



National Safety
Management
Society

DIGEST

Updating Members on Safety Management News

June 2009

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Welcoming Our New 2009 NSMS Members

On behalf NSMS President Roosevelt, the NSMS Executive Committee and the NSMS Board of Directors, we like to thank all members who have proactively renewed their 2009 National Safety Management Society memberships. We would also like to acknowledge, recognize and welcome the following new members to our professional organization:

- **Brent Choate** , CSP Safety Advisor – Fircroft (Houston, Texas)
- **Dennis Farinetti**, Compliance Technician – Chevron Phillips Chemical Company (Kingwood, Texas)
- **Lex Hembree**, Safety Manager Chicago – Coach USA/Mega Bus (Chicago, Illinois)
- **Peter Husak**, Associate – JMP & Associates, LLC (Houston, Texas)
- **Larry D. Jones - CSS**, Safety Advisor – High Mount E&P, LLC (Houston, Texas)
- **Robert Knowles**, Safety Coordinator – Total Petrochemicals USA, Inc. (Groves, Texas)
- **Jeff Muehlmann**, Environmental Director – US Department of Navy (Gulfport, Mississippi)
- **Gregory Pyles**, Safety & Health Coordinator – David Anderson Sanitary District of Decatur (Decatur, Illinois)
- **Wolf Reshef**, Safety & Occupational Health Manager – 7 Civil Support Command
- **Daniel Sherwin**, Instructor – Slippery Rock University (Slippery Rock, Pennsylvania)
- **Calvin White**, Safety Rep – People PC (Prentiss, Mississippi)

We appreciate your interest in furthering your skills, knowledge and abilities in the management of safety and risks, as well as your interest to networking and professional development. Welcome again to NSMS!

The ISHM “Certified Safety and Health Manager” (CSHM) Accreditation Has Been Achieved!

The vision of our early NSMS founders to develop a safety management-focused credential to recognize professional competence in safety leadership has culminated in the official accreditation of the NSMS-created Certified Safety and Health Manager credential by the Council on Engineering and Scientific Specialty Boards (CESB). CESB is a self-sustaining, independent body which accredits certification programs organized and operated consistent with sound credentialing practices tailored to the needs of engineering and technology specialties. CESB is the recognized accreditation body for engineering and scientific certification and specialty certification programs for professional credentials such as the Board Certified Environmental Engineer, Certified Industrial Hygienist and Certified Hazardous Materials Manager.

Our sister organization, the Institute for Safety and Health Management (ISHM) and its Board of Directors deserve all the credit for their leadership, diligence, determination and perseverance in marshalling this monumental effort to fruition. Our CSHM credential holders deserve our gratitude for their patience as this initiative effort went through many trials and tribulations over the years. The Institute for Safety and Health Management is the credentialing organization which administers the CSHM to recognize safety and risk management professionals who, through demonstrated professional experience and the passing of a comprehensive exam, have met ISHM's requirements for mastering the safety management body of knowledge.

The CSHM credential recognizes safety and health professionals who demonstrate knowledge of health and safety management skills and techniques through examination and experience. The CSHM certification program promotes the integration and practice of safety management principles throughout all levels and activities of an organization. In addition to technical knowledge of safety and industrial hygiene, a successful safety and health manager must possess working knowledge of a broad range of business and financial principles and an understanding of related issues such as hazard analyses, accident/incident investigations, safety audits/surveys, workers' compensation, risk management, product safety, human factors, environmental laws, quality, and labor relations. The CSHM program is designed to provide recognition of those who can apply such a broad range of health and safety management tools. NSMS offers to be a resource and facilitator to help those interested in pursuing such a certification.

SPECIAL ADVANCED ANNOUNCEMENT:

NATIONAL SAFETY MANAGEMENT SOCIETY **Upcoming Special Professional Development Workshop** **Tentatively – Fall 2009** **Houston, Texas Area**

Many emails have been coming in recommending to NSMS that we offer an interdisciplinary two-day professional development workshop that will enable safety professionals/managers sharpen their skills, knowledge and abilities in interacting with employees and company leadership. We are considering a pilot workshop beginning in the Houston, Texas area and going forth to other regions where our membership would like to have it presented. If we come to your locale or college campus, we hope this will be a more cost-effective opportunity to learn and expand your skills, knowledge and abilities (SKAs).

The tentative workshop fee (early, pre-registration) for NSMS members is \$125 and \$250 for non-members and an on-site (or late) registration of \$160 for NSMS members and \$275 for non-members (includes lunch and program materials). College students majoring in this field of study are also invited to attend (NSMS Student (Affiliate) Members workshop fee is \$100). We need a minimum of 50 attendees to cover this event. (We currently have 20 respondents) Please email us at nsmsinc@yahoo.com if you are interested in possibly attending so we can begin to establish a headcount. Thank you.

