

HEALTH & SAFETY CODE  
CHAPTER 374. DRY CLEANER ENVIRONMENTAL RESPONSE  
SUBCHAPTER A. GENERAL PROVISIONS

Sec. 374.001. DEFINITIONS.

Section 374.253 provides for the expiration of Chapter 374 on  
September 1, 2021

In this chapter:

(1) Repealed by Acts 2005, 79th Leg., ch. 1110, Sec. 19.

(2) "Chlorinated dry cleaning solvent" means any dry cleaning solvent that contains a compound that has a molecular structure containing the element chlorine, including perchloroethylene, also known as tetrachloroethylene.

(3) "Commission" means the Texas Commission on Environmental Quality.

(4) "Corrective action" means those activities described by Section 374.152 or 374.153.

(5) "Corrective action plan" means a plan approved by the commission to perform corrective action at a dry cleaning facility.

(6) "Dry cleaning drop station" means a retail commercial establishment described in category 812320 of the 2002 North American Industry Classification System as an establishment the primary business of which is to act as a collection point for the drop-off and pick-up of garments or other fabrics that are sent to a dry cleaning facility for processing.

(7) "Dry cleaning facility" means:

(A) a retail commercial establishment, described in category 812320 of the 2002 North American Industry Classification System, that operates, or has operated, in whole or in part for the purpose of cleaning garments or other fabrics using a process that involves any use of dry cleaning solvents;

(B) all contiguous land used in connection with the establishment; and

(C) all structures and other appurtenances and improvements located on the contiguous land and used in connection with the establishment.

(8) "Dry cleaning solvent" includes:

(A) perchloroethylene, also known as tetrachloroethylene, petroleum-based solvents, hydrocarbons, silicone-based solvents, and other nonaqueous solvents used in the cleaning of garments or other fabrics at a dry cleaning facility; and

(B) the chemicals and compounds into which the solvents degrade.

(9) "Dry cleaning unit" means a machine or device that uses dry cleaning solvents to clean garments and other fabrics and any piping, ancillary equipment, and containment system associated with the machine or device.

(10) "Executive director" means the executive director of the commission.

(11) "Fund" means the dry cleaning facility release fund.

(12) "Owner" means a person who owns or leases, or has owned or leased, a dry cleaning facility and who is or has been responsible for the operation of dry cleaning operations at the dry cleaning facility.

(13) "Release" means a spill, emission, discharge, escape, leak, or disposal of dry cleaning solvent from a dry cleaning facility into the soil or water of the state.

Added by Acts 2003, 78th Leg., ch. 540, Sec. 1, eff. Sept. 1, 2003.  
Amended by Acts 2005, 79th Leg., ch. 1110, Sec. 1, 19 eff. Sept. 1, 2005.

Sec. 374.002. APPLICABILITY OF OTHER LAW.

Section 374.253 provides for the expiration of Chapter 374 on  
September 1, 2021

To the extent that this chapter is inconsistent or in conflict with Chapter 361 or other general law, this chapter prevails.

Added by Acts 2003, 78th Leg., ch. 540, Sec. 1, eff. Sept. 1, 2003.

Sec. 374.003. APPLICABILITY TO GOVERNMENTAL BODIES.

Section 374.253 provides for the expiration of Chapter 374 on  
September 1, 2021

This chapter does not apply to:

(1) a governmental entity, including a governmental

agency or prison; or

(2) a political subdivision of this state, including a municipality or a conservation and reclamation district created under Section 59, Article XVI, Texas Constitution, that owns or operates a wholesale or retail water supply system, public solid waste system, public storm water and drainage system, or public solid waste disposal system.

Added by Acts 2003, 78th Leg., ch. 540, Sec. 1, eff. Sept. 1, 2003.

Sec. 374.004. ADVISORY COMMITTEE.

Section 374.253 provides for the expiration of Chapter 374 on September 1, 2021.

(a) The executive director shall appoint an advisory committee composed of:

(1) three representatives of the dry cleaning industry who shall provide professional and practical expertise to the commission;

(2) one public representative of urban areas; and

(3) one public representative of rural areas.

(b) The advisory committee shall:

(1) review and comment on the methodology the commission uses to rank contaminated sites under Section 374.154;

(2) review and comment on the report the commission prepares each biennium under Section 374.056; and

(3) assist in the ongoing development of rules to implement, administer, and enforce this chapter.

