

**Florida Department of Environmental Protection
Hazardous Waste Regulation Section**

**GUIDELINES
FOR
CHARACTERIZING
DRYCLEANER SOLVENT
CONTAINMENT
VIOLATIONS**

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1A. Definitions

- 1.1. **Container** - Any portable device in which a material is stored, transported, treated, disposed of, or otherwise handled. (Ref. 40 CFR 260.10)
- 1.2. **Drum** - A type of container, usually of 55-gallon capacity. Use of the term "drum" in the guidance shall be considered to mean a container of 55-gallon capacity.
- 1.3. **ELRA** – Environmental Litigation Reform Act codified in Section 403.121, Florida Statutes
- 1.4. **Facility** - All contiguous land, structures, other appurtenances, and improvements on the land, used for treating, storing, or disposing of hazardous waste. (Ref. 40 CFR 260.10)
- 1.5. **Generator** - Any person, by site, whose act or process produces hazardous waste identified or listed in §261 or whose act first causes a hazardous waste to become subject to regulation. (Ref. 40 CFR 260.10)
- 1.6 **Secondary Containment** - Dikes or other containment structures around each machine or item of equipment in which drycleaning solvents are used and around any area in which solvents or waste-containing solvents are stored. Such dikes or containment structures shall be impermeable and capable of containing 110 percent of the capacity of each such machine and/or total capacity of each such storage unit. [Ref F.S. 376.3078 (9)].

1B. ELRA Applicability

The Environmental Litigation Reform Act (ELRA) mandates the use of administrative penalties under Section 403.121 for situations involving solid waste management violations if the calculated ELRA penalty is less than \$10,000. Use of ELRA is not mandatory if violations of hazardous waste management standards were also noted during the inspection; however, use of ELRA is recommended in most situations. In determining whether use of ELRA is mandated, consider that each day of violation constitutes a separate violation under ELRA

2. DRYCLEANER SOLVENT CONTAINMENT VIOLATIONS (2.1 - 2.3)

2.1 Failure to install maintain or use secondary containment around each machine, tank system (including ancillary piping etc.) or items of equipment in which drycleaning solvents are used and around any area in which solvents or waste-containing solvents are stored.

CITATION: 376.3078(9)(a) FS

ELRA-- Penalty is fixed at **\$4,000** per Ch. 403.121(4)(b) F.S.

Non-ELRA – Failure to have secondary containment for waste or product is a minor deviation within the state matrix and ranking for harm dependent upon condition of tank system with a major classification for leaking systems.

- less than or equal to 5-gallons - \$1,000
- less than or equal to 16-gallons - \$2,000
- less than or equal to 30-gallons - \$3,000
- More than 30-gallons, or if a dry cleaning machine is not in containment - \$4,000

2.2 Failure to empty a system with a damaged secondary containment, or failure to timely recover or remediate if necessary. **CITATION:** 376.3078(9)(a) FS

ELRA-- Penalty is fixed at **\$5,000** per Ch. 403.121(3)(g) F.S.

Non-ELRA --

POTENTIAL FOR HARM

- **MAJOR:** The secondary containment has been damaged and an actual discharge of drycleaning solvent has occurred.
- **MODERATE:** The secondary containment has been damaged and there is a potential for discharge of drycleaning solvent.
- **MINOR:** The secondary containment has been damaged, but no leakage of drycleaning solvent is evident.

EXTENT OF DEVIATION

- **MAJOR:** A release to the environment has occurred.
- **MODERATE:** The facility utilizes perchloroethylene as a drycleaning solvent.

2.3 Failure to seal or otherwise render impervious floor surfaces upon which any drycleaning solvents may leak, spill, or otherwise be released.

CITATION: 376.3078(9)(a) FS

ELRA Penalty is fixed at \$500 per Ch. 403.121(5) F.S.

Non-ELRA -- assess penalties for violations of the secondary containment requirements using major/major classification from the tank's program (\$10,000) penalty matrix per Division of Waste Management, February 4, 1998 Memorandum, Penalty Assessments at Drycleaning Facilities.

Background for Drycleaner Solvent Containment Violation Characterization:

376.3078(9) REQUIREMENT FOR DRYCLEANING FACILITIES.--It is the intent of the Legislature that the following drycleaning solvent containment shall be required of the owners or operators of drycleaning facilities, as follows:

(a) Owners or operators of drycleaning facilities shall by January 1, 1997, install dikes or other containment structures around each machine or item of equipment in which drycleaning solvents are used and around any area in which solvents or waste-containing solvents are stored. Such dikes or containment structures shall be capable of containing 110 percent of the capacity of each such machine and each such storage area. To the extent practicable, each owner or operator of a drycleaning facility shall seal or otherwise render impervious those portions of all dikes' floor surfaces upon which any drycleaning solvents may leak, spill, or otherwise be released.

