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Chemical Distributors

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CHEMICAL DISTRIBUTOR



RESPONSIBLE DISTRIBUTION: PRACTICES OF EXCELLENCE

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Members Share "Practices of Excellence"
Integrated Records Management
Navigating Current Regulations
Quality Training on CSA
Sales & Marketing Optimization
Social Media & Cloud Computing



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2012 CALENDAR OF EVENTS

| | |
|----------------|---|
| APRIL 2-3 | Responsible Distribution Workshop Houston, TX |
| APRIL 17-22 | Western Region Annual Meeting Mauna Lani Bay Hotel & Bungalows, Kohala Coast, HI |
| APRIL 30-MAY 2 | Southern Region Meeting Disney's Grand Floridian Resort & Spa |
| MAY 16-17 | 2012 Washington Fly-In Renaissance Arlington Capital View Hotel, Arlington, VA |

CORRECTION: On page 7 of the July/August issue, in the interview with Sandy Fuller on managing warehouse relationships her company was misspelled. The correct spelling is TRInternational, Inc. More information on TRInternational, Inc. can be found at www.tritrading.com.

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MEMBER NEWS

Hubbard-Hall Inc. Welcomes New Hires

Hubbard-Hall Inc. announces three new associates: Melissa Marshall, David Joyce and Gary Ventura. Marshall joins the Hubbard-Hall sales team and has been assigned to cover the specialty and distribution customers in the Eastern Massachusetts/Southern New Hampshire territory. Joyce, a new Technical Service Representative in the Northeast, will be assisting in the growth of the Aquapure wastewater treatment line. Former acting Operations Manager in the Wilmington facility, Ventura was hired as a full time associate.

Darin Shields Joins TryLine Group

The TryLine Group is a specialty chemical distributor covering North America and Export Markets. Darin has nearly 20 years in the coatings industry from Chemist, to chemical distributor, to business manager at a North American Polymer Producer. Darin is a past president and permanent board member of the PNWSCT, as well as a permanent board member of the Western Coating Society. Darin will be focused on the CASE Industries in the Western USA and Canada.

E.T. Horn Changes Name and Celebrates 50th Anniversary

Now known as simply HORN – formerly E.T. Horn – a premier distributor of specialty ingredients and materials, the company builds on its long tradition of excellence. For the first time ever, HORN brings the leadership of its six self-sufficient business units together to work collaboratively in a new corporate facility which opened in September. Celebrating its 50th anniversary this year, employee-owned HORN opened its new 120,000-square-foot facility in La Mirada, CA, providing a consolidated site for corporate leadership while retaining and supporting individual manufacturing or warehouse sites for each business group. In honor of its milestone golden anniversary, the company hosted a series of private events in September, including a formal celebration for special guests and a company-wide event.

NACD Hosts 3 Congressional Visits to Member Facilities in August

The **Brainerd Chemical** facility in Dunn, NC was honored with a visit from Congresswoman Renee Ellmers (R-NC). Brainerd Chemical Chairman, Mat Brainerd welcomed the Congresswoman with a tour of the facility and an opportunity to meet and speak with many of the dedicated employees of Brainerd Chemical. Brian Allen, General Manager at the Brainerd Chemical Dunn facility, also hosted the tour. Mr. Allen was recently asked by Congresswoman Ellmers to serve on her Small Business Advisory Council. The Congresswoman learned more about NACD's Responsible Distribution program which Brainerd Chemical and all members of the Association adhere to each year.

Brenntag North America's **Brenntag Northeast** facility enjoyed a visit from U.S. Congressman Jim Gerlach (R-PA). Brenntag representatives welcomed the Congressman and provided him the opportunity to meet and speak with employees in a Town Hall meeting format after touring their Reading, Pennsylvania facility. The Congressman was able to see first-hand the chemical distribution industry's important role in the Pennsylvania and national economies.

SAL Chemical facility in Weirton, West Virginia was privileged with a visit from U.S. Congressman David McKinley (R-WV). After a site tour and meeting with executives Congressman McKinley noted, "I commend SAL Chemical, a family-owned business, for continuing to do business in West Virginia for nearly fifty years. They recognize that our community has a second to none work force. Our distribution and manufacturing jobs are so important to the First District as well as our entire country."

Tanknology and Telular Create Alliance

Tanknology Inc., an Underground Storage Tank (UST) environmental compliance services company, and TankLink, a division of Telular Corp., announced that the two companies have formed an alliance in which Tanknology will perform nationwide installation and related field support services for TankLink's wireless tank level monitoring systems. TankLink remote monitoring systems are installed on more than 21,000 tanks across the country. ■

The NACD welcomes the following companies as New Chemical Supplier Affiliates:

ATOTECH USA INC.