(c) A member of the committee serves at the will of the executive director.

(d) A member of the advisory committee serves without compensation but is entitled to be reimbursed by the commission for actual and necessary travel expenses related to the performance of committee duties.

Added by Acts 2003, 78th Leg., ch. 540, Sec. 1, eff. Sept. 1, 2003. Amended by Acts 2005, 79th Leg., ch. 1110, Sec. 2, eff. Sept. 1, 2005.

SUBCHAPTER B. RULES, STANDARDS, CRITERIA, AND REPORTS

Sec. 374.051. COMMISSION RULES AND STANDARDS.

Section 374.253 provides for the expiration of Chapter 374 on September 1, 2021.

(a) The commission, with the assistance of the advisory committee, shall adopt rules necessary to administer and enforce this chapter. Rules adopted under this section must be reasonably necessary:

(1) to preserve, protect, and maintain the water and other natural resources of this state; and

(2) to provide for prompt and appropriate corrective action of releases from dry cleaning facilities.

(b) The commission shall adopt rules that establish:

(1) performance standards for dry cleaning facilities;

(2) requirements for the removal of chlorinated dry cleaning solvents and wastes from dry cleaning facilities that are to be closed by the owner to prevent future releases;

(3) criteria to be used in setting priorities for the expenditure of money from the fund after consideration of:

(A) the benefit to be derived from corrective action compared to the cost of implementing the corrective action;

(B) the degree to which human health and the environment are affected by exposure to contamination;

(C) the present and reasonably foreseeable future uses of affected surface water or groundwater;

(D) the effect that interim or immediate remedial measures may have on future costs;

(E) the amount of money available for corrective action in the fund; and

(F) any additional factors the commission considers relevant; and

(4) criteria under which the commission may determine the level at which corrective action is considered to be complete.

Added by Acts 2003, 78th Leg., ch. 540, Sec. 1, eff. Sept. 1, 2003. Amended by Acts 2005, 79th Leg., ch. 1110, Sec. 3, eff. Sept. 1, 2005.

Sec. 374.052. FACILITY RETROFITTING.

Section 374.253 provides for the expiration of Chapter 374 on September 1, 2021.

(a) The commission by rule shall require dry cleaning

facilities operating on or before January 1, 2004, to implement the performance standards adopted under Section 374.053 not later than January 1, 2006.

(b) The commission by rule shall require businesses operating on or before January 1, 2004, whose annual gross receipts are \$150,000 or less to implement the performance standards adopted under Sections 374.053(c)(3), (4), and (5) not later than January 1, 2015.

(c) Repealed by Acts 2005, 79th Leg., ch. 1110, Sec. 19. Added by Acts 2003, 78th Leg., ch. 540, Sec. 1, eff. Sept. 1, 2003. Amended by Acts 2005, 79th Leg., ch. 1110, Sec. 4, 19 eff. Sept. 1, 2005.

Sec. 374.053. PERFORMANCE STANDARDS FOR NEW DRY CLEANING FACILITIES.

Section 374.253 provides for the expiration of Chapter 374 on September 1, 2021.

(a) The commission by rule shall adopt performance standards for a new dry cleaning facility.

(b) Rules adopted under this section must allow for the use of new technologies as they become available.

(c) Rules adopted under this section must require:

(1) proper storage and disposal of wastes generated at the facility that contain any quantity of chlorinated dry cleaning solvent;

(2) compliance with emissions standards for hazardous air pollutants for perchloroethylene dry cleaning facilities adopted by the United States Environmental Protection Agency on September 22, 1993;

(3) dikes or other containment structures to be:

(A) installed around each dry cleaning unit that uses chlorinated dry cleaning solvents and each storage area for chlorinated dry cleaning solvents or waste; and

(B) capable of containing any leak, spill, or release of chlorinated dry cleaning solvent;

(4) secondary containment for all new or replaced dry cleaning units, regardless of the solvent used;

(5) all diked floor surfaces on which any chlorinated dry cleaning solvent may leak, spill, or otherwise be released to be made of epoxy, steel, or another material impervious to chlorinated dry cleaning solvents; and

(6) all chlorinated dry cleaning solvents to be delivered to dry cleaning facilities by means of closed, direct-coupled delivery systems, when those systems have become generally available.

