Are You Ready if OSHA Knocks on Your Door?

NOTHING CAN BE AS INTIMIDATING AS STANDING ACROSS THE COUNTER FROM AN OSHA INSPECTOR. One SEFA member was unfortunate enough to be faced with that very situation. Would you know what to do? How to react?

Everyone should be prepared for that potential knock on the door, and SEFA/DLI are here to help. First thing you should always do when confronted by OSHA, DEP, EPA, or any other Governmental Agency is call the Association Office for Advice. That is one of the benefits of membership -- immediate advice and information. One phone call can save you hours of agony. This OSHA visit was the result of a disgruntled employee who was hoping to exact revenge on the owner. Very few cleaners can claim never to have any upset former employees -- so this is a situation almost all can relate to! Keep in mind: OSHA MUST respond to any and all complaints. Usually it is via letter informing you of the complaint received and asking for a response to the allegations. A very small percentage of complaints are targeted with on-site inspections for the listed allegations, and an even smaller number are targeted with a full blown inspections. It is rare that a drycleaner would be subjected to a full-blown site wide investigation unless there were a history of non-compliance.

This SEFA Member was notified of the alleged offence in writing, and he subsequently responded to the initial allegations. Then OSHA received a second complaint which triggered a physical inspection. Like most owners, when the OSHA Inspector came calling, he was very accommodating, and led him back to the area the inspector had inquired about. The owner did his best to guide him, but not knowing his rights, he was unsure of what he could say no to. The inspection quickly grew from an inspection for specific complaints, to a full 9:00 am - 5:00 pm full facility inspection. This is not unusual when plant owners, managers, or other employees are not confident in their rights and responsibilities in handling OSHA Inspections. There are many things to keep in mind when confronted by OSHA and facing the possibility of an OSHA Audit.

continued on page 14
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I AM NOT ONE TO WATCH A LOT OF TELEVISION, OTHER THAN FOOTBALL, BUT I HAVE FOUND A TELEVISION SHOW THAT HAS PIQUED MY INTEREST A GREAT DEAL. THE PROGRAM IS CALLED “RESTAURANT: IMPOSSIBLE”. The premise of the show is where Chef Robert Irvine visits struggling restaurants and attempts to reverse the downward spiral that the businesses find themselves in. He does so with a $10,000 budget and 24 hours for the makeover. After watching the show for the past year or so, I have found many parallels between the restaurant and drycleaning industries. In most cases, the common thread on each episode is an owner that is oblivious to the problems at hand or is just simply “burned out” and needs motivation.

The first thing that is noticed in almost every episode upon entering the restaurant, Chef Irvine finds the dining room either horribly dated from a décor standpoint or just plain filthy. Is this your call office? Drycleaning consumers are bringing clothes to be cleaned. A dirty, drab call office is a huge liability when trying to attract new customers. A coat of paint and simply thorough cleaning can make a huge difference without spending a lot of money.

Then Chef Irvine inspects the kitchen. Many times he finds the kitchen in disarray. Unsanitary conditions, equipment not functioning properly, and a dysfunctional staff. Is this your plant? A drycleaning plant needs to be clean. How can clothes be cleaned in an un-clean environment? Equipment must be maintained for consistent quality whether you are pressing pants or a Cuban sandwich. Cooks and prep teams are much like drycleaner/spotters and finishers/pressers. Everyone needs to be on the same page and work together as a team to be successful instead of trying to blame someone else for a problem instead of simply correcting it.

The finished products are similar as well. To deliver a quality product you have to use quality ingredients. Chef Irvine normally finds restaurants cutting corners with frozen food and cheap ingredients. This is a recipe for disaster. Are you using quality bleaches, detergents, sizings, and spotting chemicals? This is where a good relationship with a SEFA allied trade member can be very valuable for advice.

Unfortunately, there isn’t a television program dedicated to a drycleaner makeover however, we do have many “Chef Ivines” on the staff and board of SEFA/DLI that are here to serve our members. Do not hesitate to call, and it won’t cost you $10,000!

Tim Morrow

Village Cleaners
334-792-2823 / tim@villagecleanersinc.com
UPCOMING EVENTS...

Your Ticket to Success: SDLS in Jacksonville!