“Enhancing Safety Management SKAs: 2-Day Professional Development Workshop”

Instructor: Dr. Jeffrey Chung, CSHM CHFP – NSMS Executive Director

Day One –

- Administrative Business, Introductions and Workshop Overview
- Safety Management Principles and Practices
- Safety Attributes for Best-in-Class Organizations
- Emerging Safety and Health Issues – Aging Workforce, Green Jobs and Special Needs of Foreign Workers
- Psychology of Safety – A Behavior-based Approach; Human Performance Improvement
- Developing Effective Training/Presentation Skills
- Role of Safety Committees; Conducting/Facilitating Effective Meetings

Day Two –

- Understanding Self/Others/Your Organization – SMART Profile
- Strategic Planning Concepts and Process
- Problem Solving and Analytical Tools
- Performance Metrics for Continuous Improvement
- Corporate Communication Strategies for Safety/Risk Management Professionals
- Ethics for the Safety Practitioner and Manager
- Stress and Health Management for the EH&S Professional
- Wrap-up and Workshop Evaluation

The NSMS “Blog” is Here

Steve Geigle has created and launched the “NSMS Blog” on the NSMS website. It will allow members and others to post comments, remarks and initiate discussions about a variety of safety management topics and issues. You can participate in the Blog by going to the NSMS website (<http://nsms.us>) and look for the link on the home page along the left-hand column of navigation areas. The NSMS Blog can only thrive with the enthusiasm and expertise of its members and readership. We encourage and invite everyone who has an interest in workplace health and safety to be a part of the NSMS Blog and help create a community that helps all organizations be safer, healthier and compliant places to work.

FREE ACCESS: Online Certified Safety and Health Manager (CSHM) Educational and Exam Preparation Reference Materials

As a benefit for our current and future dues-paying members, NSMS is **permanently** offering free access to the Certified Safety and Health Manager (CSHM) preparation and educational materials. The online resources, created by NSMS member Steve Geigle, can be found at www.cshmprep.com and the only action an NSMS member needs to take is to email Steve requesting access from that website. You will need to include your current NSMS member number (found on your membership card and certificate). Once the number is verified, you will be granted a username and password to access the online reference materials. This is a great opportunity to brush up on your safety management and technical knowledge and prepare for a successful passing of the CSHM certification examination.

OSHA Gets a New Boss

(By Glenn Demby, Esq., SafetyXChange, April 9, 2009)

President Obama has chosen his new OSHA secretary. Ladies and gentlemen, meet Jordan Barab.

The Credentials

First, the resume. Jordan Barab’s string of jobs includes Senior Labor Policy Advisor for Health and Safety on the House Education and Labor Committee (his current position), health and safety consultant for the AFL-CIO, head of safety for AFSCME (American Federation of State, County and Municipal Employees) and member of the U.S. Chemical Safety and Hazard Investigation Board. In 1998, President Clinton appointed Barab Special Assistant to the OSHA secretary.

The Man

Although he's been around a long time and clearly knows his stuff, Barab wasn't chosen because of the jobs he's held. He's heading to OSHA because of who he is and what he represents.

Barab's predecessor, the labor lawyer Edwin Foulke, Jr., was criticized for being in the pocket of big business. Describing Foulke as a tool of the corporations he was charged with overseeing is unfair. However, Foulke's agenda—promote voluntary compliance and eliminate “inefficient” regulation, among other things—was clearly a reflection of the Bush Administration's pro-management tilt in the health and safety realm.

Jordan Barab comes from a different universe. He's an activist with a passion for health and safety. He's perhaps best known for his workplace health and safety blog, *Confined Space*, in which he savaged the Bush OSHA program for not doing enough to protect workers.

The Passion

The best way to capture the essence of Jordan Barab is by citing his own words. The following excerpt comes from a 2004 speech that Barab delivered to the American Public Health Association while accepting an award for his blog.

I started *Confined Space* . . . to have a personal outlet for the outrage that I constantly feel. . . The idea of writing the Blog came to me shortly after the space shuttle *Columbia* disaster in January 2003 that killed 7 astronauts. . . .

At some point it dawned on me that the astronauts were really just workers – space workers – but not terribly dissimilar to the more than 100 other workers who died tragically that week on the job in the United States. They were all just doing their jobs. The only difference is that the other 100 only got a couple of paragraphs in the local newspaper. No outrage, no anger, no call to action. They weren't glamorous enough. In fact, they were generally people who do ordinary, dirty jobs on construction sites, roads and factories. Most of them died alone, only noticed and remembered by their immediate family, friends and co-workers.

You will only need a few moments on Google to find the names, pictures, hometowns and dates of death of every American killed in Afghanistan and Iraq over the past three years. But you can search long and hard, and ultimately in vain for the names of the more than 5,000 Americans killed in the workplace last year. . . .