(d) Rules adopted under this section shall ensure that wastewater from a dry cleaning unit using chlorinated dry cleaning solvent or discharge of chlorinated dry cleaning solvent is not discharged to a sanitary sewer, to a septic tank, or to water of this state.

Added by Acts 2003, 78th Leg., ch. 540, Sec. 1, eff. Sept. 1, 2003. Amended by Acts 2005, 79th Leg., ch. 1110, Sec. 5, eff. Sept. 1, 2005.

Sec. 374.054. COMPLETION CRITERIA.

Section 374.253 provides for the expiration of Chapter 374 on September 1, 2021.

(a) In determining whether a corrective action is complete, the commission shall consider the factors listed under Section 374.051(b)(3) and:

(1) individual site characteristics, including natural remediation processes;

(2) state water quality standards; and

(3) additional factors the commission considers relevant.

(b) A deviation from a state water quality standard may not result in the application of a standard that is more stringent than the applicable standard.

Added by Acts 2003, 78th Leg., ch. 540, Sec. 1, eff. Sept. 1, 2003. Amended by Acts 2005, 79th Leg., ch. 1110, Sec. 6, eff. Sept. 1, 2005.

Sec. 374.055. CRITERIA FOR ADMINISTRATION OF CHAPTER.

Section 374.253 provides for the expiration of Chapter 374 on September 1, 2021.

(a) The commission shall administer this chapter in accordance with this section.

(b) To the maximum extent possible, the commission shall

deal with contamination from dry cleaning facilities by using money in the fund.

(c) The commission shall use money from the fund as sites are discovered in the normal course of the commission's business.

(d) The commission shall consider interim or early corrective action that may result in an overall reduction of risk to human health and the environment and in the reduction of total costs of corrective action at a site.

(e) The commission, in its discretion, may use innovative technology to perform corrective action.

(f) To the maximum extent possible, money in the fund must be used to address contamination resulting from releases.

Added by Acts 2003, 78th Leg., ch. 540, Sec. 1, eff. Sept. 1, 2003.

Sec. 374.056. REPORT TO GOVERNOR AND LEGISLATURE.

Section 374.253 provides for the expiration of Chapter 374 on September 1, 2021.

On or before December 1 of each even-numbered year, the executive director shall submit to the governor, lieutenant governor, speaker of the house of representatives, and members of the appropriate standing committees of the senate and the house of representatives a report regarding:

(1) money deposited to the credit of the fund during the two previous fiscal years and the sources of the receipts;

(2) disbursements from the fund during the two previous fiscal years and the purposes of the disbursements;

(3) the extent of corrective action taken under this chapter during the two previous fiscal years; and

(4) the ranking of sites on the date the report is made.

Added by Acts 2003, 78th Leg., ch. 540, Sec. 1, eff. Jan. 1, 2004.

#### SUBCHAPTER C. FINANCIAL PROVISIONS

Sec. 374.101. DRY CLEANING FACILITY RELEASE FUND.

Section 374.253 provides for the expiration of Chapter 374 on September 1, 2021.

(a) The dry cleaning facility release fund is an account in the general revenue fund.

(b) The fund consists of money from:

(1) proceeds from the charges and fees imposed by this chapter;

(2) interest attributable to investment of money in the fund;

(3) money recovered by the state under this chapter, including any money paid:

(A) under an agreement with the commission; or

(B) as penalties; and

(4) money received by the commission in the form of gifts, grants, reimbursements, or appropriations from any source intended to be used for the purposes of this chapter.

(c) Money in the fund may be appropriated only to the commission for the purposes of this chapter, including any administrative duty imposed on the commission under this chapter.

(d) The commission may annually spend for administrative and start-up expenses incurred in fulfilling its duties under this chapter an amount of money from the fund not to exceed 15 percent of the amount of money credited to the fund in the same fiscal year as the expenditures.

(e) Subject to the limitations of this chapter, the commission shall use only money from the fund to pay for all expenses incurred by the commission in fulfilling its duties under this chapter.

(f) Section 403.095, Government Code, does not apply to money deposited to the fund.

