c) Past annual registration fees and late fees must be paid in full at the time of registration and may not be divided into quarterly payments.

(d) Payment in full is due within 30 days of the agency invoice date. The fees must be paid by check, certified check, money order, or electronic funds transfer made payable to the "Texas Commission on Environmental Quality."

(e) The registration certificate will not be issued until all registration fees and any late fees due pursuant to THSC, §374.1022, in addition to any penalties and interest assessed, are paid in full.

(f) Property owners or preceding property owners who fail to pay registration fees when due shall pay penalties and interest in accordance with Chapter 12 of this title (relating to Payment of Fees).

(g) A property owner or preceding property owner who has registered a site pursuant to §337.16 of this title must continue to pay annual registration fees in accordance with THSC, §374.1022 for the duration of corrective action at the site under the Dry Cleaning Facility Release Fund.

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