

DEALER ALERT

To: Clients
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Sub: NEWS & VIEWS

HFO-1234yf REFRIGERANT IS A FLAMMABLE GAS

Automobiles have been using refrigerant gases in their AC systems for decades. The refrigerant gases have generally been inert gases, such as Freon-12 and R-134. Recently, many auto manufacturers have started to use HFO-1234yf as the refrigerant gas in their AC systems. This gas is expensive, about \$80/lb., and the recycling machine costs another \$5000. The bigger issue is that it is a flammable gas. Flammable gases pose special hazards and dealers should take steps to address this concern.

First, label the refrigerant gas tank as “Flammable Gas” (GHS labels). Secondly, train all employees who will use the machine and refrigerant gas on the Safety Data Sheet (SDS) of the refrigerant and emphasize its flammability. The SDS is available on our web portal and an example can also be found here, <http://www.nationalref.com/pdf/19%20SDSR1234yf.pdf>. Training should be documented and maintained. Lastly, consistent with OSHA regulations, dealerships should ensure that no spark or fire source is present within 20 feet of the refrigerant system when it is being used.

FLAMMABLE LIQUID STORAGE LIMITS

OSHA regulations impose open area storage limits for flammable liquids. Flammable liquids beyond the storage capacity must be stored in NFPA approved storage cabinets with specific hazard markings. Recently, many dealers have transitioned from regular disposable aerosol cans to refillable aerosol cans. A 55 gallon drum of brake cleaner is stored onsite to fill the aerosol cans. The savings include the cost of the can and the disposal expenses related to non-refillable aerosol cans. The refill option is *greener* and better for the pocketbook. Fire safety regulations and OSHA codes must be complied with regarding storage in shop area. Local Fire Departments may have storage limitations greater than OSHA regulations and must be consulted and complied with. The limit on flammable liquids storage is based on flammability characteristics as follows:

Flammable Liquid Fire Area Storage Limits				
Category	Flashpoint	Boiling Point	Storage Limits	Example
1	Below 73.4°F	At or Below 95°F	25 Gallons	Acetaldehyde, Ethyl Ether, ...
2	Below 73.4°F	Above 95°F	120 Gallons	Acetone, Ethanol, Gasoline ...
3	73.4°F – 140°F	–	120 Gallons	Kerosene...
4	Above 140°F	–	120 Gallons	Lube Oil...

Note: Not more than 60 gallons of Category 1-3 flammable liquids, nor more than 120 gallons of Category 4 flammable liquids may be stored in a NFPA approved storage cabinet.

Acetone is a common Brake Cleaner and the storage limits are 120 gallons or two 55 gallon drums in the shop area. The drums must be stored in a cool shaded area, as acetone and other flammable liquids expand in direct solar heat. Any bulging drums must be handled with caution by employees with special knowledge and

training. Generally, non-metallic tools should be used to open the drum and the built-up pressure must be released in a careful manner. The drum must be grounded to a metal water pipe or an 8 foot steel rod into the ground. Bonding with the metal-can during dispensing is also mandatory in order to minimize the risk of spark from static electricity.

Employees using flammable or other hazardous materials must be trained in handling and responding to emergency situations such as spill response and fire control.

Ref.: Federal OSHA 1910.106(e)(2)(ii)(b) & Cal/OSHA Title 8 CCR 5533 & 5545

CA ABOVEGROUND TANKS STRUCTURAL ASSESSMENT (by Professional Engineer)

California facilities that operate any non-RCRA hazardous waste storage tanks and qualify as a large quantity generator at any time (270 gallons threshold of liquid waste disposed of in a calendar month), are required to obtain a PE assessment of waste tanks. The PE assessment requirements vary slightly, depending on when the tank system was installed (or modified). There is also an exemption (which is rarely granted) that may be obtained from the local fire marshal and CUPA. We had discussed this topic in the December 2015 newsletter as well, so many have already undertaken necessary steps to achieve compliance. Many have opted to wait for a county (or CUPA) inspector to knock on the door, and then they will set the assessment process in motion.

During the past year, we have seen an increase in enforcement activity against facilities that do not have engineering assessments for their hazardous waste tank systems. Some inspectors give the facility 30 days to comply. Some regulating agencies, especially the LA County Fire Department, have issued notices of "Potential Filing of an Administrative Order" (AEO). The AEO carries fines and many settle with LA County rather than pursue a legal fight. For many, this has been a wake-up call.