PLAN ON BEING IN JACKSONVILLE, FL FOR THE WEEKEND OF JUNE 20-22, 2014. SEFA’S SOUTHERN DRYCLEANERS AND LAUNDERERS SHOW (SDLS) WILL BE SHOWCASING THE BEST AND BRIGHTEST THE INDUSTRY HAS TO OFFER!!

Booth sales are already underway and it already is clear that this event will be bigger than SEFA’s Tampa Show held in 2012. Many exhibitors are encouraged by the new management company, the new venue, and encouraged by the recent upturn in the economy. SEFA is expecting more exhibitors and more booths in 2014 -- and is anticipating a boost in attendance.

In an effort to make it attractive for all owners, and for plants to bring in more key personnel, for the first time there will be no admission charges for any drycleaner or launderer. Also, all SEFA members will be invited at no charge to the seminars and workshops held during the event on Saturday and Sunday (there will be a charge for non-members). Visit www.sefa.org for all updated information.

Recent site updates include a floorplan, an exhibitor prospectus complete with rules, regulations, and booth application information.

Please contact Leslie Schaeffer at 215-830-8467 or leslie@bpscommunications.com with any questions. See you in June!
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The featured speaker this year is Patrick Renvoise co-author of “Understanding the Buy Buttons in your Customer’s Brain”. This is just one of the fantastic programs awaiting you. As last year’s attendees can attest, this is the best mid-winter escape possible. You can recharge your batteries, learn about enhancing your business, and be ready for the spring busy season.

The 5-Star is being held January 17-19, 2014. There have already been over 70 rooms sold, so space will fill up. If you are thinking of attending this fantastic get-a-way register early! Call DLI for more information or to register: 800-638-2627!
What Can a Fixed Rate for Natural Gas Do for My Business?

WITH SO MANY OPTIONS, PICKING A NATURAL GAS SUPPLIER CAN BE OVERWHELMING. HOWEVER, HAVING THESE CHOICES ACTUALLY MEANS IT IS EASIER TO FIND THE RIGHT SUPPLIER TO SUPPORT YOUR BUSINESS’S ENERGY GOALS.

First, take a look at the charges included in your gas costs:

1. The cost of the gas itself (your rate multiplied by your usage)
2. Pass-through charges (the cost of getting the gas from the wellhead to the utility)
3. Delivery charges (the cost of getting the gas from the utility to your business)
4. Any taxes that apply in your area

The gas cost (your rate) and the customer service fee are the only two charges that will vary between suppliers, so these are the two charges to focus on when comparing offers. The pass-through charges may be rolled into your rate, or they may be charged as a separate line item. However, these are just two different formats for the same costs, so the final price should be about the same.

When you review price options, be really careful to compare apples-to-apples formats. You don’t want to choose a rate that looks low, only to later learn that it wasn’t in the same format as your other offers. Make sure the supplier addresses both the price of the gas and the pass-through charges.

The delivery charges and the taxes will be calculated the same way for the same business, no matter who supplies the gas. In some cities or counties, taxes may be reduced when you choose a supplier; however, that discount is becoming increasingly rarer, so don’t rely on it.

RATES:
The cost of your gas depends largely on the rate plan you have, so decide what kind of rate plan you’d like to have. Most suppliers offer two different kinds of plans: variable and fixed.

Variable rates: A variable rate changes each month depending on what the market offers. You can’t tell in advance what the price will be, but variable rates are very flexible. With most suppliers, you can cancel your service at any time or change to a fixed rate.

However, be wary of special offers and introductory rates on variable rate plans. Just because the rate is low when you sign up doesn’t mean it will still be competitive in a few months.

Fixed rates: With this kind of plan, you commit to service from one supplier for a certain time period. During that time, your rate stays exactly the same, no matter what the market offers.

You can’t cancel your fixed rate early if market prices drop, but conversely, you’re protected against price increases if the market spikes.

Once you pick a rate, be sure to ask about the customer service fee. A great rate might not save you as much as you think if you also pay a high service fee.

SERVICE:
Lastly, do a little research on the company you’re considering. Call the main customer service number. Does a representative answer promptly? Is the representative attentive and helpful? Find out how long the company has been in business. Ask for testimonials from other customers.

Choosing a supplier you’re comfortable with will make energy management easier for you in the long run. An energy plan that fits your business goals is a great platform for the continued success of your business.