Added by Acts 2003, 78th Leg., ch. 540, Sec. 1, eff. Sept. 1, 2003.  
Amended by Acts 2005, 79th Leg., ch. 1110, Sec. 7, eff. Sept. 1, 2005.

Sec. 374.102. REGISTRATION; FEE; POSTING.

Section 374.253 provides for the expiration of Chapter 374 on September 1, 2021

(a) Each owner of an operating dry cleaning facility or dry cleaning drop station shall register with the commission on a form provided by the commission.

(b) An annual registration fee, the total amount of which may be divided into quarterly payments and billed on dates established by the commission, is assessed as follows:

(1) for a dry cleaning facility that:

(A) has gross annual receipts of more than \$150,000, a fee of \$2,500;

(B) has gross annual receipts of \$150,000 or less, a fee of \$250;

(C) is designated as nonparticipating under Section 374.104, a fee of \$250; or

(D) depends entirely on revenue collected from an associated dry cleaning drop station or drop stations, a fee in accordance with Paragraphs (A) and (B) determined by the combined gross annual receipts of the drop station or drop stations; or

(2) for a dry cleaning drop station that:

(A) has gross annual receipts of more than \$150,000, a fee of \$750;

(B) has gross annual receipts of \$150,000 or less, a fee of \$250; or

(C) is designated as nonparticipating under Section 374.104, a fee of \$125.

(c) Fees paid under this section shall be deposited to the credit of the fund.

(d) The owner of a dry cleaning facility or drop station shall post the owner's registration number, in a manner prescribed by the commission, in the public area of each of the owner's operating dry cleaning facilities or drop stations.

(e) Registration under this section must be renewed annually.

(f) For each registration application, the commission shall request that the comptroller verify whether the owner submitting the registration application is in good standing with the state and whether the owner's selection on the registration application of the gross annual receipts classification for the dry cleaning facility or drop station agrees with information reported to the comptroller for the same tax or reporting year. Not later than the third business day after the comptroller receives the verification request, based in part on information supplied by the commission, the comptroller shall report to the commission the owner's standing and whether the owner's application information agrees with the comptroller's information.

Added by Acts 2003, 78th Leg., ch. 540, Sec. 1, eff. Sept. 1, 2003. Amended by Acts 2005, 79th Leg., ch. 1110, Sec. 8, eff. Sept. 1, 2005.

Sec. 374.103. FEE ON PURCHASE OF DRY CLEANING SOLVENT; DISPOSITION OF PROCEEDS.

Section 374.253 provides for the expiration of Chapter 374 on September 1, 2021

(a) Except as provided by Subsection (b) and Section 374.104(d), a fee of \$15 per gallon is imposed on the purchase of the dry cleaning solvent perchloroethylene and \$5 per gallon on the purchase of any other dry cleaning solvent by an owner of a dry cleaning facility. The person who distributes the solvent shall collect the fees and shall pay to the commission the amount due, in accordance with Subsection (a-1).

(a-1) A person who distributes dry cleaning solvent must register as a distributor with the commission. A registered distributor is entitled to withhold one percent of the amount of the fee imposed by Subsection (a) for the distributor's administrative expenses if the distributor pays the remaining amount to the commission not later than the date prescribed by the commission.

(b) Subsection (a) does not apply to a dry cleaning facility designated as nonparticipating under Section 374.104.

(c) A person who distributes dry cleaning solvent may not sell the solvent for use in a dry cleaning facility unless the person first obtains and records the registration number of the owner of the facility.

(d) The commission shall adopt any procedures needed for the collection, administration, and enforcement of the fee imposed by this section and shall deposit all remitted fees to the credit of the fund.

Added by Acts 2003, 78th Leg., ch. 540, Sec. 1, eff. Sept. 1, 2003. Amended by Acts 2005, 79th Leg., ch. 1110, Sec. 9, eff. Sept. 1, 2005.

Sec. 374.104. OPTION NOT TO PARTICIPATE IN FUND BENEFITS.

Section 374.253 provides for the expiration of Chapter 374 on September 1, 2021

(a) The owner of a dry cleaning facility or drop station may file with the commission an option for the facility or drop station

not to participate in fund benefits.