The legal requirement for the PE assessment or exemption has existed for a long period of time and some have asked, "Why is this being addressed now?" One reason for LA County is that the state of California has been strengthening their enforcement mechanisms in a stringent manner. Another reason is that with the advent of the CERS system, as well as higher scrutiny at multiple levels, CUPA wishes to ensure everyone is in full compliance with the laws/regulations.

In summary, a structural assessment of hazardous waste storage tanks must be completed every 5 years through a licensed professional engineer to avoid penalization. The approximate cost is \$1,500-2,000 for two tanks.

Ref.: Senate Bill 612 (Jackson, D-Santa Barbara) & California Health and Safety Code

CA PROPOSITION 65 CHANGES EFFECTIVE AUGUST 2018

The California Office of Environmental Health Hazard Assessment (OEHHA) made revisions to the Prop 65 regulations. The new regulations require that the revised warning language be provided in the Owner's Manual (located inside the glove box of the automobile) and the Prop 65 Vehicle Warning Sticker that is applied to the driver side window of all vehicles for sale in California.

The revised language in the new regulations is provided below. The size, font, and layout proportions must be followed. See <https://www.p65warnings.ca.gov/products/passenger-vehicle>. While the vehicle manufacturer will likely address the Owner's Manual requirements, traditionally, the dealers install the Prop 65 sticker in their own PDI procedures. The old warning must be phased out and replaced with the new warning for all vehicles manufactured on or after August 30, 2018, so there is no need to work on existing inventory. We have been in contact with CNCDA regulatory staff and they have informed us that they are working with vendors to ensure that new stickers are available to dealers in a timely manner.

 **WARNING:** Operating, servicing and maintaining a passenger vehicle or off-road vehicle can expose you to chemicals including engine exhaust, carbon monoxide, phthalates, and lead, which are known to the State of California to cause cancer and birth defects or other reproductive harm. To minimize exposure, avoid breathing exhaust, do not idle the engine except as necessary, service your vehicle in a well-ventilated area and wear gloves or wash your hands frequently when servicing your vehicle. For more information go to www.P65Warnings.ca.gov/passenger-vehicle.

OSHA IS SERIOUS ABOUT PENALTIES. IT'S TIME YOU GOT SERIOUS!

Under the Federal Department of Labor (OSHA) regulations enacted in 29 CFR 1910 and Cal-OSHA regulations in Title 8 of the California Code of Regulations, there are serious penalties for safety violations at the workplace. In this newsletter, we discuss some of the violations and related penalties. The penalties are categorized as “General” or “Serious” based on the severity of the possible injury to the employee. The purpose of this newsletter is to make management aware of the violations that OSHA considers to be general or serious and the amount of penalties which seem to be higher than in the past.

OSHA General Regulatory Violations

- **Air Compressor:** Failure to post air tank permit near the air compressor tank. **Penalty: \$375**
- **Aisle Clearance:** Failure to maintain 36 inches of clearance in aisle way. **Penalty: \$195**
- **Chemical Compliance:** No ground and bond wire provided for flammable container. **Penalty: \$375**
- **Chemical Compliance:** Non-compliant solvent used. **Penalty: \$375**
- **Compressed Gas:** Compressed air tank not secured to the wall. **Penalty: \$195**
- **Compressed Gas:** Valve cover not in place. **Penalty: \$315**
- **Compressed Gas:** Oxygen not separated from acetylene by at least 20 feet. **Penalty: \$635**
- **Electrical Panel:** Connectors not removed from an abandoned electrical panel. **Penalty: \$375**
- **Electrical Panel:** Electrical panel not labeled. **Penalty: \$185 - \$315**
- **Eyewash Station:** Failure to inspect eyewash stations on a monthly basis. **Penalty: \$375**
- **Exit Routes:** Exit route not fully illuminated/failure to provide direction signs. **Penalty: \$560**
- **Fire Extinguisher:** Failure to inspect fire extinguishers monthly. **Penalty: \$130**
- **First Aid Kit:** First aid kit not properly stocked. **Penalty: \$130**
- **Food/Drinks:** Food consumed in the shop area. **Penalty: \$675**
- **Forklift:** Inspection not completed at start of each shift. **Penalty: \$350**
- **Grinder:** Grinder not mounted to floor. **Penalty: \$825**
- **Hazard Communication:** Failure to train employees on hazard communication. **Penalty: \$185**
- **Ladder:** Employee used a chair as a step ladder. **Penalty: \$675**
- **Ladder:** Improper use of a ladder. **Penalty: \$650 - \$18,000 (serious)**
- **LOTO:** Failure to implement a LOTO program. **Penalty: \$850**
- **SPCC:** Employees not trained on SPCC. **Penalty: \$600**
- **Storage:** Unstable parts, shelves, and stacks of boxes. **Penalty: \$675 - \$6,600**
One business was fined \$22,000 for a repeat storage violation.
- **Training:** Failure to conduct tailgate safety training. **Penalty: \$260**