For more information, please contact Dave Herren at (352)246-4600 or at wdherren@infiniteenergy.com
**Don Desrosiers of Tailwind Systems**

DON DESROSIERS HAS BEEN IN THE INDUSTRY SINCE 1978, AS A WORK-FLOW SYSTEMS ENGINEER AND EFFICIENCY EXPERT, HE HAS CREATED THE HIGHLY ACCLAIMED TAILWIND SHIRT SYSTEMS, THE TAILWIND SYSTEM FOR DRYCLEANING, FIRESTORM FOR RESTORATION DRYCLEANING, THE TAILWIND SYSTEMS FOR AUTOMATED ASSEMBLY, AND TAILWIND FOR HOTEL VALET.

Tailwind is a tagging, assembly, work-flow, management and labor saving system that, can drastically reduce labor cost. Desrosiers is a monthly columnist for The National Clothesline, Korean Cleaners Monthly, The Golomb Group Newsletter, and Australia’s The National Drycleaner and Launderer. He is also a contributor for DLI’s Fabricare Magazine and other regional industry publications. He is a member of the Society of Professional Consultants and is the 2001 winner of DLI’s Commitment to Professionalism Award.

Most everyone already knows this about Don, but what you may not know is he has the same passion for his numerous hobbies as he does for the industry.

Don considers himself a serious amateur gourmet chef. He single handedly recreated the last meal on the Titanic for 12 people, complete with period dress, authentic 13-course menu and wine pairings. The meal lasted 4 ½ hours, and he admitted that the hardest part was keeping up with the dishes! He has also done a tour-of-the-world dinner; 16 courses from 13 countries.

In 1994, Don achieved a decades-old dream of learning to fly an airplane and a year later, updated his skills to earn an instrument rating, allowing him to fly in clouds, bad weather, and perform instrument landings. He has amassed over 600 hours of flight time!

Another passion is woodworking and furniture making. Building on lessons and techniques taught to him by his paternal grandfather as a pre-teen, he has been honing his craft for over 40 years. He has built everything from small art pieces made of exotic wood to an authentic Windsor chair made entirely by hand with hand tools, and no electricity. It was made in the age-old tradition and will easily last 200 years.

“I’m not afraid to try anything,” offered Don. “I believe that if I can imagine it, I can build it. When I was younger, I’d want to build big and fast. Now I enjoy most building small art pieces out of rare exotic hardwoods. I love making things like the wood padlocks and coasters pictured above. They are fully functional and all of the internal workings are wood. No cheating! I have made a few working combination locks too with tiny wooden tumblers that work just like the real ones.”

Professionally, few realize that Desrosiers has invented over fifty products that drycleaners use everyday. He’s pretty humble about them and doesn’t really talk about them. He is a self-taught Excel programmer and, with that knowledge has written dozens of programs that help his clients run their businesses better than they ever have before.

He is an occasional teacher at DLI, and a frequent speaker at industry gatherings where he lectures on Management Philosophy, Shirt Laundering, Business Management and Labor savings. He has written a business management book entitled Labor Pains & Profit Drains, (available on Amazon.com and the Tailwind Systems website). His latest project is on-line seminars, workshops and training in a virtual classroom setting. He has a corporate website at www.tailwindsystems.com and can be reached by telephone at 508.965.3163 and via email at tailwind.don@me.com.
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Cradle-To-Grave Responsibility

Written By Steve Henshaw, President & CEO, EnviroForensics

**MOST PEOPLE THAT PURCHASE, HANDLE AND MANAGE CLEANING SOLVENTS ARE FAMILIAR WITH THE TERMS “CRADLE TO GRAVE RESPONSIBILITY” AND “LONG-TAIL LIABILITIES.”** Cradle to Grave responsibility has been used to describe the fact that any person that generates a waste material that is classified, as a hazardous substance is responsible for that waste from the time it is generated until pretty much the end of time. The Cradle to Grave system is a provision with legislation known as the Resource, Conservation and Recovery Act (RCRA) which passed in 1976 and focuses to a large degree on the management of hazardous waste. There is no time limit or expiration date that will release a generator from this long-term management responsibility. This is why the management of hazardous substances is termed Long-Tail Liability.

