All New & Re-Hired Employees Must Receive Proper Training

“We are seeing untrained workers - many of them temporary workers - injured or killed very soon after starting a new job. This must stop,” said OSHA head Dr. David Michaels. His words came just after OSHA cited a Florida company with 12 alleged safety violations following the death of a 21-year-old temporary worker his first day on the job. According to OSHA, the temporary employee, hired through a temporary staffing service, was cleaning glass from under the hoist of a palletizing machine when an employee restarted the palletizer. The worker was then crushed to death by the machine. OSHA requires that employers protect the health and safety of all workers under their supervision and control, including temporary workers. Note: Make sure every new or re-hired employee that works at your facility completes an Asmark Institute New Hire/Re-Hire Kit. This compiles the regulatory requirements into a personalized kit designed specifically for each employee.

Special Easter Delivery!
Daniela and her husband Josh recently received a special visit from the Easter Bunny. They announced the birth of a bouncing baby boy, Josiah Davis, born on March 31st at 12:29 a.m., weighing in at 7 pounds, 6 ounces. Congratulations on the new arrival!

New Grain Handling Courses Launched

The Grain and Feed Association of Illinois (GFAI) and the Asmark Institute have partnered to provide two new high-quality, hands-on training courses geared specifically to the personnel within the agricultural industry who handle grain. Both courses were launched recently at the new Agricenter training complex located in Bloomington, Illinois. John Lee, Director of Safety, Health & Environmental Services for GFAI, is the lead instructor for the new courses. Welcome to the Grain Industry is a basic one-day course geared to the needs of employees new to the grain industry and covers OSHA’s grain handling standard along with demonstrations and scenarios designed to reinforce the message of safety. Safe Grain Handling Operations is a two-day course that immerses the participant in an environment that is as close to real as possible. This intermediate course is designed for experienced grain handling personnel and uses a variety of demonstrations, equipment, scenarios and classroom methods to exercise the participant’s existing capacity to reflect on the safety issues they have encountered and engages them to apply their knowledge and skills to find workable solutions. The schedule has been set for 2013 and accompanies this newsletter. We recommend that you check it out and register today!

2013 Regulatory Posters Mailed!
The posters are normally updated and shipped around the middle of February, but were delayed this year due to shipping description sequence changes from manufacturers. The set of three posters have now mailed, so
watch your mail in the next few days. The new shipping description sequence is having a domino effect as it trickles down through the distribution change. We recommend a thorough review of the data if you utilize computer-generated shipping documents. The new shipping description sequence on all hazardous materials per 49 CFR 172.202 is Identification Number (UN or NA), Proper Shipping Name, Hazard Class and Packing Group as shown in this example.

**New Sequence:** UN1993, Flammable Liquids, N.O.S., (Contains Methanol), 3, PG III

**New & Improved...Fire Prevention Plan**

Facilities that have completed the Fire Prevention Plan (FPP) and shown it to their insurance carriers have been very pleased with their response. Completing a FPP walks a person through a very thorough thought process that pre-plans for a fire and ultimately helps to prevent fires. Unfortunately, one side affect of developing a FPP online in the past was the inability to move back and forth through the process - to do so meant starting the entire process over again. This year, inspired by feedback from our most recent performance evaluation, Eric Rasor was able to modify the programming to the FPP to help resolve this issue. Now once the facility information has been entered and the structures and materials added, the website now allows the opportunity to edit, add or delete the information before the final submission is made. The FPP was designed to be updated every three years by completely reviewing and re-answering the questions.

**EPA Inspector General Issues Report on RMP Inspections: Industry Take Heed**

In a thirty page report released on March 25th, the EPA Inspector General finds that one-third of Clean Air Act risk management inspectors and one-half of program supervisors likely failed to receive proper training and oversight. The report, Improvements Needed in EPA Training and Oversight for Risk Management Program Inspections, outlines deficiencies that prevent EPA or its contractors from completing quality inspections. EPA has already begun corrective action on certain recommendations from the report that undoubtedly have an effect on future RMP inspections. The Inspector General’s review found that EPA management did not detect or prevent instances of missed or undocumented training, had limited training tracking systems and implemented few procedures to ensure that supervisors completed training requirements.

Regarding contractors used by EPA to conduct inspections, agreements and contracts did not include training requirements, and EPA did not have procedures in place to evaluate the quality of the inspections, according to the report. EPA generally agreed with the report’s recommendations to strengthen management controls to ensure inspectors meet basic training requirements, and to prepare stronger guidance on minimum reporting and monitoring requirements. There are 12,774 active facilities in the risk management program. Of those, 11,057 facilities are overseen by EPA, according to the report. EPA stopped using contractors to conduct inspections in May 2012 in certain states where the courts barred the practice. Click here for the EPA Inspector General’s report.