- **Ventilation System:** Failure to have the ventilation system of the shop/body shop inspected annually. **Penalty \$185**

OSHA Serious Violations

- **Chemical Compliance:** Flammable liquids not labeled with hazard warning. **Penalty: \$1,800**
- **Chemical/Waste Storage:** Failure to provide secondary containment for oil tanks, tanks not properly labeled, or overdue waste disposal. **Penalty: \$25,000**
- **Electrical Panel:** Open breakers/gaps in electrical panel. **Penalty: \$3,710**
- **Exits:** Exit routes blocked. **Penalty: \$66,000** (Repeat Violation)
- **Extension Cord:** Ground prong missing from extension cord. **Penalty: \$2,250**
- **Eyewash Station:** No eyewash station available for employees. **Penalty: \$3,150 – \$15,300**
- **Eyewash Station:** Eyewash station not up to specifications. **Penalty: \$11,475**
- **Eye Protection:** Safety glasses/eye protection not made available to employees. **Penalty: \$7,650**
- **Eye Protection:** Failure to enforce eye protection program. **Penalty: \$7,650**
- **Fall Protection:** Gates on elevated platforms with an exposed edge. Failure to have a mezzanine gate. **Penalty: \$22,000**
- **Fall Protection:** Elevated platforms without OSHA rated guard rails. Fed-OSHA requires guard rails above 4 ft. and Cal/OSHA requires guard rails above 30 inches. **Penalty: \$48,400**
- **Fire Extinguisher:** Fire extinguisher not mounted. **Penalty: \$22,000** (Repeat Violation)
- **Fluorescent lights:** No protection for fluorescent lightbulbs. **Penalty: \$22,000** (Repeat Violation)
- **Footwear:** Employer failed to provide employees with proper footwear. **Penalty: \$8,435**
- **Forklift:** Driver is not looking in direction of travel. **Penalty: \$18,000**
- **Forklift:** Key left in the ignition. **Penalty: \$13,500**
- **Forklift:** Driving with expired permit. **Penalty: \$18,000**
- **Forklift:** Load capacity not labeled on forklift. **Penalty: \$2,250**
- **Forklift:** Damaged electrical cord on forklift. **Penalty: \$11,475**
- **Gloves:** Employees are not wearing proper gloves when handling hazardous chemicals. **Penalty: \$1,350**
- **Grinder:** Tongue guard not up to specifications. **Penalty: \$8,100**
- **Grinder:** Tool rest not up to specifications. **Penalty: \$8,100**
- **LOTO:** Failure to LOTO equipment, which resulted in an injury. **Penalty: \$7,000 - \$18,000**
- **Moving Machinery:** Machinery that creates pinch points or crushing hazards are not properly covered. **Penalty: \$11,475**
- **Reporting Injuries:** Failure to report serious illness, injury, or death within 8 hours of accident. **Penalty: \$5,000**
- **Respiratory Protection:** Failure to implement a written respiratory protection program. **Penalty: \$5,060**
- **Training:** Failure to fully train employees on job assignments and safety. **Penalty: \$18,000**
- **Training:** Employees not trained on heat illness prevention. **Penalty: \$560 - \$5,060**

DISCLAIMER: *The contents of this newsletter are merely for informational purposes only and are not to be considered as legal advice. Employers must consult their lawyer for legal matters and safety consultants for matters related to safety. The article was authored by Sam Celly of Celly Services, Inc. who has been helping automobile dealers comply with EPA and OSHA regulations since 1987. Sam received his BE (1984) and MS (1986) in Chemical Engineering, followed by a J.D. from Southwestern University School of Law (1997). Our newsletters can be accessed at www.epaoshablog.com. Your comments/questions are always welcome. Please send them to sam@cellyservices.com.*