Everyone knows that when a site is contaminated, the person that caused the contamination is responsible for cleaning it up. But what happens when the party that operated the site is no longer around, either financially or administratively. Who then pays for the clean-up? Such was the case back in the 1970’s with sites known as Love Canal in New York and Valley of the Drums in Kentucky where hazardous waste was dumped indiscriminately from tanker trucks and in barrels. As result of these sites where the operating company could not afford the clean-up, legislation known as the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA, but more commonly known as Superfund was enacted. Since this time, it has been the cornerstone of cleaning up a multitude of smaller sites, where the business owner has been unable or unwilling to fund the environmental cleanups. When the business does not fund the environmental cleanup, the Federal or State government either cleans the site up, looks to other responsible parties to reimburse those costs, or it gives the responsible party a chance to come up with its own cleanup approach.

A responsible party (RP) is the term used for any businessperson that fits the classification of owner, operator, generator or transporter. More specifically, anyone that owns or operates a facility that is impacted with hazardous substances, owned or operated a facility at the time hazardous substances were being disposed, arranged for the treatment or disposal of hazardous substances, or anyone that accepts any hazardous substances for transport to a facility requiring cleanup, assuming the transporter selected the facility.

Over the years, the State and Federal governments have spent billions of dollars cleaning up abandoned contaminated sites. Many of the sites that are cleaned up have not been significantly reimbursed, which means that the taxpayers are paying for the cleanups. It was recently reported that over 100 million dollars spent by the State of California on cleaning up contaminated sites has not been reimbursed. So, naturally, when this kind of story hits the news, the push is on to collect this money from the responsible parties.

This cost recovery process is currently affecting dry cleaners at two different locations in California. One of the cleanup sites was a facility in northern California, licensed by the State to treat, store and dispose of hazardous waste, including the waste generated by dry cleaners (still bottoms and spent filters). The other site was located in southern California and was also at one time licensed to treat, store and dispose of hazardous waste from dry cleaners. Both sites had operating records that included waste material received on manifests that indicated the name of the generator, the type of waste, the date shipped, etc.

In the first situation, the State of California approached a number of dry cleaners with records of sending waste and, without filing a lawsuit, offered a settlement. In the second situation, the State sued dozens of dry cleaners for contribution, alleging that the waste they sent to the facility caused the environmental problem.

“**It was recently reported that over 100 million dollars spent by the State of California on cleaning up contaminated sites has not been reimbursed!”**

Unfortunately, for the dry cleaners that sent waste to these facilities, the law is very clear: they are considered RPs; because they are RPs they are considered jointly and severally liable. Joint and several liability means that any one RP is legally obligated to pay for any or all of the response costs incurred to address the environmental conditions.

Practically speaking the cleanup costs are generally allocated by the volume of waste that each business (or individual) sent to the site. Imagine a pie being divided. The business that sent the most...
waste to the site has a larger piece of the pie. When one of the RPs cannot be found or is insolvent (e.g. bankruptcy, dissolution or even death of the individual), their allocated amount is now distributed proportionally to the other RPs.

So, what options do RPs have when a settlement demand or a lawsuit is filed for contribution? They could ignore the suit or demand, fight and challenge the suit or demand, hire a lawyer to represent them on the matter, or join a group of other RPs to try to control the costs or carve out a deal with the regulators.

Ignoring the demand is not a tactic that is recommended, although for people that have no ability to pay the demand or a lawyer, it can be the only alternative. Ignoring a demand or suit is like playing Russian roulette. You may survive and not be legally pursued by the government, but conversely, the government can be very, very hard on those that do not respond to the suit or demand, filing criminal charges and assessing significant fines.

Hiring a lawyer can be a good idea. Make sure that you know what your lawyer is proposing and how much the various steps will cost. Except when the RP is issued a settlement demand for a fixed amount, a lawyer will not be in a position to tell you how much the matter will cost you to resolve the liability. A trusted lawyer can help you navigate the initial findings and discussions with the government, but there will be many aspects of this type of lawsuit that can be managed by a smart businessperson.

Often times the responsible parties will form a group and pool together to address the government’s lawsuit collectively. Most RPs are pulled in because they generated hazardous waste and sent it to the site so, their interests are similar among one another. This group may then hire one lawyer to represent their common interests. For most of the issues being addressed by the government, a common group lawyer is a cost effective approach. Of course, some issues may be different between the generators. I had a situation on a site where several years of records were missing and I felt that my client was being asked to be responsible for a greater percentage of the allocated volume because these records were missing. In situations like this, you will need to bring evidence to the group that supports those assertions, while still being represented by the group lawyer on the balance of the lawsuit.