Irving Selikoff once said, “statistics are human beings with the tears wiped away.” Well, our job is to put those tears back. . . .

So how do we spread the outrage, put back the tears and politicize workers?

First, we need to take advantage of every teachable moment. Last year, we had 5,559 “teachable moments” when workers lost their lives in the workplace (not counting the 50,000 to 100,000 workers who die each year of occupational diseases.) We need to take those moments to educate not just our members and our students, but also journalists. Our best hope is the media.

No longer can we tolerate headlines – even in a rural, low-circulation newspaper -- that claim that a workplace death resulted from a “freak accident” when the unprotected walls of a 12-foot trench cave in on top of a worker.

No longer can we let journalists get away with calling the death of a worker a “mystery” when he suffocates in an unmonitored, unventilated manhole.

No longer can we let journalist blame a severed limb or crushed head on “employee error” because someone accidentally turned on the machine while he was inside. . . .

We need to use these teachable moments not just for journalists, but also for politicians. . . . We need to make sure that every time a worker dies, someone in the local paper is quoted asking the local and state politicians what they are doing in Washington – or even in the statehouse – to make sure these tragedies don’t happen again. Are they supporting higher fines, jail terms, stronger standards, more inspectors?

We also need to mobilize families. Some of the most moving mail I’ve received as a result of *Confined Space* is from the wives, siblings and children of workers killed on the job. They are angry about the death their loved ones. And they find some solace in knowing that there’s someone else out there who is just as angry. . . .

We need to make it clear that the right to a safe workplace wasn’t bestowed upon us by concerned politicians or employers who were finally convinced that “Safety Pays.” The right to a safe workplace was won only after a long and bitter fight by workers, unions and public health advocates. It was soaked in the blood of hundreds of thousands of coal miners, factory and construction workers. And the current movement to transform the agency into nothing but a coordinator of voluntary alliances is a betrayal of that promise and those lives.

Conclusion

President Obama had a lot of choices for head of OSHA. The candidates considered brought an array of assets to the table—scientific and technical expertise, political savvy, government experience, etc. That’s not to say that Jordan Barab doesn’t possess any of these qualities. But in choosing Barab, President Obama opted for passion.

Will Barab’s almost religious devotion to the cause translate into safer and healthier workplaces? Or is OSHA and the working men and women it serves actually better off with more traditional bureaucratic leadership? The answer to that fascinating question will become clear in the months ahead.

Protecting America's Workers Act of 2009

Democrats on the House Education and Labor Committee, led by U.S. Rep. Lynn Woolsey (D-CA), chair of the Workforce Protections Subcommittee, introduced legislation today that would help the nation's health and safety agencies to hold unscrupulous employers accountable for exposing their workers to preventable hazards.

“It has been more than 30 years since the passage of the OSH Act, and it is badly in need of reform. While thousands of workers have been saved as a result of OSHA, 16 workers are killed and 11,200 workers are injured or made ill each and every day,” said Woolsey. “This legislation will strengthen OSHA by expanding coverage to millions of workers who are currently unprotected or inadequately protected, increasing civil and criminal penalties for those who violate the law, and by protecting those who blow the whistle on unsafe employer practices. I look forward to working with Chairman Miller and my colleagues on the committee to pass this legislation, and to partnering with Secretary of Labor Hilda Solis to ensure that every American worker gets the protections that they deserve.”

“Beginning last Congress, we conducted a systematic examination of the federal Occupational Safety and Health Administration and their ability to protect workers. We found that far too many employers were subject to a slap on the wrist or even let off the hook when they put their employee in danger,” said Rep. George Miller (D-CA), chairman of the full committee. “This legislation is vital to improving the health and safety of American workers.”

Among other provisions, the bill would:

- Apply federal safety standards to workers who are not currently covered, including federal, state, and local employees, and some private sector employees;
- Protect workers who blow the whistle on unsafe workplace conditions;
- Increase penalties against employers for repeated and willful violations of the law, including making felony charges available when an employer's repeated and willful violation of the law leads to a worker's death or serious injury; and
- Give workers and their families the right to challenge reduction of fines and other penalties.

The Protecting America's Workers Act will strengthen and modernize the Occupational Safety and Health Act, our nation's law that ensures the health and safety of American workers. Significant progress has been made on protecting the health and safety of American workers since the creation of the Occupational Safety and Health Administration almost four decades ago. According to studies, nearly 400,000 workers' lives have been saved as a result.

However, too many workers are still dying, getting injured or become ill by working in unsafe and unhealthy conditions. The Protecting America's Workers Act will provide additional tools to ensure that OSHA can fulfill its duty enforce safe and healthy workplaces for all American workers.

Specifically, the Protecting America's Workers Act:

Protects More Workers

- Expands OSHA coverage to include state and local public employees and federal government workers.
- Expands coverage to millions of other workers inadequately covered such as airline and railroad employees, and Department of Energy contractors.