(b) An option not to participate must be filed on or before February 28, 2006. An owner may not file an option not to participate after September 1, 2005, unless the owner was:

(1) the owner of the dry cleaning facility or drop station on January 1, 2004; and

(2) eligible to file the option on or before January 1, 2004, and inadvertently failed to file before that date.

(b-1) An owner of a dry cleaning facility who files an option not to participate in accordance with Subsection (b) is entitled to a credit against future registration fees under Section 374.102, Health and Safety Code, to the extent that a registration fee paid in 2004 or 2005 exceeded the amount due for a nonparticipating dry cleaning facility or drop station.

(c) The commission shall designate a dry cleaning facility or drop station as nonparticipating if the owner:

(1) demonstrates, at the owner's expense and in accordance with commission rules, that:

(A) the owner has never used or allowed the use of the dry cleaning solvent perchloroethylene at any dry cleaning facility or drop station in this state; and

(B) perchloroethylene has never been used at that location;

(2) agrees that perchloroethylene will not be used as a dry cleaning solvent at the facility or drop station; and

(3) obtains the written consent of the person who owns the real property on which the dry cleaning facility or drop station is located.

(d) A facility designated as nonparticipating is not subject to the fees on dry cleaning solvents, other than perchloroethylene, under Section 374.103.

(e) On payment of the registration fee, the commission shall issue a specially marked registration document to the owner of a nonparticipating facility or drop station. The owner shall post the registration document in the public area of the facility or drop station.

(f) After a dry cleaning facility or drop station is designated as nonparticipating:

(1) the facility or drop station is not eligible for any expenditures of money from the fund or other benefits of participation under this chapter for that facility or drop station; and

(2) that facility or drop station may not later become a participating facility.

Added by Acts 2003, 78th Leg., ch. 540, Sec. 1, eff. Sept. 1, 2003. Amended by Acts 2005, 79th Leg., ch. 800, Sec. 1, eff. June 17, 2005; Acts 2005, 79th Leg., ch. 1110, Sec. 10, eff. Sept. 1, 2005.

#### SUBCHAPTER D. RESPONSE TO RELEASE; CORRECTIVE ACTION

##### Sec. 374.151. RESPONSE TO RELEASE.

Section 374.253 provides for the expiration of Chapter 374 on September 1, 2021.

(a) A person may not knowingly allow a release.

(b) A person who knows of a release of more than one quart of a chlorinated dry cleaning solvent or of more than one gallon of a non-chlorinated dry cleaning solvent shall:

(1) immediately contain and control the release; and

(2) notify the commission of the release before the expiration of 24 hours after the person learns of the release.

Added by Acts 2003, 78th Leg., ch. 540, Sec. 1, eff. Sept. 1, 2003. Amended by Acts 2005, 79th Leg., ch. 1110, Sec. 11, eff. Sept. 1, 2005.

##### Sec. 374.152. INVESTIGATION AND ASSESSMENT OF RELEASE; EMERGENCY ACTION.

Section 374.253 provides for the expiration of Chapter 374 on September 1, 2021.

(a) If a release or a potential release poses a threat to human health or to the environment, the commission shall:

(1) investigate and assess the extent of the resulting contamination; and

(2) take necessary or appropriate emergency action to ensure that human health or safety is not threatened by the release or the potential release.

(b) Emergency action under Subsection (a)(2) may include the treatment, restoration, or replacement of drinking water supplies.

Added by Acts 2003, 78th Leg., ch. 540, Sec. 1, eff. Sept. 1, 2003.  
Sec. 374.153. CORRECTIVE ACTION.

Section 374.253 provides for the expiration of Chapter 374 on  
September 1, 2021

(a) Subject to Subchapter E, the commission shall take corrective action for a release from a dry cleaning facility that results in contamination, including contamination that may have moved off the dry cleaning facility.

(b) Corrective action includes the cleanup of affected soil, groundwater, or surface water using the most cost-effective method that:

- (1) is technologically feasible and reliable;
- (2) provides adequate protection of human health and the environment; and
- (3) minimizes, to the extent practical, environmental damage.

(c) The commission shall:

(1) operate and maintain corrective action;

(2) monitor releases from a dry cleaning facility, including contamination that may have moved off the dry cleaning facility;

(3) pay the reasonable costs incurred by the commission in providing field and laboratory services; and

(4) pay the reasonable costs of restoring property, as nearly as practicable, to the conditions that existed before the activities associated with:

- (A) the investigation of a release;
- (B) a cleanup; or
- (C) related corrective action.