20026 Progress Dr
Strongsville, OH 44149
Tel: (440)268-9912
Fax: (440) 268-9930
www.atotech.com
Product Codes: A B C D H N R S T
Primary Contact: John Papcun, Business
Manager-Industrial Chemicals
John.papcun@atotech.com

CITGO PETROLEUM CORP

1293 Eldridge Parkway
Houston, TX 77077
Tel: (832) 496-4136
Fax: (832) 486-1868
Product Codes: P
Primary Contact: Karl Schmidt, General
Manager Petrochemicals and Solvents
kschmid@citgo.com

GRAIN PROCESSING

1600 Oregon St.
Muscatine, IA 52761
Tel: (563) 264-4773
Fax: (563) 264-4289
Product Codes: T Pure Denatured Alcohols,
Industrial / Food Grade Starches
Primary Contact: Patrick Homoelle, VP-Alcohol
Products
Pat_homoelle@grainprocessing.com

Companies that qualify for the **Supplier Chemical Affiliate Program** are chemical supplier/manufacturer companies (not equipment/service providers) that do not qualify for NACD membership; companies must have greater than 50% of their annual revenue attributed to the manufacturing of chemicals. See NACD Membership Directory for Product Code definitions.

Members Share "Practices of Excellence" at Responsible Distribution Workshop

By **Michael Lang**, Vice President, Responsible Distribution, NACD

Imagine one of your drivers is on the road with a truck containing hazardous material and disaster strikes; an earthquake begins to rumble. Is your driver prepared with proper training on how to handle this dangerous situation? For the past 20 years, NACD has set the industry standard with its unparalleled Responsible Distribution program; requiring members to continuously improve business performance, including: environment, health, safety, and security. Based on the 12 Codes of Management Practice, the Responsible Distribution protocol is unique and specific to the needs of the chemical distributor.

In late August, at the beginning of the OPSEM conference in Sacramento, a record crowd of nearly 100 attendees participated in the Responsible Distribution workshop sharing their "Practices of Excellence" regarding Responsible Distribution. This was an excellent forum for idea exchange and learning how different companies handle the requirements of each code for better implementation at each of their workplaces. Here's a look at how some of our members handle the specific codes:

Risk Management, Cliff Wiksten

Based in Kansas City, Harcros' senior management has a commitment to communication of its safety and operational policies, implementation of procedures, and the allocation of resources to ongoing improvements in chemical distribution safety, education, health, and security. By conducting regular reviews with suppliers on the hazards of materials handled and revising policy and procedures as necessary, they ensure operations stay as smooth and safe as possible. Harcros is implementing a detailed 12-point Safety Management System which includes executive leadership responsibilities, documentation process, personnel safety and health, procedures, and incident management. They review and update standards of practice and have vendor audits. They also participate in workshops conducted by vendors as well as a variety of associations

and regulatory agencies. Harcros has a continuous MSDS review process to assure information is accurate and up to date. Harcros performs a variety of internal audits pertaining to Responsible Distribution, ISO, and regulatory requirements.

Compliance Review & Training, Randy Griffin

Lintech International, based in Macon, GA, understands the value of communicating with their suppliers. They added a regulatory component to all business reviews with their suppliers as well as considering what regulations will affect their products specifically. They take an active role in their suppliers' product stewardship practices and ask how they can participate as a partner. Lintech also meets with regulatory personnel to review the product being distributed and encourages suppliers to share their best practices on carrier, warehouse, and supplier reviews and inspections for improved business processes and efficiency. "Overall deeper penetration to the supplier helps Lintech foster a better partnership and can save you time as the wheel only needs to be invented once," Griffin explained.

Job Procedures & Training, Steven Morrison & Clyde Pearch

An onsite incident eventually led to lessons learned, improved safety operations, and growth at a NACD member company. In September 2010, a flash fire occurred during the process of shutting down for a product change-over in a high purity/clean room style production facility. The fire was quickly extinguished and there were no injuries reported. As a result of the incident, the company initiated the development of a mandatory grounding verification process completed biannually by an outside firm. The company learned to ensure the integrity of their grounding systems because of this incident and their thorough handling of the remediation.