**Note:** This is a must read for the person at each location with responsibility for Risk Management Program (RMP) compliance as it provides information on preparations for future inspections.

**“Guide to Seed Treatment Stewardship” Released**

CropLife America (CLA) and the American Seed Trade Association (ASTA) recently announced the release of their new publication, “The Guide to Seed Treatment Stewardship,” a valuable resource for the entire seed
industry. This guide is the result of many months of collaboration between CLA and ASTA and is supported by endorsements from the National Corn Growers Association, the American Farm Bureau Federation and the American Soybean Association. The new resource provides critical information and up-to-date guidelines for managing treated seed effectively to further minimize the risk of exposure to non-target organisms. The guide is available for download here and provides recommendations for processes such as safe handling, selection, planting, labeling, storage and overall safe use of seed treatment products.

SBA Study: How do regulations affect small firms?
A study done for the Small Business Administration (SBA) found that complying with federal regulations costs small business (those with less than 20 employees) $10,585 per employee each year. For firms with 20-499 employees, the cost is $7,454, and for larger firms (500 and more employees), the cost is $7,755. Check out this SBA Fact Sheet and “The Impact of Regulatory Cost on Small Firms” for more details.

One More Time Congress Tries to Fix EPA FIFRA Double Permits
A group of House bipartisan supporters introduced HR 935, “The Reducing Regulatory Burdens Act,” a bill that once again tries to make clear to EPA it was never Congress’ intent to force pesticide applicators to get a Federal Insecticide, Fungicide & Rodenticide Act (FIFRA) NPDES permit for pesticides used on or near water if the product is already FIFRA registered. The full House approved a fix to the double-permit problem in 2011, and the Senate Agriculture Committee approved almost identical language to the House fix. However, Senator Barbara Boxer (D, CA), Chair of the Environment & Public Works Committee, blocked floor action on the ag panel’s bill.

Kansas: Anhydrous Bill Amended and Approved
The full Kansas Senate approved SB 147 by a vote of 39 to 1. This bill establishes a requirement for the owner of each anhydrous ammonia tank to be permitted through the Kansas Department of Agriculture (KDA). The bill would make it unlawful for any person to fill a tank if the tank does not have a current permit. The bill would also authorize the KDA to inspect any tank upon receiving a complaint. SB 147 would establish a commercial anhydrous ammonia tonnage fee and the Anhydrous Ammonia Fee Fund. Prior to full Senate consideration, the Senate Federal and State Affairs Committee amended the bill by deleting provisions relating to liability insurance and added language allowing inspections by approved KDA representatives. They also added rule and regulation authority and exempted motor carriers already regulated at the federal level. Thanks to the Kansas Agribusiness Retailers Association for all their work on this issue.

DOT Hazardous Materials Safety Permits
The Fertilizer Institute (TFI) and several other associations whose members transport hazardous materials requiring a DOT safety permit met with DOT and research officials. DOT is undertaking a project to review its safety permit program. Under provisions contained in last year’s highway bill, MAP-21, the Federal Motor Carrier Safety Administration (FMCSA) is required to conduct a study on the program and report its findings to Congress. FMCSA must determine if changes are necessary to the program and if not, justification as to why. TFI is seeking information from members on problems transporters have experienced with the program, but TFI is aware that a transporter could easily lose its ability to transport hazardous materials that require a permit due to the manner in which roadside inspections and out of service rates are calculated. TFI members with information on this subject are encouraged to contact TFI and share their experiences.

FMCSA Urged to Set the CSA Records Straight
The American Trucking Association (ATA) is once again asking FMCSA to immediately establish a process to remove crashes from motor carriers’ records when it was clear that the carrier was not to blame. The association pointed to several examples of such crashes that have occurred over the past year that unfairly skewed the motor carrier’s record. Earlier this year, DOT’s Motor Carrier Safety Advisory Committee heard from a crash reconstructionist who contended that FMCSA could not determine fault in many instances based solely on information from police accident reports. “This may be the case with some crashes,” argues ATA President and CEO Bill Graves, “but not when a drunk driver rear ends a gasoline tanker or the driver of a stolen car crosses a grassy median and strikes a truck head on.” FMCSA is said to currently be studying the issue.
I2P2: OSHA’s Number One Priority for the Future of Workplace Safety