(d) The commission shall ensure the removal and proper disposal of wastes generated by a release.

(e) Except as provided by Subchapter E, the commission shall pay the costs of corrective action conducted under this subchapter by the commission or by other entities approved by the commission, regardless of whether the corrective action is included in a corrective action plan.

Added by Acts 2003, 78th Leg., ch. 540, Sec. 1, eff. Sept. 1, 2003.

Sec. 374.154. RANKING OF CONTAMINATED DRY CLEANING SITES.

Section 374.253 provides for the expiration of Chapter 374 on  
September 1, 2021.

(a) For a contaminated dry cleaning site that does not require emergency action under Section 374.152, the commission shall assign a rank for the site relative to other sites previously ranked and awaiting corrective action based on information contained in the application for ranking.

(b) The following persons are eligible to apply for a site to be ranked under Subsection (a):

(1) a person who is an owner of the dry cleaning facility or drop station; and

(2) a person who is an owner of the real property on which the dry cleaning facility or drop station is or was located;  
or

(3) a person who was the preceding owner of the real property on which the dry cleaning facility or drop station is or was located if the person entered into an agreement with the current owner associated with the sale of the real property to the current owner that requires the person to be responsible for any costs associated with the clean up of contamination covered under this chapter.

(c) If the applicant for ranking:

(1) is not an owner of the real property, the application must include proof that an owner of the real property has been notified of the application;

(2) is an owner of the real property and the dry cleaning facility or drop station is leased, the application must include proof that a lessee has been notified of the application;  
or

(3) is a person described by Subsection (b)(3), the application must include proof that the owner of the real property and any lessee have been notified of the application.

(d) The application for ranking must contain information and evidence required by commission rule to aid in ranking. The information and evidence required may include:

- (1) water or soil samples;
- (2) analyses of the water or soil samples;

(3) hydrogeologic information from the contaminated site;

(4) information concerning the site's proximity to a private or public water supply; and

(5) other information or evidence the commission considers necessary.

(e) The costs incurred by an applicant in collecting the information and evidence under Subsection (d) shall be credited against the deductible payable by the applicant under Section 374.203(d).

(f) The commission shall notify the applicant of the relative ranking the commission assigns the applicant's site on or before the 90th day after the date the application is received by the commission.

Added by Acts 2003, 78th Leg., ch. 540, Sec. 1, eff. Sept. 1, 2003. Amended by Acts 2005, 79th Leg., ch. 1110, Sec. 12, eff. Sept. 1, 2005.

Sec. 374.155. POWER TO MODIFY COMMISSION RANKINGS OR POSTPONE CORRECTIVE ACTIONS.

Section 374.253 provides for the expiration of Chapter 374 on September 1, 2021.

The commission may:

(1) modify the ranked status of a site as warranted under the system of priorities established under Section 374.051(b)(3); or

(2) postpone temporarily the completion of a corrective action for which money from the fund is being used, if the postponement is necessary to make money available for corrective action at a site with a higher ranking.

Added by Acts 2003, 78th Leg., ch. 540, Sec. 1, eff. Sept. 1, 2003.

#### SUBCHAPTER E. LIABILITY AND RESPONSIBILITY

Sec. 374.202. OWNER RESPONSIBILITY.

Section 374.253 provides for the expiration of Chapter 374 on September 1, 2021.

(a) The commission may hold an owner responsible for up to 100 percent of the costs of corrective action attributable to the owner if the commission finds, after notice and an opportunity for a hearing that:

(1) requiring the owner to bear the responsibility will not prejudice another owner or person who is eligible, under this chapter, to have corrective action costs paid by the fund; and

(2) the owner:

(A) caused a release by operating practices contrary to those generally in use at the time of the release;

(B) is in arrears for money owed under this chapter, after notice and an opportunity to correct the arrearage;

(C) obstructed the efforts of the commission to carry out its obligations under this chapter other than by the exercise of the owner's legal rights;

(D) caused or allowed the release because of a material violation of the performance standards established by this chapter or the rules adopted by the commission under this chapter; or

(E) has more than once violated Section 374.151 or related commission rules.