Workshop Contributors/Speakers:

Jim Benning, Hubbard-Hall Inc. • Laura Dornbusch, Expo Chemical Co., Inc. • Randy Griffin, Lintech International • Todd Hilson, T.H. Hilson Company • Michael Loolara, Compliance Solutions Group, LLC • Steven Morrison, Tarr, LLC • Bob Napolitano, Astro Chemicals, Inc. • Tom O'Donnell, Callahan Company • Rebecca Osborne, Brainerd Chemical Company, Inc. • Clyde Pearch, Eagle Group USA, Inc. • John Shepard, PVS-Nolwood Chemicals, Inc. • Jim Whitten, PVS-Nolwood Chemicals, Inc. • Cliff Wiksten, Harcros Chemicals, Inc. • Mylene McLaughlin, Olin Chlor Alkali • Jesse Kunes, Kestrel Management • John Rice, Chemical Educational Foundation • J'on Rider, Gallade Chemical • Jim Whitten, PVS-Nolwood Chemicals, Inc. • Rebecca Osborne, Brainerd Chemical Company, Inc.

Compliance Review & Training; Job Procedures & Training; and Internal Responsible Distribution Audits, Clyde Pearch

Pearch, from the verifying company Eagle Group USA out of Bloomfield Hills, MI presented on various codes with the program. He explained the Responsible Distribution Code Coordinator's responsibilities to set an action plan for implementation of the codes with planned dates and assigning responsibilities to audit team members. The importance of proper training of auditors to the Responsible Distribution Code of Management Practice and policies was also discussed. Pearch also touched on importance of continuing education by attending Responsible Distribution workshops and webinars and to consider sending auditors to a formal internal auditor course.

Carrier Selection, John Shepherd

PVS-Nolwood Chemicals based in Detroit, utilizes the NACD Carrier Selection Checklist and Guidelines available for use by NACD members for thorough due diligence. The 7-page checklist includes items such as:

safety requirements, driver management, equipment policies, driver training, incident reporting, security and vehicle inspection. Shepherd referenced PVS-Nolwood's Carrier Assessment process (based on the NACD Carrier Selection Checklist and Guidelines), as well as the agency (DOT/FMCSA) resources available for review of carrier safety performance data (CSA2010, SAFER, etc.).

Handling & Storage, John Shepherd

Shepherd recounted PVS-Nolwood's early involvement in Responsible Distribution, "I always like to remind the Responsible Distribution Workshop participants that, in PVS-Nolwood's case, the Responsible Distribution process was a very beneficial endeavor. It is a foundation upon which our QS-9000, and later ISO 9001 registered Quality Management Systems was based.

The organizational structure of the Responsible Distribution code, particularly Handling and Storage, helped us to see early the value of documented policies and procedures in creating safe, reliable, and repeatable processes," says Shepherd.

Waste Management & Conservation Practices, John Shepherd

PVS-Nolwood is committed to the minimization of waste generated in packaging, blending, and dilution processes. Distributors that take the time to engineer waste minimization controls and methodologies into these core processes ahead of time greatly reduce the time and expense required to safely manage these processes. For some processes, it may be possible to eliminate waste management costs entirely through careful planning.

Job Procedures & Training, Bob Napolitano

Have you ever been surprised by a new hire's lack of basic math or reading skills? Napolitano surveyed the group on who conducts a pre-employment test in math, reading, and comprehension; only a few out of the 100 attendees raised their hands. He displayed the checklist Springfield, MA based Astro Chemicals uses to make sure all new hires, full or part time, receive the required pre-employment background checks, physicals, and required regulatory training. The checklist standardizes the requirements

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by department for compliance to the regulations that affect Astro Chemicals and ultimately creates uniformity and consistency in the process. He added, the checklist is valuable in regulatory audits as there is a formal process that all new employees go through the same regulatory training per department.

Emergency Response & Public Preparedness, Tom O'Donnell

O'Donnell from east coast-based Callahan Chemical couldn't ignore the recent wild storm systems Hurricane Irene and the earthquake in the same week, so he abandoned his planned material and asked attendees for their hurricane and earthquake plans. The collaborative spirit that exists at NACD really took off during this section and evoked a lively member response.

For earthquakes, operations should shut down immediately and evacuate to a predetermined point. In the event of hurricanes, prepare beforehand by securing containers or other objects at the site that might be damaged or blown by the winds. One company prepares for hurricanes by interspacing empty totes with filled totes and running a rope between them all; the weight of the full totes prevents the empties from being blown about. Before the storm, ensure that stormwater pumps are available and functioning properly, and clear the pipes or drains before the storm begins. Establish a phone number for all employees to check in or an off-site meeting place in case the site becomes unavailable for use in the wake of a hurricane. Forward office phones for the affected site to another company site that is operational.