Strengthens Health and Safety Penalties

- Raises civil penalties and indexes those penalties to inflation.
- Establishes mandatory minimum penalties for violations involving worker deaths.
- Allows felony prosecutions against employers who commit willful violations that result in death or serious bodily injury, and extends such penalties to responsible corporate officers.
- Requires OSHA to investigate all cases of death and serious injuries (i.e. incidents that result in the hospitalization of 2 or more employees).

Improves Whistleblower Protections

- Codifies regulations that give workers the right to refuse to do hazardous work.
- Clarifies that employees cannot be discriminated against for reporting injuries, illnesses or unsafe conditions, and brings the procedures for investigating and adjudicating discrimination complaints into line with other safety and health and whistleblower laws.

Allows Workers and Their Families to Hold Dangerous Employers Accountable

- Provides workers and employee representatives the right to contest OSHA's failure to issue citations, classification of its citations, and proposed penalties.
- Gives injured workers, their families and families of workers who died in work-related incidents the right to meet with investigators, receive copies of citations, and to have an opportunity to make a statement before any settlement negotiations.
- Clarifies that the time spent by an employee accompanying an OSHA inspector during an investigation is considered time worked, for which a worker must be compensated.
- Prohibits OSHA from designating a citation as an "unclassified citation" where an employer can avoid the potential consequences of a "willful" violation, the most serious violation.
- Allows any worker or their representative to object to a modification or withdrawal of a citation, and entitles them to a hearing before the Occupational Safety and Health Review Commission.

Sigh of Relief for VPP Sites

(Workplace Safety & Health Ezine, May 26, 2009)

OSHA's emphasis on enforcement of safety regulations does not mean the agency will forgo programs targeted toward voluntary compliance and workplaces with good safety records. The Voluntary Protection Programs Participants' Association, Inc. (VPPPA) recently received confirmation from the U.S. Department of Labor's Acting Assistant Secretary for OSHA, Jordan Barab, that OSHA is maintaining the Voluntary Protection Programs (VPP).

Recent coverage of Barab's statements before the U.S. House of Representatives Subcommittee on Workforce Protections has caused some confusion for VPP sites and the safety and health community. He stated that, "We need to better utilize the resources that we already have. In order to direct more of OSHA's existing resources into enforcement and to provide time to address concerns in an upcoming GAO Report on the efficacy of OSHA's Voluntary Protection Program, I have informed the field staff that we will suspend the previous administration's practice of establishing goals for new Voluntary Protection Program sites and Alliances."

In response to the resulting confusion, Barab called VPPPA's Executive Director R. Davis Layne and assured him that OSHA is not suspending VPP. Indicated changes represent a shift in focus toward enforcement but do not equate to an elimination of OSHA's VPP. Barab recently accepted an invitation to address the association's annual conference in August.

VPPPA's member sites primarily consist of worksites that have been approved, or are seeking approval, as VPP sites administered by OSHA, state-plan OSHA and the Department of Energy.

Federal OSHA Signals Shift to Aggressive Enforcement

(By Lisa Mascaro, Las Vegas Sun – May 1, 2009)

As Congress entertains legislation to increase penalties on employers violating workplace safety rules, the Obama administration's Labor Department is moving ahead with plans to target and prosecute big companies that are repeat safety law offenders.

The head of the Occupational Safety and Health Administration testified before a House panel Thursday that he has instructed staff to suspend a voluntary protection program launched under the Bush administration to free up resources for enforcement.

OSHA also plans to work with the Justice Department on better prosecuting employers that repeatedly violate safety laws, said Jordan Barab, acting head of the agency.

Congressional Democrats and the Labor Department are moving forward to beef up workplace safety rules that critics say were weakened by the Bush administration.

The changes are important for Nevada, where the Las Vegas Sun detailed safety violations and lax enforcement involved in construction deaths on the Las Vegas Strip. Twelve workers died over an 18-month period until safety conditions began to improve last June.

Democratic Rep. Lynn Woolsey of California convened Thursday's hearing after a recent audit by the Labor Department's inspector general found a 5-year-old enforcement program targeting recalcitrant companies was not fulfilling its mission.

"We need to know why the program is not working and what we can do to fix or revamp it," said Woolsey, chairman of the House Education and Labor Committee's subcommittee on workforce protections.

Among those testifying was Jesus Rojas, who said his stepfather, Raul Figueroa, was killed in 2008 in southern Florida in a maintenance accident when the hydraulic arm of a truck pinned him against the cab.

Woolsey said the company, Waste Management, has a history of safety violations. The inspector general found the company should have been targeted by the Enhanced Enforcement Program, but was not.

"If the company had been properly monitored ... would Mr. Figueroa be with us today?" Woolsey said.