(b) To the extent that an owner is responsible for corrective action costs under this subsection, the owner is not entitled to the exemption under Section 374.207.

(c) The commission, or the attorney general at the request of the commission, may bring a civil action to recover any amounts owed to the commission under this section. The commission or attorney general, as applicable, may recover court costs, the costs of preparing for litigation, and reasonable attorney's fees incurred in an action brought under this section. An owner is jointly and severally liable with any other defendant for the entire amount of costs.

Added by Acts 2003, 78th Leg., ch. 540, Sec. 1, eff. Sept. 1, 2003. Amended by Acts 2005, 79th Leg., ch. 1110, Sec. 13, eff. Sept. 1, 2005.

Sec. 374.203. LIMITATION ON USE OF FUND FOR CORRECTIVE ACTION.

Section 374.253 provides for the expiration of Chapter 374 on September 1, 2021.

(a) In this section, "contaminated dry cleaning site" means the areal extent of soil or groundwater contamination with dry

cleaning solvents.

(b) The commission may not use money from the fund for the payment of costs in excess of \$5 million for corrective action at a single contaminated dry cleaning site.

(c) Except for dry cleaning sites that require emergency action under Section 374.152, the commission may not use money from the fund for corrective action at a contaminated dry cleaning site unless an eligible person applies for the ranking under Section 374.154 and is not otherwise ineligible for corrective action under this chapter.

(d) The owner of a dry cleaning facility or drop station, or other person who submits the application for ranking the facility under Section 374.154, shall pay as a nonrefundable deductible the first \$5,000 of corrective action costs incurred because of a release from the dry cleaning facility or drop station. The commission may take corrective action regardless of whether the commission obtains the deductible.

Added by Acts 2003, 78th Leg., ch. 540, Sec. 1, eff. Sept. 1, 2003. Amended by Acts 2005, 79th Leg., ch. 1110, Sec. 14, eff. Sept. 1, 2005.

Sec. 374.204. LIMITATION ON LIABILITY.

Section 374.253 provides for the expiration of Chapter 374 on September 1, 2021

The fund, the commission, the executive director, this state, or agents or employees of this state may not be held liable for loss of business, damages, or taking of property associated with any corrective action taken under this chapter.

Added by Acts 2003, 78th Leg., ch. 540, Sec. 1, eff. Jan. 1, 2004.

Sec. 374.205. LIMITATION ON USE OF FUND FOR THIRD PARTIES.

Section 374.253 provides for the expiration of Chapter 374 on September 1, 2021.

Money from the fund may not be used to compensate third parties for bodily injury or property damage caused by a release, other than property damage included in a corrective action plan approved by the commission.

Added by Acts 2003, 78th Leg., ch. 540, Sec. 1, eff. Sept. 1, 2003.

Sec. 374.206. USE OF OTHER SOURCES OF MONEY.

Section 374.253 provides for the expiration of Chapter 374 on September 1, 2021

This chapter does not create a liability or responsibility on the part of the commission, the executive director, this state, or agents or employees of this state to pay any corrective action costs from a source other than the fund or to take corrective action if the amount of money in the fund is insufficient.

Added by Acts 2003, 78th Leg., ch. 540, Sec. 1, eff. Sept. 1, 2003.

Sec. 374.207. ELIGIBLE OWNER EXEMPT FROM CERTAIN CLAIMS.

Section 374.253 provides for the expiration of Chapter 374 on September 1, 2021.

If an owner or other person is eligible under this chapter to have corrective action costs paid by the fund, an administrative or judicial claim may not be made under state law against the owner or other person by or on behalf of this state or by any other person, except a political subdivision, to compel corrective action or seek recovery of the costs of corrective action that result from the release.

Added by Acts 2003, 78th Leg., ch. 540, Sec. 1, eff. Jan. 1, 2004.

Sec. 374.208. UNAUTHORIZED PAYMENTS.

Section 374.253 provides for the expiration of Chapter 374 on September 1, 2021.

(a) The commission may pay costs from the fund under this chapter only if the costs are:

(1) integral to corrective action for a release; or  
(2) required for the administration or enforcement of this chapter.

