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## US Government Sets Serious Security Agenda for DOT

Another new agency has been formed as a result of 9-11, the TSA (Transportation Security Administration). The agency's immediate mission has been defined as improving the security for all modes of transportation, especially motor carriers transporting hazardous materials. The Ag Industry can expect new regulations among changes in existing ones along with strong enforcement and major fines for noncompliance.

On February 14, 2002, the Research and Special Programs Administration (RSPA) of the DOT published an 'Advisory Notice' in the Federal Register. The notice strongly recommends certain measures that shippers and carriers should take to enhance the security of the shipments. A list of the suggested goals is outlined at the end of this article for each of you to create or improve your own company operations.

Transportation security was a concern long before 9-11, but this administration has made it their leading goal. As a result many of your AG lobbyists and agencies (TFI, ARA, ACPA, etc.) have assisted in the development of a network to monitor transportation, minimize dangers, report thefts and assaults to the FBI along with publishing thefts of vehicles and cargo amongst the industry for quick tracking and recovery.

*See Security Agenda continued on page 2*

## “Injured Employee – Employers Responsibilities!”

Employers who believe they're off the hook once an injured employee has safely arrived at the doctor's office need to

**Security Agenda continued**

think again. That’s the viewpoint of transitional work experts who assert that employers have a significant role to play in a successful outcome.

According to safety and risk management specialist and author Michael Lynch, there’s a great deal

*See*

*Injured Employee continued on page 8*

*(Continued from page 1)*

This has already proven very valuable with the theft of a few 18-wheel vehicles within our industry in the past few months.

In addition, it has become known that foreign agencies have been infiltrating information through Emergency Response programs, procedures and agencies. It is known at this time, that programs were apparently installed on computers at the universities in Florida, Arizona, Texas, and California. It is also known that many fire and/or EMS departments have received electronic mail from foreign universities requesting information, including locations of major response and shipping routes.

**Suggested Goals for Your Transportation Security Procedures**

- Develop, implement and practice a security plan to include shipping operations.
- Conduct routine (at least quarterly) security inspections on your security plans.  
\*Especially in the area of transportation\*
- Establish a process to verify application information and documentation of the same.
- Establish partnerships with local law enforcement (using caution).
- Improve and upgrade security measures; fencing, properly positioned and employed, identification (security badges, cards, uniforms, etc.) and restrict visitor access.
- Minimize en-route stops and audit them periodically.
- Set procedures for drivers to avoid hijacking and/or stolen cargo.
- Install tamper-proof seals or locks and periodically replace the locking system.
- Develop, implement and rehearse a reporting system for suspicious incidents or individuals.
- Develop a timed communication system for all transporting vehicles and/or operations.
- Break Routines – Do not be predictable at all times!
- Identify target products, storage and shipments and make the necessary arrangements for proper protection with proper agencies.

**Such contacts by anyone who does NOT HAVE “the need to know,” should be considered highly suspicious and should be reported to the FBI at:**

[www.fbi.gov/contact/fo/fo.htm](http://www.fbi.gov/contact/fo/fo.htm)

or

[nipc.watch@fbi.gov](mailto:nipc.watch@fbi.gov)

**Special Note:** Regulatory Management and Consulting is completely revising its web-site to accommodate these messages. The web-site home page will include a single icon 'security briefing' that will allow you to sign-on and get the most up-to-date information. It will also invite you to register your e-mail address for receiving 'Security Bulletins' as they are received from the various publishers including the FBI.

*Raymond C. Steil  
R M and C, Inc.*

## Risk Management Plan

More than three years ago firms handling anhydrous ammonia submitted RMP's to the EPA. Included in the regulation is a requirement to complete a compliance audit every three years. The completion of this audit was required by June 20, 2002, have you completed yours?

The RMP states:

- (a) The owner or operator shall certify that they have evaluated compliance with the provisions of this subpart at least every three years to verify that the rule are adequate and are being followed.
- (b) At least one person or consultant knowledgeable in the process shall conduct the compliance audit.

- (c) The owner or operator shall develop a report of the audit findings.
- (d) The owner or operator shall promptly determine and document an appropriate response to each of the findings of the compliance audit and document that deficiencies have been corrected.
- (e) The owner or operator shall retain the two (2) most current compliance audit reports. This requirement does not apply to any compliance audit report that is more than five years old.

Have you completed your audit?

If not, contact RManC for assistance in completion and proper submission of your facility.

*The Editor*

## DOT – Shipping Paper Retention

The rules regarding how long you must retain shipping papers have been revised. The effective date for this change is August 12, 2002.