ELRA

403.121(3)(g) – For storage tank system and petroleum contamination violations, the department shall assess a penalty of **\$5,000** for failure to empty a damaged storage system as necessary to ensure that a release does not occur until repairs to the storage system are completed; when a release has occurred from that storage tank system; for failure to timely recover free product; or for failure to conduct remediation or monitoring activities until a no-further-action or site-rehabilitation completion order has been issued.

403.121(4) In an administrative proceeding, in addition to the penalties that may be assessed under subsection (3), the department shall assess administrative penalties according to the following schedule.

(b) For failure to install, maintain, or use a required pollution control system or device, **\$4,000**.

(f) For failure to register with the Department after 30 days of the start of operations, **\$500**.

403.121(5) For failure to comply with any other departmental regulatory statute or rule requirement not otherwise identified in this section, the department may assess a penalty of **\$500**.

Non-ELRA

Division of Waste Management, February 4, 1998 Memorandum, Penalty Assessments at Drycleaning Facilities. Impose penalties for violations of the secondary containment and spill response requirements of 376.3078(7)(a-c) FS using major/major classification from the tank's program (\$10,000) penalty matrix. **\$9,000 (mid-range)**

**3. DRYCLEANER SPILL REPORTING AND/OR RESPONSE VIOLATIONS
(3.1 - 3.2)**

3.1 Failure to immediately respond to and cleanup a release or spill of any drycleaning solvent totaling more than one quart.

CITATION: 376.3078(9)(c) FS.

ELRA Penalty is fixed at **\$5,000** per Ch. 403.121(3)(g) F.S.

Non-ELRA -- assess penalties for violations of the spill response requirements using major/major classification from the tank's program (\$10,000) penalty matrix per Division of Waste Management, February 4, 1998 Memorandum, Penalty Assessments at Drycleaning Facilities.

3.2 Failure to properly report a release or spill of any drycleaning solvent totaling more than one quart.

CITATION: 376.3078(9)(c) FS.

ELRA Penalty is fixed at **\$500** per Ch. 403.121(4)(f) F.S.

Non-ELRA -- assess penalties for violations of the spill response requirements using major/major classification from the tank's program (\$10,000) penalty matrix per Division of Waste Management, February 4, 1998 Memorandum, Penalty Assessments at Drycleaning Facilities.

**Background for Drycleaner Spill Reporting and/or Response Violation
Characterization:**

376.3078(9) REQUIREMENT FOR DRYCLEANING FACILITIES.--It is the intent of the Legislature that the following drycleaning solvent containment shall be required of the owners or operators of drycleaning facilities, as follows:

(c) Notwithstanding the provisions of subsection (3), the owner or operator of a drycleaning facility or wholesale supply facility at which there is a spill of more than 1 quart of drycleaning solvent outside of a containment structure, on or after July 1, 1995, shall report the spill to the state through the State Warning Point pursuant to FS 403.161(1)(d) immediately upon the discovery of such spill, and immediately initiate and complete actions to abate the source of the spill, remove product from all indoor and outdoor surface areas, remove product and dissolved product from any septic tank or catch basin in which the solvent has accumulated, and remove affected soils, if any.

ELRA

403.121(3)(g) – For storage tank system and petroleum contamination violations, the department shall assess a penalty of **\$5,000** ... when a release has occurred from that storage tank system; for failure to timely recover free product; or for failure to conduct remediation or monitoring activities until a no-further-action or site-rehabilitation completion order has been issued.

403.121(4)(f) ...for failure to prepare, submit, maintain, or use required reports or other required documentation, **\$500**.

Failure to immediately respond to and cleanup a release or spill of any drycleaning solvent totaling more than one quart. **\$5,000**

Failure to properly report a release or spill of any drycleaning solvent totaling more than one quart. **\$500**

Non-ELRA

Division of Waste Management, February 4, 1998 Memorandum, Penalty Assessments at Drycleaning Facilities. Impose penalties for violations of the secondary containment and spill response requirements of 376.3078(7)(a-c) FS using major/major classification from the tank's program (\$10,000) penalty matrix. **\$9,000 (mid-range)**