She has introduced legislation, the Protecting America's Workers Act, that would increase fines on companies that violate safety laws and impose a new criminal felony category. The bill also would create a method for injured workers and families to participate in the penalty assessment process, among other provisions.

Often, company fines are reduced during private negotiations between employers and OSHA, without family involvement. That occurred with most of the Las Vegas deaths.

A similar bill is expected in the Senate, possibly streamlined legislation focused on fines and victims' rights that may draw more Republican support than a broader bill.

Separately, Rep. Phil Hare, D-Ill., introduced a bill that would, for the first time, require large employers or those with multiple sites to report every workplace illness, injury or fatality, which supporters say would shine a bright light on company records.

As the legislation is considered on the Hill, OSHA is taking several steps to beef up enforcement. Labor Secretary Hilda Solis announced a new program this week targeting severe violators.

At Thursday's hearing, Barab testified that the Severe Violators Inspection Program will be a comprehensive revision of the existing Enhanced Enforcement Program.

The Severe Violators Inspection Program will focus on large companies, and “will ensure that recalcitrant employers not meeting their obligations under the OSHA Act are targeted for additional enforcement action.”

Even though Nevada and many other states operate their own OSHA programs, regulations the states use must be as strict as those imposed federally.

Some believe the power of the federal OSHA’s bully pulpit will set a tone in the states.

The Bush administration’s Enhanced Enforcement Program began in 2003 after a series of stories by The New York Times and Frontline exposed what Woolsey called “horrendous” working conditions at McWane Industries — a major manufacturer of water and sewer pipes with facilities across the country.

The series found that nine workers were killed and 4,600 were injured at company facilities — what The New York Times called one of the worst safety records in the United States.

Yet the inspector general’s audit released in March found that the Enhanced Enforcement Program failed to adequately identify and inspect major companies with repeat violations.

Inspector General Elliott Lewis testified Thursday that “it is essential that OSHA target its limited resources to inspect workplaces with the highest risk of hazardous conditions that have greater potential to cause injuries and fatalities.”

The U.S. Chamber of Commerce agreed that OSHA should focus on the worst offenders, saying even if OSHA doubled its army of inspectors, only 1 percent of the nation’s 7.2 million work sites would be visited annually.

Yet the chamber took issue with the audit’s conclusion that subsequent deaths could have been prevented had the program been working properly.

Rep. Howard “Buck” McKeon, the ranking Republican on the full committee, said OSHA should focus resources on the “bad apples ... Those are the companies we should be going after.”

“This is really a serious subject,” McKeon said. “We have to be overly careful that we don’t politicize this issue, that we be careful that we don’t attack companies involved.”

Read-And-Sign Doesn't Equal Compliance

(By Barbara Semeniuk, SafetyXChange, May 5, 2009)

How many of you have handed a 200-page health and safety manual to workers and told them to read it? Then, you stuck a waiver in their face and demanded they sign it. Something like: "I hereby acknowledge that I have read and fully understood all of the information contained in this manual," yada yada, yada. So you feel like you've met your training obligations and won't be held liable if something goes wrong. Sorry, folks. It doesn't work like that.

Not Worth the Paper It's Written On

An oilfield services company learned this lesson the hard way. It gave its workers a large health and safety manual and told them to read it. After they had read it over and supposedly absorbed all of its contents, they had to sign a waiver. The company performed no checks to verify that the workers actually did understand any of what they had read. It just assumed that the onus was now on the workers since they signed the waiver.

As so many do, this assumption proved false. There was, I'm sorry to say, a serious injury caused by a worker who didn't follow the proper procedure set out in the manual. The worker claimed that he had read the safety manual but didn't really understand it. In the prosecution that followed, the company claimed that it had taken all reasonable steps to protect its workers. It also produced the signed waiver to "prove" that company officials reasonably believed that the worker in question understood the procedure.

The judge took the air out of their balloon. "Did you check to make sure the worker actually did understand the contents of the manual?" the judge asked. Of course, the officials had to answer no. So the judge imposed a hefty fine on the company.

The Steps to Take

The moral of the story: The employer bears the burden of determining a worker's competency to do a job. Handing workers a manual and having them sign a waiver acknowledging they read and understood it isn't enough to meet that burden. Before turning workers loose to perform their tasks, an employer must take steps to ensure that workers actually did absorb the safety policies and procedures the manual contains and are competent to do the job.

There are lots of things an employer can do to meet this burden:

- Have workers take a quiz testing key concepts demonstrating their competency to use a piece of equipment, tool, procedure, etc.; and/or
- Have the worker demonstrate the proper procedures under the watchful eye of a mentor—that is, a supervisor or experienced worker who takes the worker under his or her wing and signs off that the trainee actually is competent.

Worker orientation should discuss company policies and procedures as well as critical health and safety issues like the location of first aid kits, eyewash stations and fire extinguishers and what to

do in an emergency. New workers should be given a site tour introducing them to their co-workers and the hazards of the site. Then you as the employer or his/her representative must check for understanding.