The revised rule now requires the carrier of Hazardous Materials (HM) must retain shipping papers for 375 days after the HM is accepted by the carrier for transport. The shipping papers must



request, to state, federal or local agencies at reasonable times and locations.

Carriers using a single shipping paper to

## Ray's Short Shorts

### Ouch! When EPA makes mistakes, you still pay!

Now EPA has found a way to discourage companies from challenging its decisions.

If you question EPA and the agency admits it made a mistake, you can't recover court.

A 1997 law, known as the Hyde amendment supposedly lets you recover court costs.

But a federal appeals court just made it clear that exercising this right is virtually impossible. That's the lesson learned in a monumental case that has EPA lawyers celebrating this summer.

A federal court in Boston just rejected a claim by Riverdale Mills Corp. to recover \$69,000 in legal defense fees.

EPA dropped the case after it admitted mistakes in collecting Clean Water Act discharge samples.

But the court ruled that when EPA makes an honest mistake, and can prove that it had a bona fide reason to launch an enforcement action, companies couldn't recover their legal defense costs.

*Reprint: Environmental Compliance (August 31, 2001 issue)*

### Pipeline Hazardous Waste Levels

In a final rule which became effective January 1, 2002, the Department of Transportation's Research and Special Program's Administration has lowered the reporting threshold for hazardous liquid pipeline spills from 50 barrels (or 2,100 gallons) to 5 gallons. The rule also revises the accident reporting form from two pages to four. Completion of the first page only is required for small releases between 5 gallons and 5 barrels. For more information contact Bill Little at the DOT (202)-366-4569.

*The Editor*



### Fertilizer Institute

The Fertilizer Institute (TFI), led by its new president Kraig Naasz, had adjusted to the shift in its members' focus. Many of these companies are now publicly held, and their concerns "are much more focused on shareholder, and public opinion."

TFI's key issues post-9/11 are security and communication about environmental stewardship and product safety.

*The Editor*

### Kansas Law Takes Extra Step

While other states have liability protection for dealerships regarding anhydrous ammonia products, Kansas Senate Bill 489 goes further to cover third-party liability, says The Fertilizer Institute. For example, if a person drives down the road and runs into a cloud of ammonia that is the result of tampering, the driver cannot sue the dealership.

The lobbying staff/membership of the Kansas Agribusiness Retailers Association were responsible for the bill becoming law.

*CropLife - (Oct. 2002)*

### National Agricultural Aviation Association

The New Executive Director, Andrew Moore reports that National Agricultural Aviation Association (NAAA) membership increased in the past year "because of the important role we played in getting applicators back up in the air following the past-9/11 shutdown of planes.

"A lot of what an association really does is prevent bad things from happening, often behind the scenes." Consolidation and technological advances should continue, making technology and education critical.

*CropLife - (Sept. 2002)*



## “Communication in Ammonia Rail Spill”

Minot officials say the public will know quicker the next time a disaster happens like last January 18<sup>th</sup>'s train derailment and chemical spill. The disaster sent a cloud of anhydrous ammonia drifting over the city.

Minot safety officials met with about 150 people recently at a town hall meeting to outline corrective actions in response protocol.

The toxic cloud killed one man and injured hundreds more. The spill occurred around two o'clock in the morning and safety officials were unable to get a hold of television and radio stations to assist in spreading the word.



Minot City Fire Chief Harold Haugstead says officials have solved that problem. Officials also took suggestions from the public and will be studying them.

Minot resident Bob Miller said police should cut out the middleman and be able to directly broadcast warnings on television and radio. He also recommended limiting the amount of hazardous materials coming through the city with the DOT's Hazmat Routing System.

Minot Police Chief Dan Draovitch said officials are looking at both options. Officials say other areas needing improvement include: finding a secure command center, education the public about disasters before they happen and having a central EMS Center pre-arranged to keep from overrunning the local hospitals.

If your facility management would like professional assistance in developing and/or practicing your community's 'Emergency Response and Contingency Planning contact RM&C, Inc. at [www.RMandC.com](http://www.RMandC.com).

*The Editor*

## NH<sub>3</sub> Owners 1, Thieves 0

They're not in Kansas anymore – at least, not the frivolous lawsuits by thieves against the anhydrous ammonia (NH<sub>3</sub>) owners they robbed.

These thieves – and any third parties – will no longer have any legal rights to sue AG retailers or growers if injured while handling the dangerous material, thanks to the recent signing of Kansas Senate Bill 489.

