CSI NEWS

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SCAQMD – Rules Limiting Use of Cleaner Aerosols

On October 8, 1999, SCAQMD amended its Rule 1171 to limit aerosols used for cleaning purposes in the shop area to 160 oz.(about 10-11 cans) per day per facility regardless of the facility size. SCAQMD considers cleaners subject to the 160 oz. limit to be any aerosol with more than 50 g/L of volatile organic compounds (VOC's). By definition, aerosols with less than 50 g/l of VOC are exempt from all provisions of the rule and do not trigger the 160oz. per day limit. And so are 100% acetone based cleaners as acetone is a compliant chemical not subject to VOC requirements.

Acetone based cleaners, however, pose an elevated fire hazard. The dealership may also consider chlorinated solvents that do a reasonable good cleaning without the increased fire hazard. Chlorinated solvents, not withstanding the part that the allowable ones are highly toxic, usage requires discipline on part of the dealership employees to ensure that the waste oil is not contaminated. Disposal of waste oil contaminated with chlorinated solvents can expensive. Both acetone and chlorinated solvents aerosol usage would require properly ventilated areas.

For compliance purposes, the dealership is advised to evaluate The Materials Safety Data Sheet (MSDS) of the aerosol. The net VOC of the aerosol should be 50 g/L or less to avoid the 160 oz. per day threshold. Enforcement from SCAQMD is already here. Several dealerships have been inspected by the SCAQMD and found to be in violation with the new rule. SCAQMD staff has informed CSI that dealerships that are observed to be using aerosol above 50 g/L of VOC will have to prove to the SCAQMD inspector that their usage is below 160 oz. per day through purchase records or other verifiable means. In the absence of this proof, the dealership is subject to citation by the SCAQMD.

CSI also recommends to review the information and directions on the MSDS for personal protective equipment and ventilation requirements. For example, usage of chlorinated solvents may be so toxic so as to require special ventilation that can make its use cost prohibitive. The dealership should thereafter follow these directions to ensure continued safety for its staff and minimize fire hazard.

Certain dealers have questioned the definition of the term "Facility" in the new rule. Rule 1171 subsection (b) (12) defines facility as:

"Means as business or business engaged in solvent cleaning operations which are used or operated by the same person and are located on the same or contiguous parcels."

Lastly, some dealerships utilize bulk cleaner (containing VOC's) filled in cans that are pressurized with compressed air. This concept or procedure does not meet the definition of aerosols and is prohibited under Rule 1171. Aerosols are, by definition, a hand held non-refillable container. In summary, the dealership must ensure that the aerosol cleaners in the shop area comply with the new SCAQMD regulations and the best way to ensure compliance is to review the MSDS on the chemical and talk to the vendor or distributor.

Reference: Rule 1171 of the SCAQMD (amended October 8, 1999).

New Law on Underground Storage Tanks (UST's)

Governor Gray Davis signed SB989 that went into effect on January 1, 2000. Under the new law, one can go to jail if one intentionally disables the alarm on the underground storage tank. Tampering or disabling the alarm is punishable by a fine of up to $5000 per count. If intentionally done by the owner, then a jail time of 1 year is added to the fine.

SB989 significantly changes the existing underground storage tank regulations. Much of this legislation is primarily geared towards

reformulated motor vehicle fuel. Several requirements, however, impact the management of petroleum UST's as well.

The new legislation requires the local regulating agency, i.e., the fire department to inspect the tank annually, instead of the previous 3-year requirement. In short, the frequency of the visits from the local inspector will increase.

Motor vehicle fuel dispensers will also require secondary containment by 7-1-2001, if the tank is within 100 feet of a public drinking well and if the tank was installed after 7-1-1987. All other tank dispenser need secondary containment by 12-31-2003.

If the tanks are within 1000 feet of a public drinking water well, and any equipment on the tank is single walled, then the equipment needs Enhanced Leak Detection Monitoring (ELDM) by 11-2-2000. The State Water Resource Control Board (SWRCB) is currently writing the rules on Enhanced Leak Detection Monitoring so CSI cannot advise what the requirements will be.

The state Underground Storage Tank Cleanup Fund which was set to expire on 1-1-2005 has been extended to 1-1-2011. The per-occurrence claim limit has also been raised from 1 million to 1.5 millions dollars.

Effective 1-1-2001 periodic testing of secondary containment must begin. New procedures are being written by the SWRCB. Annual testing of alarm sensors, already required by local agencies, is now mandated by state law.

The new bill also requires licensing and testing for technicians that install, repair, maintain or calibrate UST equipment by the California State Licensing Board by 1-1-2002. Also by 1-1-2001 the owner and operators must meet industry established minimum training standards for the underground storage tank. USTs must be operated under industry established best management practices. Since the new requirements and information on this matter is somewhat fuzzy, more information will be provided, as it becomes available from the state.

We have summarized the requirements of the bill in the chart below.

(Ref: SB989 effective 1/1/2000)

Date	Requirement
11-01-00	Begin ELDM for single-wall systems near public wells.
01-10-01	1. Annual testing of leak sensors and alarms 2. Periodic testing of secondary containment 3. New training standards 4. New best management practices.
7-1-01	Dispenser containment for post 7-1-1987 tanks near wells.
1-1-02	Monitoring technician training and licensing requirements.
12-31-03	Dispenser containment for all other tanks.

Used Tire Fee

There is good news and bad news. The good news is that the present $0.25 per tire fee paid to the state for every tire sold at the dealership will end on January 1, 2001. Most dealers found the fee to be quite cumbersome, as it required the audit of tire sales and the completion of a return on a quarterly basis for a small sum.