Conclusion

Read-and-sign is false training. Real training consists of making sure that workers really do understand and are competent to perform the tasks you assign them. Following these methods insulates your company and its officials from liability; more importantly, it prevents injuries and saves lives.

First Nanotech Safety Rule Pending in Canada

The Canadian government is preparing to release the world's first national regulation requiring companies to report use of engineered nanomaterials. The information gathered will be used to determine the risks of engineered nanomaterials to the safety and health of workers.

Project on Emerging Nanotechnologies (PEN) note the move by the Canadian government is a significant step for consumer and environmental protection. "Nanotechnology is developing rapidly. People and the environment are being increasingly exposed to new nanomaterials. Yet governments lack information on the type, quantity and possible risks of nanoscale materials being manufactured and used in products today. This is information that is vital to ensuring the safe use of nanotechnology," according to Andrew Maynard, chief science advisor for Washington, D.C.-based PEN.

Canada's action comes shortly after the U.S. Environmental Protection Agency (EPA) issued an interim report on its Nanoscale Materials Stewardship Program, a voluntary information submission program that has received limited industry participation. The EPA report notes the lack of data the program garnered and says the agency will consider how best to use the federal Toxic Substances Control Act (TSCA) to gather more risk data. Previous studies by PEN experts have concluded that TSCA is "extremely deficient," and that EPA has not effectively used the tools it has under that law to address nanotechnology, keeping the agency from identifying which substances are nanomaterials and whether they pose a hazard.

PEN reports EPA and Nanotechnology: Oversight for the 21st Century and Nanotechnology Oversight: An Agenda for the New Administration highlight specific actions that can be taken under TSCA to obtain crucial information on nanotechnology's risks. Both reports are available online at: www.nanotechproject.org

The Project on Emerging Nanotechnologies is an initiative launched by the Woodrow Wilson International Center for Scholars and The Pew Charitable Trusts in 2005. It is dedicated to helping business, government and the public anticipate and manage possible health and environmental implications of nanotechnology. For more information about the project, log on to www.nanotechproject.org.

New TB Protection Uses UV Technology

The National Institute for Occupational Safety and Health (NIOSH) introduced a technical guidance document for using ultraviolet germicidal irradiation (UVGI) systems to protect healthcare workers from tuberculosis (TB) infection.

Use of UVGI systems may help employers provide effective TB infection control in some facilities such as homeless centers and older hospitals, which may not have mechanical ventilation systems. UVGI systems may also aid employers and workers who use facilities in which ventilation systems are not designed to meet the recommended criteria and retrofitting these systems may be difficult and expensive.

The system described in the guidance uses UVGI lamps in fixtures on or near the ceiling. NIOSH-funded research by the University of Colorado helped to develop the guidelines. The guidelines discuss factors influencing the effectiveness of UVGI, such as UVGI irradiance and dose, mechanical ventilation, air mixing, and humidity and temperature. The guidelines recommend consulting with a professional knowledgeable in upper-room UVGI systems and their installation before instituting the controls. The guidelines include suggestions on how to select UV lamps and how to install maintain UVGI systems.

Environmental Control for Tuberculosis: Basic Upper-Room Ultraviolet Germicidal Irradiation Guidelines for Healthcare Settings is available at <http://www.cdc.gov/niosh/docs/2009-105>.

Other useful link - NIOSH Safety and Health Topic: Tuberculosis
<http://www.cdc.gov/niosh/topics/tb/>. x

Business Continuity Plans: Why They Must Include Safety Incident Response

(By Robin L. Barton, Esq., Safety-X-Change – April 7, 2009)

Public Safety Canada, an agency created in 2003 to ensure coordination among all federal departments and agencies responsible for national security, has published a useful guide to business continuity planning at www.publicsafety.gc.ca/prg/em/gds/bcp-en.asp. You should obviously customize your company's business continuity plan to reflect its particular industry and operations. But, as a starting point, you should ensure that your company's plan has at least the five sections recommended by Public Safety Canada's guide:

1. Governance Structure

Someone in the company needs to create, implement and oversee the business continuity plan. Typically, these tasks are done by a senior management committee. The plan should define the committee's roles and responsibilities and spell out who the members of the committee are.

2. Business Impact Analysis

The purpose of a business impact analysis is to:

- Identify the company's mandate and critical services or products;
- Identify impacts of disruptions to operations, such as how long the organization could function without a service or product and how long customers would accept the unavailability of that service or product;
- Identify areas of potential revenue loss, additional expenses and intangible losses that a disruption to operations might cause;
- Spell out insurance requirements and coverage;
- Rank the critical services or products based on potential loss of revenue, time of recovery and severity of impact a disruption would cause; and
- Identify "dependencies"—that is, those services or products that are dependent on the delivery of other services or products.