The law, the first of its kind in the U.S., provides NH<sub>3</sub> owners immunity from injury lawsuits by third parties because of the actions of the tamperer. Ag groups in the state supported the bill because of the increasing dangers posed by thieves wanting to use NH<sub>3</sub> to manufacture the illegal drug meth-amphetamine.

*CropLife – (July 2002)*

## “DOT's New Entrant Safety Assurance”

The Fed Motor Carrier Safety Administration states it is amending its regulations to require that a new entrant motor carrier may not operate a commercial motor vehicle in interstate commerce unless it has registered with FMCSA and may not operate beyond the scope of their registration. If an unregistered carrier's motor vehicle is discovered in operation or being operated beyond the scope of the carrier's registration, it will be placed out of service and the carrier may be subject to additional penalties.

More specifically, new applicants will be required to file a Safety Certification for Applications form U.S. DOT Number (Form MCS-105A) in order to gain operating authority. FMCSA will then provide the applicant educational and technical assistance material to assist in complying with the FMCSRs and applicable Hazardous Materials Regulations (HMRs), and must certify that he/she is knowledgeable about, and will comply with these regulations. FMCSA states that this new requirement will help ensure the carrier is knowledgeable about applicable Federal motor carrier safety standards before being granted a new entrant registration that will be in effect for a minimum of 18 months.

*The Editor*

## \* SECURITY ALERTS \*

### Hazmat – Terrorist’s Targets “Chemical Sector Participants” (10/24/02)

The following notification has been received from the NIPC. Information from debriefings of Al-Qaeda detainees as of mid-October indicates that the group has considered directly targeting U.S. passenger trains, possibly using operatives who have a western appearance. Additional information suggests operatives may try a variety of other attack strategies, such as destroying key bridges and sections of track to cause derailments of targeting hazardous material containers. It is recommended that the appropriate distribution/transportation representatives within your organization be provided this information if they are not already on your internal distributions list. Please note that the national threat level has not been increased (it remains at yellow). Any information we receive regarding additional measures that may be taken by other sectors (such as the railroads) will be forwarded as it becomes available.

*FBI & TFI – Transportation Comm.*



### Special Notice from TFI

The Federal Railroad Administration issued a directive this week regarding the condition of pre-1974 GATX built and modified tank cars with reinforced bars, deeming the cars unsafe for operation. The directive affected many shipments of UAN solution just as the spring season begins. TFI coordinated its efforts with FRA, GATX and our affected members, and we are pleased to report that the matter has been resolved for now. FRA permitted the transportation of UAN cars until July 15, 2002 provided GATX inspects each car prior to each load. Since the 15<sup>th</sup>, all cars must go through a thorough inspection by GATX.

*The Fertilizer Institute*

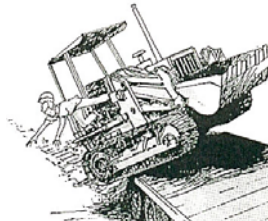
**Note:** For further current security alerts check our web site at [www.RMandC.com](http://www.RMandC.com).

### Case Study:

**Accident Summary** – An employee was driving a front-end loader up a dirt ramp onto a lowboy trailer. As the tractor began to tip, the operator, who was not wearing a seat belt, jumped from the cab. As he hit the ground, the tractor’s rollover protective structure fell on top of him, crushing him.

### Fatality Report –

Accident type....Caught in or between  
Industry....High was, steel construction  
Job title....Equipment operator  
Experience....11 months  
Time on project....1 hour



**Inspection Results** – Following its inspection, OSHA cited the employer for two serious violations and one other than serious violation. Had the front-end loader been equipped with seat belts and had the employee worn them, he might not have been killed.

**Accident Prevention** – 1. Provide seat belts in material handling equipment, which has rollover protective structures; 1926.602(a)(2)(1).  
2. Instruct employees to recognize and avoid unsafe conditions at work; 1926.21(b)(2).  
3. Permit only employees qualified by training or experience to operate equipment and machinery; 1926.20(b)(4).

**Sources of Help** – Construction Safety and Health Standards (OSHA 2207), which contains all OSHA job safety and health rules and regulations.