Now the bad news. There may be a new charge of $2.00 per tire under SB876 presently going through the state assembly. The charge, however, would be collected by the tire wholesaler when selling the tire to the dealership and sent directly to the state. The dealership will essentially be out of the charge(fee) loop vis-a-vis the state taxing authority. California Motor Car Dealers Association is keeping an eye on this bill and plans to inform dealers when SB876 becomes a law. *(Reference: SB876 Escutia).*

Workers' Compensation Premiums

The workers' compensation insurance is mandatory in every state of the United States and many other countries. The objective of such insurance is to provide medical treatment and disability benefits to employees injured during the course of employment. While the cost of premiums are borne by the employer alone, the employer benefits by receiving immunity from employee lawsuits that may arise on a theory of negligence, etc.

The insurance premiums are a significant cost to the employer, and a prevailing trend on the part of employers is to contain insurance costs. The premiums are based on the severity and frequency of injuries, and as such, a reduction in the injuries reduces insurance costs. While the base insurance rate is purely a function of the employee's job duties, number of employees, and their payroll; a modifier is added to the premium that is based upon the losses incurred by the employer. The losses incurred by the employer are calculated based upon the claims paid by the insurance companies for injuries occurring at the workplace.

To illustrate the insurance premium calculations that may vary based upon the difference in the injury rate, hypothetical calculations were made for two Employers I and II, both having the same identical payroll. See Table A. In order to calculate the premium for these two employers situated in California, the payroll data and losses incurred for a 3-year period are taken into account. The year immediately proceeding the year for which the insurance is required is usually ignored. For example, if the premium is to be calculated for a policy beginning January 1, 1999, the injuries occurring in 1995, 1996, and 1997 will be considered, whilst 1998 injuries are ignored. Such calculations reflect a trend over a broader period rather than taking one year, which may disproportionately impact the insurance rates.

Table A shows the payroll data and type of employees by employer. Employer I and Employer II have identical types of employees with identical payrolls. Table B illustrates the excessive injuries that Employer II versus Employer I. Employer II has three extra injuries, resulting in total losses of $282,500 versus $45,004 for Employer I during the same period.

Table A: Payroll Data (for employer I & II each)

Employee	Annual Salary	No. of Empl.	Salary 95	Salary 96	Salary 97
Clerical/Office Staff (code 8810)	$ 30,000.00	20	$ 600,000.00	$ 600,000.00	$ 600,000.00
Sales Staff (Code 8748)	$ 50,000.00	20	$ 1,000,000.00	$ 1,000,000.00	$ 1,000,000.00
Technicians (Code 8391	$ 40,000.00	50	$ 2,000,000.00	$ 2,000,000.00	$ 2,000,000.00
Total		90	$ 3,600,000.00	$ 3,600,000.00	$ 3,600,000.00

Table B: Injury Data & Losses Pain Per Injury

		Employer I		Employer II	
Year	Claim #	Type of Injury	Incurred Losses	Type of Injury	Incurred Losses
1995	1	Cut Finger	1	Back Injury	$ 50,000.00
1995	2	Cut Finger	1	Back Injury	$ 7,500.00
1995	3	Broken Finger	$ 10,000.00	Broken Finger	$ 10,000.00
1995	4	Cut Finger	1	Elbow Sprain	$, 5,000.00
1995	5	Head Injury	$ 5,000.00	Head Injury	$ 5,000.00
1996	6	Arm Rash	1	Fatality	$ 175,000.00
1997	7	Back Injury	$ 25,000.00	Back Injury	$ 25,000.00
1997	8	Arm Rash	$ 5,000.00	Arm Rash	$ 5,000.00
Total			$ 45,004.00		$ 282,500.00

* Death benefits are statutorily limited in certain states. For California, death benefits are capped at 185,000 (prox.).

While the insurance company pays these losses, the difference for the two premiums is $67,459 for the year 1999.

A savings of $67,459 for Employer I (see Table C) with fewer injuries, offers a competitive advantage. The fact that injuries affect the premium rate for three consecutive insurance years, monitoring injuries at the workplace is important to employers. Investing in time, training, and equipment for employees to reduce the workplace injuries can be a worthwhile scenario, especially with the significant returns indicated above.

Table C: Estimated Premium Costs

	Premium Based on Employee Count & Payroll	Experience Modification	Total Premiums for 1999
Employer I	$ 151,600.00	75.8	$ 115,899.00
Employer II	$ 151,600.00	120.3	$ 183,358.00

Note 1: The above Experience Modification uses California rates and formulas as calculated on May 24, 1999 for a policy beginning Jan. 1, 1999. Calculations for other states may vary significantly.

Note 2: the wages and employee count for the employees are fictitious and have been used merely to illustrate the calculations.

Legal Actions

Safety Kleen has agreed to pay a $274,500. fine to settle an administrative complaint against the company. At issue was PCB laden chemical disposal. Safety Kleen was cited for improper processing, failure to manifest and unlawful disposal at its refinery of PCB contaminated oil.

The Federal EPA banned PCB's in 1979 when they were found to be accumulative in the environment and presented a health hazard to the people.

Ford Motor Company was cited in New York State for 16 alleged violations, including failure to guard opening in the floor and failure to comply with mechanical presses. Ford paid $175,000 in penalties.

Cars: They Pollute Less Than You Think.

According to a study by American Auto Association (AAA) less than 30 percent of the contribution to urban smog comes from automobiles. The 24 cities examined under the studies showed that there was a 79% reduction in VOC's emitted from automobiles between 1970 to 1996. Other sources reduced VOC's only by 24% during the same time period. Other conclusions of the study indicated that autos are no longer the primary cause of ozone problems in our cities. Also, more than 70% of the chemicals that create smog comes from smoke stacks and other non-automobile sources.

So why should motorists be expected to bear this disappropriate burden of new air standards? Well, the EPA disagrees with any argument that new air pollution controls on cars are not needed.

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