Community Outreach, Laura Dornbusch

Dornbusch, president of both Expo Chemical from Houston, TX and the Chemical Educational Foundation (CEF) encouraged member companies to get involved in their local communities with the "You Be The Chemist Challenge" Competition. She suggests getting started by checking if there is a local competition in their state by visiting <http://chemed.org/ybtc/challenge/local.aspx>. If so, contact the challenge organizer and find out what you and your company can do to help out. If there isn't a local competition, Dornbusch suggests contacting the CEF at challenge@chemed.org and they will provide any information that is needed to get you started. Visit www.chemed.org and view the pictures from last year's national "You Be The Chemist" competition. "One look at those students and you will be sold!" she proclaimed.

Community Outreach, Todd Hilson

Hilson spoke about TH Hilson's President, Lori Hilson, and her work in promoting opportunities in the chemical industry for young people. In early 2010, Chicago's Mayor Richard Daley encouraged Hilson to take part in a job shadowing program for the city's public high school students so they could learn from women business owners. Hilson brought them to one of their customers, Edlong Dairy Flavors, to see how food flavors were produced. Around 30 female students learned what a specialty chemical distributor's role is along with the process of making food flavors. As word spread, the program grew and 57 Chicago State students visited Sherwin Williams to learn about the opportunities in the paint and coatings industry. She is now working on organizing a career day in Wisconsin for another global paint and coatings manufacturer as well as a career day in Ohio with a metal working lubricant manufacturer.

"I encourage other distributors to engage their customers and supplier partners to put on a career day in their market, which promotes a very high level of collaborative community outreach."

I have found that the chemistry professors, directors of the universities, and community officials are thrilled to bring their students to see a real world example of the opportunities that are available. It presents the positive aspects of the chemical industry and is a tool to attract bright young people to the chemical industry for internships and future jobs," Lori Hilson said of the program when contacted after the workshop.

Handling & Storage, Jim Benning

Responsible Distribution Committee Vice Chairman Benning of Hubbard-Hall Inc. discussed setting up warehouse chemical segregation and highlighted Hubbard-Hall's color-coded system. For example, "blue" represents an acid. Have all products manufactured, packaged, or purchased factory packed and coded into the computer system to show the color on the purchase order, by simply putting a color dot on the pallet. The operator storing the product will then drive it to the color-coded, chemically-segregated rack. The ultimate goal is to have a simple process developed so that an operator can successfully segregate product on his/her second day on the job.

When partnering with a public warehouse he suggests simplicity. Don't reinvent the wheel; find a warehouse that currently handles chemicals and has appropriate processes in place. Have an established selection procedure that is acceptable to sales and operations (code coordinators) spelling out all requirements.

Benning had this to say about NACD Responsible Distribution,

"When NACD members are able to improve their own environmental performance, health, safety and security of their operations, the entire industry benefits."

NACD is extremely appreciative to work alongside consummate professionals and fortunate to see first-hand the commitment that our members have in not only improving their operations but also assisting their peers."

Materials Available Online

Some speakers had slides and handouts to share with the attendees. To see those slides, please go to the Responsible Distribution section of the NACD website, www.nacd.com, and then click on "Resources" and scroll near the bottom of the page to the "Workshops" section. ■



Michael Lang, PMP, Vice President, Responsible Distribution, joined the NACD staff in '07. Mike's duties include all aspects of NACD's flagship initiative, Responsible Distribution, a management system that requires two third-party verification programs, focuses on continuous improvement in environmental, health, safety, and security (EHS&S) performance, and has received recognition from several U.S. federal agencies. He serves as Association liaison between chemical distributor members and major chemical manufacturers on industry performance and trends associated with EHS&S priorities.