(b) The commission may not spend money from the fund:

(1) for corrective action at a site contaminated by solvents normally used in dry cleaning operations, if the contamination did not result from the operation of a dry cleaning facility;

(2) for corrective action at a site, other than a dry cleaning facility, that is contaminated by dry cleaning solvents that were released while being transported to or from a dry cleaning facility by a person other than the owner of the dry cleaning facility or the owner's agents or employees; or

(3) for the payment of any costs:

(A) associated with a fine or penalty brought against a dry cleaning facility owner under state or federal law; or

(B) related to corrective action at a dry cleaning facility that:

(i) has been included by the United States Environmental Protection Agency on the national priorities list; or

(ii) is a hazardous waste facility eligible for listing on the state registry under Subchapter F, Chapter 361. Added by Acts 2003, 78th Leg., ch. 540, Sec. 1, eff. Sept. 1, 2003.

SUBCHAPTER F. REVIEW OF ORDERS AND DECISIONS; VIOLATIONS; PENALTIES; EXPIRATION

Sec. 374.251. REVIEW OF ORDERS.

Section 374.253 provides for the expiration of Chapter 374 on September 1, 2021

(a) A person affected by an order of the commission under this chapter may, on or before the 15th day after the date of service of the order, make a written request for a hearing.

(b) A person affected by the final order in an administrative hearing under Subsection (a) is entitled to judicial review and may appeal the order on or before the 31st day after the date on which the order was rendered. If the state prevails in an appeal filed under this subsection, the state is entitled to recover reasonable expenses incurred in obtaining the judgment, including reasonable attorney's fees, costs involved in preparing for the litigation, and witness fees.

Added by Acts 2003, 78th Leg., ch. 540, Sec. 1, eff. Sept. 1, 2003. Amended by Acts 2005, 79th Leg., ch. 1110, Sec. 15, eff. Sept. 1, 2005.

Sec. 374.252. VIOLATIONS; PENALTIES.

Section 374.253 provides for the expiration of Chapter 374 on September 1, 2021.

(a) A person is subject to an administrative penalty under Section 7.0525, Water Code, if the person:

(1) operates a dry cleaning facility or drop station in violation of this chapter, rules adopted under this chapter, or orders of the commission made under this chapter;

(2) prevents or hinders a properly identified authorized officer, employee, or agent of the commission, or a properly identified person under order of or contract with the commission, from entering, inspecting, sampling, or responding to a release as authorized by this chapter;

(3) knowingly makes any false material statement or representation in any record, report, or other document filed, maintained, or used for the purpose of compliance with this chapter;

(4) knowingly destroys, alters, or conceals any record that this chapter or rules adopted under this chapter require to be maintained; or

(5) violates Section 374.151 or related commission rules.

(b) If a registration fee is not paid on or before the 30th day after the date the fee is due, the commission may assess a penalty not to exceed \$50 per day for each day the fee is not paid.

(c) If a registration application for an operating dry cleaning facility or drop station is not filed with the commission on or before the 30th day after the date the application is due, the commission may assess a penalty not to exceed \$50 per day for each day the application is not filed.

(d) The commission may use normal commission procedures for the collection of penalties and interest on a penalty imposed under this section.

Added by Acts 2003, 78th Leg., ch. 540, Sec. 1, eff. Jan. 1, 2004. Amended by Acts 2005, 79th Leg., ch. 1110, Sec. 16, eff. Sept. 1, 2005.

Sec. 374.253. EXPIRATION. This section provides for the expiration of Chapter 374 on September 1, 2021.

(a) This chapter expires on September 1, 2021.

(b) A corrective action, including any administrative duties associated with the action, for which remediation of a contaminated site has begun before September 1, 2021, shall be completed in accordance with this chapter using money from the fund, to the extent possible, but money may not be collected for or added to the fund on or after that date.

(c) The commission may continue a corrective action that has not progressed beyond the investigative or planning stage after September 1, 2021, to the extent money from the fund is available.

(d) Any unobligated money remaining in the fund after the completion of all corrective actions under Subsection (b) shall be transferred to the general revenue fund to the credit of the commission or a successor agency. The fund is abolished on the date of the transfer.

Added by Acts 2003, 78th Leg., ch. 540, Sec. 1, eff. Sept. 1, 2003.  
Amended by Acts 2005, 79th Leg., ch. 1110, Sec. 17, eff. Sept. 1, 2005.