The key to getting out of a Superfund demand or lawsuit is to try and cut the best deal you can cost wise. That may mean a dollar amount with payment terms. It may mean that a phase of remediation (soil cleanup, groundwater cleanup, etc.) is taken on by a group of RPs. It could even mean that you stay in the lawsuit with the hopes that other RPs are found and your allocation goes down. Such decisions are difficult to stomach and difficult to make because they are costly. However, cutting the best deal and getting out sooner rather than later is often times the best you can hope for.

Going forward, what can be done to minimize Long-Tail Liability on a site you operate? With respect to waste disposal, audits should be conducted of the waste disposal facility. Like any other audit, a waste facility audit is a good way to evaluate the operating conditions of a particular site. An auditor can evaluate how well the facility operates, how clean the working conditions are, the records keeping criteria and procedures, and the status of the facility’s compliance with its operating permit.

No audit is certain, but most of the times, an audit will indicate, relatively speaking, whether the facility is operating well or whether it is a real “pit” in terms of environmental conditions, housekeeping, violations, etc. Because an audit may be cost prohibitive for any one generator to pay for, the idea of pooling resources together may be an option. State and federal trade organizations such as International Fabricare Institute, California Cleaners Association or any other strong, membership-based trade organization may be an excellent way to pool resources together to provide facility audits.

Short of an audit, common sense is always a good barometer. If the cost to dispose of waste with one disposer is significantly less than the competition, there may be a reason for that and that involving increased risk and cutting corners.

You can also search online for the transportation company or treatment facility. The States usually have a web-based search engine that will allow you to review the inspections and correspondence. Such a search may allow you to find notices of violation or other citations that could effect your waste management decisions.

In the end, there is no one thing that can protect you and your company from Long-Tail Liability, but it is important to manage your risks and exposures. That goes for how your business is legally established and maximizing protection of your personal assets, the insurance you procure, your own housekeeping practices (spill prevention and spill response), your waste disposal and waste management decisions, the equipment you are using, and the manner in which you store and minimize your waste solvents.
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BEING PREPARED FOR OSHA...

continued from page 1

First off, make sure to respond to any and all complaints from OSHA completely and quickly. The more detailed and complete your response -- the less likely you are to have a visit from an inspector. Make sure you include pictures of any potential violations alleged in the complaint. Also include all training records and other documentation you can use to refute issues. Receipts for personal protective equipment can come in very handy.

If you are ever inspected by OSHA, contact SEFA and/or DLI. We can provide you some guidance and help you through the process. It will also help us advise other members on areas of concern and topics that need to be addressed. You should designate one or more employees you feel comfortable with dealing with OSHA. In many cases that may be solely the owner or manager. If that person is not readily available and OSHA comes knocking on your door, you are well within your rights to ask the inspector to wait while they are reached, or until they are available. You do not have to let them into your plant without a court order. However, use discretion when forbidding access -- this can cause problems at a later date. In most cases the OSHA Inspector will realize the issue and wait for the appropriate staff member. You also have the right to restrict access to the areas of concern in the alleged violations. Many inspectors will try and widen the scope of the audit if there isn’t an effort to reign them in.

Every plant needs to be prepared for the possibility of an OSHA Inspection. SEFA has a checklist available to help you perform a self-audit of your plant. The checklist is not industry specific but it does cover many of the top-cited issues for small business.

You should also train your employees and keep records of those training sessions. This could provide invaluable support if employee knowledge ever becomes an issue.

Luckily the SEFA member that prompted this article recently got official word from OSHA that although there were issues raised, there are no fines or penalties.

SEFA is currently developing a workshop on OSHA Regulations and Handling OSHA Inspections. The first program is being planned for Atlanta, GA in January. For more information on this program, to request a program near you, or to request a copy of the OSHA Checklist, contact Peter at the SEFA Office: 877-707-7332.
These suppliers support the work of SEFA as Allied Trades Members. When you need supplies, equipment or other goods or services, contact a SEFA Member first. Show them you value their support of the association and the industry.
WHERE DO YOU STAND?

You’re a business owner, property owner or investor. You’re simply minding your business, or looking to sell, when it happens. The suspicion or discovery of contamination causes the bottom to fall out. The value of the property you own or lease plummets because the cost of cleaning up is more than it’s worth.

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