The NACD welcomes the following companies as New Non-Chemical Handler Affiliates:

CHIPTECH SOLUTIONS

4613 N. University Dr
Coral Springs, FL 33076
Tel: (954) 827-1401
Fax: (954) 827-0372
www.chiptechsolutions.com
Primary Codes: AA
Primary Contact: Barry Kripitzer, President
barryk@chiptechsolutions.com

EULER HERMES

800 Red Brook Blvd.
Owings Mills, MD 21117
Tel: (410) 753-0652
Fax: (410) 753-0953
www.eulerhermes.us
Primary Codes: KK
Primary Contact: Christy Barbaran,
Marketing & Communications Specialist
Christy.barbaran@eulerhermes.com

INNOVADEX

7930 Santa Fe Dr
Overland Park, KS 66204
Tel: (913) 307-9010
Fax: (913) 636-0432
www.innovadex.com
Primary Codes: II
Primary Contact: Bruce Ianni, Founder & President
Bruce.ianni@innovadex.com

KIBBLE & PRENTICE HOLDING COMPANY

601 Union St., Suite 1000
Seattle, WA 98101
Tel: (206) 441-6300
Fax: (877) 678-5844
www.kpcom.com
Primary Codes: KK QQ
Primary Contact: Dinny Hansen, Ex VP
Dinny.hansen@kpcom.com

The NACD **Affiliate Program for Non-Chemical Handlers** is open to participation for non-chemical handlers that supply products and services to the chemical distribution industry. Companies participating have chosen to closely associate with NACD distributors committed to improving the chemical industry's performance in health, safety, security, and environmental issues through Responsible Distribution.

See NACD Membership Directory for Product Code definitions.

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[transportation]



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Design & Use Of Integrated Records Management Systems

By **Russ Melton, Robert Graff, Bryan Browning, Darren Hepper,** and **Frank Modich**



A ringing phone wakes you at 2:23 a.m. There has just been a catastrophic explosion at your facility. You rush to the scene. The police and fire department are already there. EPA, OSHA, ATF, and other agencies are on the way. Even before the site is secure, they will start asking questions. They will demand that you provide thousands of documents relating to: training and safety procedures, prior incidents, inventory, process data, facility drawings, and other issues to assist in their investigations. Soon, requests will follow from insurers seeking to assess coverage for the loss. And then will be the litigation. Lawyers will want to cull through your company's records with a fine-tooth comb.

If your company is not adequately prepared, it will waste time gathering those records—time better spent dealing with an upset community, working to keep customers happy, communicating with nervous employees, beginning to rebuild, and preparing defense strategies. Your company's future can hang in the balance.

Whether your company will survive a catastrophic incident can be hugely affected by how efficiently it can locate and produce information.

A comprehensive Integrated Records Management System (IRMS) is not important solely in the aftermath of a catastrophic loss. It is a daily business necessity. It can help streamline regulatory compliance processes, quality control efforts, internal audits, and responding to litigation discovery requests. This article will focus on the importance of an IRMS, and provides general observations of some best practices for creating such a system.

IRMS – An Overview

Creating an IRMS requires identifying the kinds of information that should be

maintained, how that information should be collected, and how records will be handled while they are being used. An IRMS should set forth the manner and duration for retaining each type of record, implement procedures for locating and organizing needed records, and properly dispose of expired records. In short, an effective IRMS will centralize data, be accessible from multiple sources, and be rigorous enough to survive any type of event.

The first step in designing an IRMS is to obtain an objective needs assessment of your current records process, taking into consideration factors like information access, document storage space, operating costs, litigation risks, and regulatory compliance. Records management consulting firms such as NACD partner Kestrel Management Services can be retained to perform that analysis.

Successful IRMS implementations utilize digital storage formats that convert vital records to electronic format, and will have comprehensive search capabilities. This allows your IRMS to cross reference and link to documents necessary for investigators

following an incident, and will allow for maintenance of separate files privileged and confidential documents that should not be disclosed. It is strongly recommended that any hard-copy records be maintained in secure offsite locations to ensure safety and accessibility.

Regulatory Compliance

The most experienced chemical companies know the importance of having organized, up-to-date, and complete records. Whether in dealing with a catastrophe or engaging in day-to-day business, being prepared is the best way to contain costs, limit potential liability and protect against regulatory citations.

EPA

Many environmental laws are "self-policing," in that a facility is required to keep and report information that may reveal a violation.

Hazardous Waste. The EPA regulates hazardous waste via the Resource Conservation and Recovery Act (RCRA), which allows an inspection where hazardous wastes have been handled at any time. That inspection will likely examine waste storage, container management, emergency planning and recordkeeping. To comply with RCRA's requirements, your IRMS should include initial notifications, subsequent notifications and revisions, waste determinations and characterizations, weekly inspection logs, manifests, land disposal restriction notification forms, training records, contingency plans and biennial reports.