The Assistant Secretary for Occupational Safety and Health spoke at an OSHA Employees All-Hands Meeting on February 4th, where he recognized some of the agency’s successes over the past several years, and discussed its future direction for 2013. The significant accomplishments Michaels highlighted were issuing a record number of significant/egregious enforcement cases, launching the new severe violator enforcement program, issuing three major standards and the launching of several new national, regional and local emphasis inspection programs. **Dr. David Michaels** acknowledged that there is much more work to be done and went on to identify I2P2. Michaels believes the injury and illness prevention program (I2P2) initiative is critical to driving injury, illness and fatality rates down. “One of my main objectives is to educate our country’s employers about moving beyond reactive compliance to embrace a culture of safety. Many workplaces have already adopted injury and illness prevention programs, where employers develop a process to find and fix workplace hazards before workers are hurt,” said Michaels. “Another focus will be to address the problem of systems that undermine a workplace culture of safety.”

OSHA Releases I2P2 Slide Presentation

OSHA has published a new slide presentation on the value of injury and illness prevention programs — a proactive process to help employers find and fix workplace hazards before workers are hurt. Not only are these programs effective at reducing injuries, illnesses and fatalities, but also many employers report that they have transformed their workplace culture and led to higher productivity and quality, reduced turnover, reduced costs and greater worker satisfaction. **Click here** to access the new slide presentation.

Revised Form I-9 Released

The U.S. Citizenship and Immigration Services (USCIS) has issued a notice announcing that employers should begin using a revised version of the Form I-9. The revised I-9 became effective on March 8th, but the government has provided a 60-day grace period during which employers may continue to use the old form. The main changes include more data fields, revised layout and improved instructions. In addition, USCIS is now requiring employers to make the instructions available to the employee at the time they complete Form I-9. **After May 7, 2013, employers must only use Form I-9 (Rev. 03/08/13).** The new form need only be used for new hires and re-verifications only. Employers should not complete a new form for all existing employees.

Hazardous Materials Regulations Amended

DOT issued a final rule on March 11th amending the hazardous materials regulations. The update was issued to clarify certain regulatory requirements:

- Add The Sulphur Institute’s (TSI) “Molten Sulphur Rail Tank Car Guidance” document to the list of informational materials not requiring incorporation by reference in §171.7.
- Revise the shipping paper requirements in §172.203(e) to permit the placement of phrase “Residue last contained” before or after the basic shipping description sequence, or for rail shipments, directly preceding the proper shipping name in the basic shipping description sequence.
- Update the training recordkeeping requirements in §172.704 to specify that a hazmat employer must make hazmat employee training records available upon request, at a reasonable time and location, to an authorized official of the DOT or DHS.

Information Collection Request from DHS

The Department of Homeland Security (DHS) recently published a 60-day information collection request (ICR) on the revised Personnel Surety Program (PSP). PSP will require facilities to conduct background checks for individuals who have unescorted access to sensitive or restricted areas within a CFATS facility. Personal information will be provided to DHS through a new PSP tool within the current on-line Chemical Security Assessment Tool (CSAT) and that information would be vetted against the terrorist screening database.
Individuals who already have a Transportation Worker Identification Card (TWIC) or Hazardous Materials Endorsement on a state-issued Commercial Driver’s License would still need to submit some information. Information submissions could be made at the corporate level or by third parties. Once the PSP tool is up and running, Tier 1 and 2 facilities will have 60 days to submit their initial data, while Tier 3 and 4 facilities will have 90 days.

OSHA Updates Abrasive Wheel Grinder Resource
OSHA has updated its abrasive wheel grinder checklist to reflect revisions made to the general industry electrical installation standard in 2007. The checklist is a resource to help employers understand which standards apply to the use of abrasive wheel grinders and to ensure that all proper precautions, including safe electrical grounding techniques, have been taken before workers begin operating the equipment. Click here to access the update.

Penalties Proposed After Finger Amputation at Ohio Plant
Smithville Manufacturing has been cited by OSHA for 21 violations after receiving a complaint that a worker’s finger was amputated at the Wooster, Ohio facility by an unguarded press machine. OSHA has proposed penalties of $65,800 as a result of the December 2012 inspection. The health and safety violations include one willful violation for failing to ensure point of operation guards were in place on mechanical power presses at the stamping facility, which does short-run productions of automotive parts.