3. Steps, Measures and Arrangements

This section is the meat and potatoes of the plan—that is, the actual steps to be taken to ensure that the company's business continues after a safety incident. The company should establish teams to implement these steps and lead recovery and response operations.

The plan should initially try to mitigate the disruption of the company's business, such as by having stand-by generators available in case, say, a worker on a crane inadvertently takes down a power line, cutting electricity to the facility. If mitigation isn't possible or sufficient, the plan should address the steps necessary to respond to events as they unfold. These steps should anticipate increasing levels of disruption. For example, if a safety incident causes a pipe to burst and flood the facility, the initial step could be to move work to another floor of the facility or to another section of the facility. If the flooding proves more extensive than initially believed, work may need to be moved to another building or facility in an entirely different location. So the plan should address the availability of other facilities.

4. Readiness Procedures

A business continuity plan can only be implemented smoothly and effectively if:

- All workers and staff are familiar with the plan and aware of their individual responsibilities under it; and
- Workers on teams responsible for implementing the plan and leading response and recovery operations are properly trained on their functions as well as those of the other teams.

Thus, training is a key part of a business continuity plan's success. But training isn't enough. To ensure adequate preparation, you also need to conduct exercises that simulate a safety incident and require workers and teams to respond accordingly. Although exercises are time consuming, they're the best way to ensure that the plan is effective. If there are holes in the plan, you want to identify them during an exercise—not an actual emergency. You can then integrate the knowledge gained from these exercises into the plan.

5. Quality Assurance Techniques

You can't simply create a business continuity plan, train workers and team members on it, run a few exercises and then throw the plan in a drawer until you need it. As a company's business and operations change, the plan will need to change accordingly. So companies should review their plan internally:

- On a regular basis, such as annually or bi-annually;
- When workplace hazards change;
- When substantive changes to the company occur; and
- After an exercise to incorporate the lessons learned from it.

In addition, the company should consider having an outside consultant audit the plan to verify the procedures used to determine the critical services and processes and the plan's overall methodology, accuracy and comprehensiveness.

Conclusion

Whether or not you're a member of the senior management committee that's responsible for your company's business continuity plan, as a safety coordinator, it's your responsibility to ensure that senior management understands the implications a safety event could have for the company's operations—and its bottom line. If your company doesn't have a business continuity plan at all, talk to senior management about creating one and make sure the plan addresses all possible disruptions to the operations, including safety incidents. If the company already has a plan but it doesn't address safety incidents, try to convince senior management to revise the existing plan so that it does. Your efforts could spell the difference between whether your company recovers from a safety incident or is financially crippled by it.

Lessons Learned: Whistleblowers Awarded \$7.9 Million

(Workplace Safety & Health – Safety Email Report, April 14, 2009)

OSHA ordered Southern Air Inc. to withdraw a lawsuit it filed against nine former employees and pay them more than \$7.9 million in wages, damages and legal fees.

Southern Air, a Norwalk, Conn.-based air cargo carrier, filed a defamation lawsuit against the former employees after some of the workers raised air carrier safety concerns. The workers, all former flight crew members, subsequently filed a whistleblower complaint with OSHA. OSHA's investigation found that the company's lawsuit was filed in retaliation for the workers' protected activities under the whistleblower provisions of the Wendell H. Ford Aviation Investment and Reform Act for the 21st Century (AIR21).

“This order sends a strong and clear message that these and other workers have the right to raise safety issues with their employers and regulatory agencies without fear of retaliation and intimidation,” said Secretary of Labor Hilda L. Solis. “The Labor Department will vigorously investigate such allegations and, where merited, order appropriate remedies for workers.” As a result of its investigation, OSHA issued a notice of findings and order to Southern Air directing the airline to do the following:

- Withdraw its lawsuit.
- Pay the complainants \$6,004,000 in lost future earnings, \$1,800,000 in compensatory damages and \$129,789 in legal fees and costs.
- Purge each complainant's personnel file and other records of all warnings, reprimands or derogatory references resulting from protected whistleblower activity.
- Refrain from mentioning the complainants' protected whistleblower activity or conveying any damaging information in response to third party inquiries.
- Provide all Southern Air crew members with copies of the Federal Aviation Administration Whistleblower Protection Program poster and OSHA's notice to employees, and post these in each Southern Air facility.

The complainants and the airline have 30 days from receipt of the findings to file an appeal with the Labor Department's Office of Administrative Law Judges.

Lessons Learned: Bayer Explosion Investigated by the U.S. Chemical Safety Board (CSB)

A thermal runaway reaction during the production of an insecticide caused a large explosion and fire that took the lives of two workers at the Bayer CropScience (Bayer) plant in Institute, W.Va. An investigation by the U.S. Chemical Safety Board (CSB) found that the event likely resulted from significant lapses in chemical process safety management at the plant.

