

Drycleaning Facility Restoration Trust Fund (Fund)
Law Changes Explained
June 2009

Drycleaning Facility Exemption Certificates (DFEC) will be re-issued:

- Drycleaning facilities that currently possess an “opted out” certificate or an exemption to the Fund are required to request a new DFEC by **December 31, 2009** or no longer be exempt from the Fund. On January 1, 2010, anyone not having a DFEC issued after July 1, 2009, will not be able to purchase solvent without paying the solvent surcharge.
- **How do I apply for a Facility Exemption Certificate?**
 - In order to apply for a Drycleaning Facility Exemption Certificate, the drycleaner must make a written request to the SC Department of Revenue; License and Registration - Drycleaning Exemption; P.O Box 125; Columbia SC 29214. The request should include the following information:
 - ✓ The name of the owner of the facility
 - ✓ The Federal Employer Identification number of the owner
 - ✓ The location address of the facility
 - ✓ The first date of operation at the facility
 - ✓ Description of drycleaning solvents used at the location
 - ✓ Mailing address
- Any currently or previously registered drycleaning facilities seeking to ‘opt out’ of the Fund must:
 - Have started their drycleaning operations before January 1, 1940
 - Have used only non-halogenated drycleaning solvent, and;
 - Apply for a DFEC by **September 30, 2009**.

Any facility receiving a DFEC will not be refunded any fees previously paid nor be eligible to receive any benefit from the Fund.

- Dry drop-off facilities are not eligible to receive a DFEC, only qualifying wet-sites can. This means that a dry drop-off facility must pay the 1% sales tax unless the owner’s plant has a DFEC (see below).
 - If a drycleaner **only** owns wet-sites that have a DFEC, then all of his dry drop-off facilities are exempt from the 1% sales tax required by the Fund.
 - If a drycleaner has a mix of wet-sites – one or more in possession of a DFEC and one or more registered wet sites (i.e., in the Fund), then **all** his dry drop-off facilities are required to be in the Fund and must pay the 1% sales tax.

Exemption for one site does not preclude coverage for others:

If you have multiple wet-sites, and at least one of them has a DFEC, those that do not have an exemption can be eligible to receive fund money, provided they are current with all fees and have applied for eligibility.

Annual Certificate of Registration (ACOR) Required:

- The Department of Revenue (DOR) will issue an ACOR annually to drycleaners showing that they are current with all fees and taxes required by the Fund. This Certificate must be conspicuously displayed in the drycleaning facility.

- **How do I get a Certificate of Registration?**
The Department of Revenue will issue the certificate of registration after the facility pays the annual renewal and after it verifies that the facility is in compliance with all taxes, surcharges and fees.

- Drycleaners who do not have a DFEC must have an ACOR in order to purchase solvent after October 1, 2009 and must provide the ACOR or DFEC to the supplier of his solvent prior to purchase.

- The DOR may revoke one or more ACOR's from any drycleaning facility for failure to remit any taxes, surcharges or fees required by the Fund.

- Solvent suppliers will be required to check for an ACOR or a DFEC prior to the sale.

- **Civil penalties up to ten thousand dollars have been established for:**
 - Solvent transferred from one facility to another without a DFEC or an ACOR. This would apply to transfers from one plant to another within the same ownership as well as transfers from your plant to a competitor's plant. Examples:
 - If you own 2 plants and one has a DFEC and one does not have a DFEC or an ACOR and you take solvent from one plant to the other plant you will be subject to a civil penalty of up to \$10,000 per violation.
 - If all of your plants have either a DFEC or an ACOR and you sell or give solvent to another drycleaner who does not have a DFEC or an ACOR you will be subject to a civil penalty of up to \$10,000 per violation and so will the receiving plant.
 - If you purchase solvent at a plant that has a DFEC and you transfer the solvent to another plant that is in the Fund, the plant that is in the Fund will be subject to fines of up to twenty five thousand dollars.

 - Solvent sold without a DFEC or an ACOR,
 - Solvent purchased without a DFEC or an ACOR.

Wholesale drycleaning facilities are required to participate in the Fund:

Wholesale drycleaning facilities that conduct drycleaning for other businesses are required to register with the Department of Revenue and pay the annual registration fee. They are also required to pay the solvent surcharge. The 1% tax will be collected by the drycleaner (operating the dry drop-off facility) from the customer.

Closed-loop delivery system required:

Effective January 1, 2010, all halogenated solvents must be delivered by a closed-loop delivery system to the drycleaning machine. Therefore, no halogenated solvents are allowed to be stored on site after January 1, 2010.

The Department of Health and Environmental Control (DHEC) to help drycleaners who can't afford to conduct a secondary assessment:

- If contamination was not found during the initial soil sampling and DHEC has notified you that a secondary assessment is now required, you will need to do the following:
 - You will need to contact an environmental contractor to get an estimate for conducting the secondary assessment, and
 - Respond to DHEC, in writing, within thirty days of receipt of notification indicating whether you will proceed with a secondary assessment.
 - If after receiving an estimate you feel that you cannot afford to conduct the secondary assessment, you will need to contact DHEC and enter into the process of establishing financial hardship that could result in DHEC performing the secondary assessment.
- If DHEC determines that a hardship exists, the drycleaner must submit one thousand dollars (\$1,000) to DHEC within 30 days and DHEC will conduct the secondary assessment.
 - If evidence of contamination is found, DHEC will refund any money in excess of the facility's \$1,000 deductible.
 - If evidence of contamination is not found, the facility can still become eligible in the future if contamination is found and DHEC is notified within 6 months of discovery of the evidence.
- If within thirty days the \$1,000 is not paid or the ownership does not agree to conduct the secondary assessment, the facility can never be eligible to receive fund money and will be subject to any applicable environmental laws.

Exemption for one site does not preclude coverage for others:

If you have multiple wet-sites, and at least one of them has a DFEC, those that do not have an exemption can be eligible to receive fund money, provided they are current with all fees and have applied for eligibility.

Application of surcharge and fee changes; take effect March 1, 2010:

- The surcharges and fees themselves have not changed but to whom they apply has.
- Retail drycleaning facilities and dry drop-off facilities must pay the 1%.
 - Drycleaners must have a DFEC issued after 7/1/2009 to be exempt from the 1% surcharge.
 - Property owners can pay the registration fee.
 - On January 1, 2010, exempted facilities must have a DFEC issued after July 1, 2009.

Deductible for Sites seeking eligibility:

Any site that enters into the Fund (applies for eligibility) after November 24, 2006, has a deductible of \$25,000.

Drycleaning Advisory Council:

The Drycleaning Advisory Council required by the law has been expanded and as a result DHEC is seeking new members. If you are interested please express your interest in a letter to:

John Cresswell
Bureau of Land & waste Management
2600 Bull Street
Columbia SC 29201

Or e-mail to: cresswjk@dhec.sc.gov