Hawaii Legislature Actively Debates Biotech and Pesticide Bills
According to CropLife America (CLA), Hawaii has been the epicenter of a nationwide opposition campaign targeting biotech crops. Several bills directed at the seed industry have been introduced, which has a major agriculture presence on the islands. Activists in Hawaii, supported by national anti-biotech organizations, have staged large protests and personally targeted some of the industry leaders in Hawaii. The negative legislation is designed to make it difficult for the industry to operate in the state. CLA has opposed bills that would require pesticide use reporting and restricting the use of pesticides. CLA has also been active in addressing pesticide drift issues that resulted in an air monitoring study on the island of Kauai.

The industry is fighting back and recently rallied an impressive grassroots opposition to a bill (H.B. 174) that would require labeling of foods derived from biotech crops. Supporters and seed company employees attended the hearing and wrote letters of opposition to the legislation. The bill was destined for passage, but because of CLA and industry, opposition was tabled for this session. The Hawaii Crop Improvement Association (HCIA) has been leading an ongoing effort to educate policymakers on the economic and environmental benefits of the seed production operations in Hawaii and their judicious use of crop protection products. Recently, CLA was a sponsor of the annual HCIA “Taste of Agriculture” event, which reached out to state and community leaders in an effort to help them understand the positive contributions of the industry.

Heavy Truck Bill Reintroduced
A bill to give states the authority to allow 97,000-pound trucks with six axles and additional braking power access to sections of interstate highways within their states was reintroduced this week by Representative Mike Michaud (D, ME) and Representative Reid Ribble (R, WI). HR 612, the Safe & Efficient Transportation Act (SETA), seeks to allow heavier, but not longer, trucks on sections of interstate highways, which now carry an antiquated 80,000-pound weight limit. The current federal weight limit forces shippers to put trucks on the road with less-than-truckload shipments, requiring more trucks, more fuel, more emissions and greater wear and tear on roads and bridges, SETA supporters say. The Coalition for Transportation Productivity (CTP), made up of over 200 associations and companies, saw the bill in the last Congress turned into a study due to heavy railroad opposition, a move condemned by CTP, which points to several domestic and international studies showing heavier trucks are as safe or safer and provide no greater wear and tear than other conveyances. Rails contend allowing heavier trucks on interstate highways will cost them freight customers. CTP also points out that Canada, Mexico, Europe and Asia already allow 97,000-pound trucks on their highways, making U.S. shippers less competitive, particularly in North America.

ACRC Seeks Qualified Container Recycling Service Provider
The Ag Container Recycling Council (ACRC) would like to identify any and all qualified companies interested in providing pesticide container recycling services for the period 2014-2016 in a manner that benefits both the
ACRC and all program participants. To that end, the ACRC is issuing a Request for Statements of Qualifications from qualified companies with interest in providing pesticide container recycling services in the fifteen states currently defined as the ACRC Midwest service area beginning January 1, 2014. If you know of any person/organization interested in providing the required services in one, some, or all of the Midwest states, please call 877-952-2272 or e-mail rperkins@acrecycle.org.

**U.S. DOT Number: Mark of Distinction**

We routinely receive questions each spring on the requirements for leased vehicles. A motor carrier leasing a commercial motor vehicle (CMV) must comply with the marking requirements stated in §390.21 of the Federal Motor Carrier Safety Regulations. While this particular regulation may have little to do with safety or the safe operation of a CMV, it does have a significant purpose and is the responsibility of motor carriers operating the equipment regardless of who owns the equipment.

Is the carrier leasing the CMV required to display their own company name and DOT number on these vehicles? Most rented CMVs are already marked with the name and USDOT number of the rental company/owner.

If the CMV is being rented or leased for less than 30 days, the lessee has an option to display their own legal trade name and USDOT number or display the name and USDOT number of the owner/lessor of the vehicle. Whatever they choose, they must carry inside the vehicle the rental agreement between the lessee (the renting carrier) and the lessor/owner.

A motor carrier who is renting the CMV for a period of 30 days or longer must display their own legal name and USDOT number by a removable device or sign on both sides of the rented CMV. Also, a copy of the rental agreement must be carried in the rented CMV during the full term of the rental agreement. The carrier is also responsible for the maintenance recordkeeping related to the vehicle.

Section 390.21(e) is a straightforward explanation of the motor carrier’s responsibilities in the short term leasing of CMVs. The core of this regulation is that all commercial motor vehicles operated by a motor carrier must be legally marked with two pieces of information: either the motor carrier’s (lessee) name as listed on their MCS-150 and their USDOT number, or the owner’s (lessor) name and USDOT number. This must be done before the vehicle is operated on public roads. All rented and leased vehicles operated by the carrier are required to comply with the USDOT marking rule. This regulation is a part of the Federal Motor Carrier Safety Regulations and the responsibility for compliance rests with the motor carrier.

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