*Courtesy/OSHA*



**S A F E T Y**  
c h e c k l i s t

**FLOOR & WALL OPENINGS**

- Are floor openings guarded by a cover, guardrail or equivalent on all sides (except at entrance to stairways or?)
- Are toeboards installed around the edges of a permanent floor opening (where people may pass below the opening?)
- Are skylight screens of such construction and mounting that they will withstand a load of at least 200 pounds?
- Is the glass in windows, doors and glass walls that are subject to human impact, of sufficient thickness and type for the condition of use?
- Are grates or similar type covers over floor openings such as floor drains, of such design that foot traffic or rolling equipment will not be affected by the grate spacing?
- Are unused portions of service pits and pits not actually in use either covered or protected by guardrails?
- Are manhole caverns, trench covers and similar caverns, plus their supports, designed to carry a truck rear axle load of at least 20,000 pounds when located in roadways and subject to vehicle traffic?
- Are floor or wall openings in fire resistive construction provided with doors or covers compatible with the fire rating of the structure and provided with a self-closing feature appropriate?

**STAIRS & STAIRWAYS**

- Are standard stair rails or handrails on all stairways having four or more risers?
- Are all stairways at least 22 inches wide?
- Do stairs have at least a 6-foot, 6-inch overhead clearance?
- Do stairs angle no more than 50 degrees and no less than 30 degrees?
- Are stairs of hollow-pan type treads and landings filled to noising level with solid material?
- Are step risers on stairs uniform from top to bottom, with no riser spacing greater than 7-1/2 inches?
- Are steps on stairs and stairways designed or provided with a surface that renders them slip resistant?
- Are stairway handrails located between 30 inches and 34 inches above the leading edge of stair treads?
- Do stairway handrails have at least 1-1/2 inches of clearance between the handrails and the wall or surface they are mounted on?
- Are stairway handrails capable of with standing a load of 200 pounds, applied in any direction?
- Where stairs or stairways exit directly into any area where vehicles may be operated, are adequate barriers and warnings provided to prevent employees from stepping into the path of traffic?
- Do stairway landings have a dimension measured in the direction of travel, at least equal to width of the stairway?
- Is the vertical distance between stairway landings limited to 12 feet or less?

**WALKWAYS**

- Are aisles and passageways kept clear?
- Are aisles and walkways marked with appropriate strips, keeping them clear of foreign objects?
- Are wet surfaces covered with non-slip materials?
- Are holes in the floor, sidewalk or other walking surface repaired properly or covered to be made safe?
- Is there a safe clearance for walking in aisles where motorized or mechanical handling equipment is operating?
- Are spilled materials cleaned up immediately?
- Are materials, equipment stored in such a way that sharp projectiles will not interfere with the walkway?
- Are changes of direction or elevations readily identifiable?
- Are aisles or walkways that pass near moving or operating machinery, welding operations or similar operations arranged so employees will not be subjected to potential hazards?
- Is adequate headroom provided for the entire length of any aisle or walkway? (6'6" or more)
- Are standard guardrails provided wherever aisle or walkway surfaces are elevated more than 30 inches above any adjacent floor or the ground?
- Are bridges provided over conveyors and similar hazards?
- Are convex mirrors available in proper positions for aisles with blind corners, especially near moving machinery?

## Injured Employee continued

(Continued from page 1)

employers should do including:

- Communicate with the injured worker on a regular basis. If appropriate, a company representative should visit the worker at home, and perhaps send a card, a letter, or flowers from the company or staff.
- Encourage the employee to attend any appropriate workplace activities, once you get approval from a claims or case manager. This could be a team meeting or training session that does not require physical exertion, but involvement.
- Make sure the medical professionals with whom you work receive a copy of your program and understand it. Consider inviting key doctors and therapists to the workplace to see operations first-hand.

The insurance giant Chubb & Son, a division of Federal Insurance Company, considers early return-to-work an essential component of a workers' compensation management program. Chubb makes a distinction between *modified work* (the original job with some possible restrictions imposed by a treating physician) and *temporary work* (a different job performed because the original job cannot be

modified to conform with physician's restrictions).

According to Debbie Keiser, vice president and managed care manager, Chubb estimates that every dollar spent on RTW yields as much a \$10 in savings for employers. Asked what common mistakes employers make in their return-to-work programs, Keiser offered the following:

- Sometimes an injury is seen as a way to edge out a "problem employee." But employers fail to realize whether the employee is out on short- or long-term, the employer continues to pay.
- Believing that their workplace does not have any light-duty jobs. Keiser says there is always something that needs to be done, like checking security badges, phones, weigh scales, or other tasks that are all preferable to staying at home.
- Too readily acceding to employees' fear of being reinjured. According to Keiser & Chubb, nurse consultants work with returned employees to help them and make them stronger.

*OSHA Compliance Advisor  
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*The Editor, Kathleen Steil*

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