

SUBCHAPTER C: PERFORMANCE STANDARDS AND WASTE REMOVAL
§§337.20 - 337.22
Effective February 1, 2006

§337.20. Performance Standards.

(a) Applicability. Unless otherwise specifically stated, these performance standards apply to all dry cleaning facilities, including those that have a nonparticipating non-perchloroethylene user certificate.

(b) Compliance deadlines.

(1) Unless otherwise specifically stated in this section, owners of all operating dry cleaning facilities must comply with this section by the deadlines set forth in Texas Health and Safety Code, §374.052(a) and House Bill 1366 (Chapter 540, §3(b)), 78th Legislature, May 24, 2003.

(2) Owners of all new dry cleaning facilities shall construct and operate the facilities in compliance with this section.

(c) Storage, treatment, and disposal of dry cleaning wastes. Any person at a dry cleaning facility that generates hazardous wastes shall comply with the provisions specified under Chapter 335, Subchapter C of this title (relating to Standards Applicable to Generators of Hazardous Waste).

(d) Air emission standards.

(1) The owner of a dry cleaning facility shall comply with Chapter 106 of this title (relating to Permits by Rule) or Chapter 116 of this title (relating to Control of Air Pollution by Permits for New Construction or Modification).

(2) The owner of a dry cleaning facility using perchloroethylene and any person using perchloroethylene at a dry cleaning facility shall comply with emission standards for hazardous air pollutants as specified in 40 Code of Federal Regulations Part 63, Subpart M, in effect September 22, 1993.

(3) Each owner of a dry cleaning facility that is a major source as defined in Chapter 122 of this title (relating to Federal Operating Permits Program) shall obtain an operating permit.

(e) Dikes and other secondary containment structures.

(1) Applicability. This subsection applies to:

(A) all dry cleaning facilities using chlorinated dry cleaning solvents; and

(B) all other dry cleaning facilities that replace or install a dry cleaning machine on or after September 1, 2005.

(2) Compliance deadlines. The compliance deadlines set forth in subsection (b) of this section apply to all dry cleaning facilities with the exception of dry cleaning facilities in operation on or before January 1, 2004, that have gross annual receipts of \$150,000 or less (as indicated on the most current registration form filed with the agency). These dry cleaning facilities have until January 1, 2015, to comply with this subsection. However, if before January 1, 2015, a qualifying dry cleaning facility begins to have gross annual receipts greater than \$150,000, the dry cleaning facility must meet the requirements of this subsection by August 1 of the year following the time the facility exceeded \$150,000 in annual gross receipts.

(3) Installation.

(A) Each owner of a dry cleaning facility shall install a dike or other secondary containment structure around each dry cleaning unit and around each storage area for dry cleaning solvents, dry cleaning waste, or dry cleaning wastewater.

(B) Each secondary containment structure must be maintained in good condition and capable of containing any leak, spill, or release of dry cleaning solvents in accordance with this subsection.

(C) Floor drains must not be located within any secondary containment structure required by this subsection.

(4) Construction materials.

(A) The materials used to construct each secondary containment structure must be impervious to, and compatible with, the dry cleaning solvents, dry cleaning wastes, and dry cleaning wastewater used or stored within the secondary containment structure.

(B) For any dry cleaning unit using chlorinated dry cleaning solvents and any storage area for chlorinated dry cleaning solvents, chlorinated dry cleaning wastes, or chlorinated dry cleaning wastewater, materials other than epoxy or steel may be used for the construction of the secondary containment structure only upon approval by the executive director. Approval for the use of a material other than epoxy or steel will be granted upon satisfactory demonstration to the executive director that the material is as compatible with, and impervious to, dry cleaning solvent as epoxy or steel.

(C) All sealant and all caulk used on each secondary containment structure must be impervious to and compatible with the dry cleaning solvent, dry cleaning waste, or dry cleaning wastewater used or stored within the secondary containment structure.

(5) Storage capacity.

(A) Dry cleaning machine. Each secondary containment structure installed after September 1, 2005, must be capable of completely containing a minimum of 110% of the volume of liquids that can be held within the largest tank on a machine. The secondary containment area must be kept free of all materials or objects that would diminish its capacity to contain a leak, spill, or release.

(B) Storage area. Each secondary containment structure installed after September 1, 2005, must be capable of completely containing a minimum of 110% of the volume of liquids that can be held within the largest container in a storage area. The secondary containment area must be kept free of all materials or objects that would diminish its capacity to contain a leak, spill, or release.

(6) Inspections. The owner of each dry cleaning facility shall visually inspect each installed secondary containment structure weekly to ensure that the structure is not damaged.

(A) The owner of each dry cleaning facility shall ensure that any damage is repaired within seven days after the discovery. The owner may request an extension of this time limit from the executive director. If there is a release or imminent threat of release of dry cleaning solvents, the owner shall ensure that any release is immediately contained and controlled and that the dry cleaning machine is temporarily removed from service until the damage is repaired within the seven-day time limit.

(B) The owner of each dry cleaning facility shall keep a log of these inspections which include, as a minimum, the following information. This information must be provided to the executive director upon request:

- (i) the date and time of each inspection;
- (ii) the name of the person conducting the inspection;
- (iii) a brief notation of findings; and
- (iv) the date and nature of each repair or other action taken.