CSB noted a variety of contributors to the August 2008 accident. Improper employee training on a new computer system, inappropriate equipment for the necessary processes and worker fatigue were discussed. The equipment deficiencies and procedural changes were not formally reviewed by management, which is a key requirement of the OSHA Process Safety Management standard.

In addition to two operator deaths, eight workers reported symptoms of chemical exposure, including aches and intestinal and respiratory distress.

CSB Board Chairman John Bresland said, "The explosion at Bayer was a very serious and tragic event that could have had additional grave consequences. There were significant lapses in the plant's process safety management, including inadequate training on new equipment and the overriding of critical safety systems necessitated by the fact the unit had a heater that could not produce the required temperature for safe operation," Bresland said.

"The explosion occurred within 80 feet of a pressure vessel containing more than 13,000 pounds of methyl isocyanate, or MIC, a raw material for the pesticide the company was making at the time, and the same chemical that caused death and injury in the Bhopal accident 25 years ago," Chairman Bresland said.

He added, "As our investigation continues, we will look further into the issues surrounding the safe placement of the tank and its potential vulnerability. We note that other chemical companies, notably DuPont, no longer store MIC in their chemical production and we are looking into other systems that make and then immediately use the MIC, eliminating the need for storage."

CSB does not issue citations or fines. It makes safety recommendations to plants, industry organizations, labor groups, and regulatory agencies such as OSHA and EPA. For more information, visit http://www.csb.gov/completed_investigations/docs/Bayer%20JB%20and%20JV%20statements%20final.pdf.

Lessons Learned: Worker's Death Leads to Fines for Barboursville Company

(By Curtis Johnson, The Herald-Dispatch – May 23, 2009)

The federal government has fined a Barboursville company \$56,250 for 23 serious violations, according to a press release issued this week by the Occupational Safety and Health Administration.

The company, Sulzer Metco Coating, was ordered to correct the problems immediately. The findings and fines follow the Feb. 25 death of employee Dwight Richard Morrison. "Sulzer Metco Coating needs to take immediate action to eliminate each identified violation to prevent another tragic fatality," Jeff Funke, director of OSHA's Charleston Area Office, said in the prepared release. Sulzer Metco Coating employs 285 workers, OSHA said. The agency gave Sulzer 15 business days to comply, request a conference or contest the allegations.

The 56-year-old of Milton was working in the shipping and receiving facility when he was pulled into and lodged in a large piece of lathe machinery around 2:30 p.m. He was already dead when emergency personnel arrived.

OSHA determined the lathe machinery did not have proper machine guarding, according to the release. Other cited violations included blocked or locked exit routes; lack of proper fire protection equipment and training; inadequate fork truck training; improper storage of compressed gas cylinders; lack of a hazard communication program; exposure to noise at levels greater than the permissible exposure limit; inadequate means to ensure supplied air for respirators is breathing quality; and hexavalent chromium issues including surface contamination, lack of protective gear for skin exposure and improper cleaning techniques for areas where hexavalent chromium was present.

According to the release, OSHA issues serious citations when investigators believe the problems present substantial probability of future death or physical harm. Citations also are issued when OSHA believes the employer knew, or should have known, of the hazard.

Safety Training/Meeting Strategies: “Hey That’s My Name!”

(By Jim Dillon from CSC Range Support Services, Safety Stuff by Richard Hawk – April 30, 2009)

Our company works on a military training range at three locations. One of our site managers had a nifty idea that we now implement at all of our locations. During our weekly safety meetings literature is distributed on different safety topics, current events etc. Inserted somewhere in the literature is an employee's name.

The employee has 24 hours to come forward and explain what they read, then they get to pick a "prize off the shelf," usually something small like a coffee cup. There's always a winner, even if someone fails to read the material a coworker will let them know their name was in it. It's a fun way to get more interest in the materials you distribute.

Safety Tidbits

(from "Safety Stuff" by Richard Hawk Inc. <http://www.richardhawking.com>)

- In Ancient Egypt, warm donkey droppings were prescribed to alleviate sore eyes.
- Most Americans are too chronically sleep deprived to awaken without an alarm. Need for an alarm by definition signals some kind of danger.
- Since 2001 about 1,000 U.S. children have been killed while buying ice cream.
- Absinthe, a green bitter liquor, was banned in 1915; during its heyday, 9,000 deaths each year in the U.S. were attributed to its use.
- About a quarter of the world drives on the left side of the road.
- Obesity and physical inactivity account for more than one hundred thousand premature deaths each year.
- Around 150 people die on cruise ships each year from medical emergencies.
- It cost \$3 million to build the *Titanic* . . . and \$100 million to make the movie.
- Number one cause of accidental poisoning deaths: narcotic and mood-altering drugs, both legal and not.