(C) For dry cleaning facilities using chlorinated solvents, inspection logs required under this section may be added to the leak inspection and repair records required by 40 Code of Federal Regulations Part 63, Subpart M, for dry cleaning equipment containing chlorinated solvent.

(D) Each inspection and repair log must be kept at the dry cleaning facility for not less than five years after the log has been completed.

(f) Delivery of solvents.

(1) Chlorinated dry cleaning solvents. All chlorinated dry cleaning solvents must be delivered to dry cleaning units and solvent storage containers by means of either of the following:

(A) a closed, direct-coupled delivery system; or

(B) an alternative method submitted to, and approved by, the executive director that provides protection of human health and safety and the environment that is equivalent to or greater than the protection provided by direct-coupled delivery systems.

(2) Non-chlorinated dry cleaning solvents, except for carbon dioxide solvents. All non-chlorinated dry cleaning solvents, except for carbon dioxide, must be delivered to dry cleaning units and solvent storage containers in a manner that will minimize releases to the environment.

Adopted January 11, 2006

Effective February 1, 2006

§337.21. Removal of Dry Cleaning Solvents and Wastes.

(a) Disposal of dry cleaning wastes. Each owner of a dry cleaning facility shall ensure that all dry cleaning wastes are disposed of in accordance with §337.20 of this title (relating to Performance Standards).

(b) Dry cleaning facility that ceases operation. Each owner of a dry cleaning facility that ceases operation as a dry cleaning facility for 180 continuous days shall ensure that dry cleaning solvent (including dry cleaning solvent remaining in any dry cleaning machine), dry cleaning wastewater, and waste materials containing dry cleaning solvent, are removed from the dry cleaning facility within 30 days after the end of the 180-day period. An owner of a dry cleaning facility shall ensure that the dry cleaning solvent and solvent-containing residue from a dry cleaning machine is removed prior to the dry cleaning machine being disposed of, recycled, or reused.

(c) Dry cleaning machines temporarily removed from service.

(1) Dry cleaning machines that are temporarily removed from service for more than 180 days must be empty within 30 days after the end of the 180-day period and must meet all applicable performance standards until empty.

(2) Each owner of a dry cleaning facility shall ensure that weekly inspections are continued on any dry cleaning machine that is temporarily removed from service and is not empty.

(3) Prior to a dry cleaning machine being put back in service, the owner of a dry cleaning facility must ensure that the machine meets all applicable performance standards.

(d) Dry cleaning machines permanently removed from service. Dry cleaning machines that are permanently removed from service must be empty prior to removal from the interior of the facility.

Adopted May 11, 2005

Effective June 1, 2005

§337.22. Variances and Alternative Procedures.

(a) Prior to proceeding in any manner that differs from the requirements of this subchapter, a person shall secure written approval from the executive director in the form of a variance in accordance with this section.

(b) The executive director may review and approve requests for variances that meet the requirements in this section. The executive director will approve such requests only if the person requesting the variance can demonstrate to the executive director that the proposed alternative procedure and/or equipment is no less protective of human health and safety and the environment than the requirement(s) for which the variance is sought.

(c) Any request to the executive director for approval of a variance must be made in writing, signed and dated by the person requesting the variance, and accompanied by the following additional documentation:

- (1) proposed date for implementation of the alternative procedure and/or equipment;
- (2) sufficient documentation to describe or illustrate the alternative procedure and/or equipment, such as:
 - (A) plans, drawings, and detail sheets (drawn to scale);
 - (B) design and construction specifications; and
 - (C) equipment manufacturers' specifications, operating instructions, and warranty information;
- (3) documentation and supporting data that demonstrate, to the satisfaction of the executive director, the reliability and appropriateness of the proposed procedure and/or equipment;
- (4) complete explanation of the reasons why the proposed procedure and/or equipment are considered preferable to the requirement for which the variance is sought or why that requirement is considered impracticable for the specified facility;
- (5) documentation that demonstrates, to the satisfaction of the executive director, that use of the proposed alternative procedure and/or equipment will be no less protective of human health and safety and the environment than adhering to the requirement(s) for which the variance is sought; and
- (6) if the person requesting the variance is the owner or a representative of the owner of a dry cleaning facility, the request must also include:
 - (A) written concurrence by the location owner, if different from the dry cleaning facility owner; and
 - (B) complete project identification, including:

(i) location name, address, and location identification number (if known);

(ii) location owner's name, address, and telephone number; and

(iii) name, address, and telephone number of dry cleaning facility owner's/operator's authorized representative.

(d) If a variance is granted by the executive director, the dry cleaning facility owner shall maintain complete copies of the variance and supporting documentation (including the request for approval).

(e) When a variance is sought, the owner shall adhere to the requirement in question until such time as the owner receives a written variance that allows an alternative procedure and/or equipment for that requirement.

(f) Once an owner has received a written variance from the executive director under this section, the owner shall adhere to the terms of that variance as written, or to the terms of the requirement for which the variance was sought.

Adopted January 11, 2006

Effective February 1, 2006