Storage Tanks. Aboveground Storage Tanks (ASTs) and Underground Storage Tanks (USTs) are subject to both federal and state/local regulations. AST users must meet EPA's Spill, Prevention, Control, and Countermeasure (SPCC) recordkeeping requirements for oil spill prevention, routine inspections and tests, preparedness, and facility response. The rule requires you to prepare, amend, and implement SPCC Plans. Those records should be kept in an IRMS indefinitely. Because USTs pose a greater danger to soil and groundwater due to the inability to detect leaks underground, EPA regulations related to USTs are more restrictive. Those regulations require maintenance of records reflecting release detection performance and maintenance, corrosion protection system inspections and testing, repairs and upgrades, permanent closure, and financial responsibility. All AST and UST records should be kept in an IRMS indefinitely.

NPDES. The EPA regulates storm water and runoff issues related to the chemical distribution industry through its National Pollutant Discharge Elimination System (NPDES). The EPA's inspections under NPDES generally reviews permits, discharge monitoring, baseline monitoring, notifications, sampling results, sludge records and approvals and permit withdrawals. All should be maintained in an IRMS.

OSHA

If a loss results in employee injuries, OSHA likely will visit the scene and review safety plans, incident reports, and medical reports to evaluate whether its standards were met. Failing to meet those standards can result in significant fines and fodder for a future lawsuit. And OSHA's presence potentially can delay other remediation or investigation efforts.

OSHA regulations require employers to retain a myriad of documents, which generally can be divided into two categories: (1) Medical and Incident

Reports; and (2) Health and Safety Records.

Medical and Incident Reports. OSHA has the authority to enter facilities at any reasonable time and request to review medical and incident documentation, most often focusing on employee medical records, OSHA 300 Logs, and supervisor incident reports. Those reviews most often occur when OSHA suspects an injured employee was not treated properly for an injury, or that an employer is not taking precautions in assigning hazardous job tasks to medically fit employees. While at your facility, OSHA likely will request to review and copy all medical and incident



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reports for particular employees, or for a particular group of employees (i.e., all employees working in a chemical storage area). This emphasizes the need for an IRMS that can gather that information efficiently.

Health and Safety Records. The records OSHA requests most frequently in a post-loss investigation include: OSHA Inspection records, noise exposure records, confined space entry permits, annual fire detection and suppression systems inspections, equipment/machinery paperwork, and calibration data. Information in those records often can aid remediation and investigation efforts.

Litigation and E-Discovery

For many years, the litigation discovery process involved an attorney asking its client what types of documents it had concerning a matter, followed by the client rummaging through its desk and file cabinets and handing over a stack of paper documents. Today, this process is more complex. Electronic records can provide additional information – when a document was created, who created it, and whether anyone attempted to delete or modify it. How your company maintains electronic records can win or lose a case, regardless of what the actual information in those records shows. This again underscores the importance of having an IRMS to facilitate the coordination of the electronic discovery process.

Unique Characteristics of Electronic Evidence

In addition to maintaining electronic versions of documents, computer systems gather and store information about those documents called “metadata.” That information includes the date created, author, number of modifications, version number and date last accessed – information not captured when documents were created on a typewriter or handwritten. Metadata may also provide important evidence about the circumstances surrounding the use of the document.

Electronic information you believe was “deleted” often can be retrieved. Not only may the data still reside on the applicable hard drive until overwritten with new data, copies may exist in other file locations and or on back-up tapes. And because the operating system logs all user activity, a person who intentionally attempts to destroy or alter data typically leaves tracks that a forensic expert can uncover. Evidence that would have been considered irretrievably lost or destroyed in paper format accordingly may be able to found and restored when it was created or stored in electronic format.

Finally, the nature of electronically-stored information means that it can viewed in a variety of different formats. Some of those formats, such as printing the data, will not show the associated metadata; others, such as producing in native format or .tiff with load files for metadata fields, will. The format in which the evidence will be produced can be as important as what evidence will be produced.

The Duty to Preserve Electronic Evidence

Most states impose a common law duty to avoid spoliation of evidence. Spoliation is the destruction or significant alternation of evidence or the failure to preserve property for another’s use as evidence in pending or reasonably foreseeable litigation, and often is a sanctionable offense. However, many courts provide a limited “safe harbor” from sanctions for the inadvertent destruction of electronically-stored information lost as a result of the routine, good faith operation of an electronic information system. A party to litigation cannot simply allow its routine document destruction practices to remain unabated once it has notice of a lawsuit. In that case, the party must act affirmatively to prevent the system from altering that data.

The duty to preserve evidence attaches at the point at which the party reasonably anticipates litigation. The duty clearly is triggered when a complaint is served, a governmental proceeding is initiated or a subpoena received, but there can be times prior to those events where the party may have the duty to preserve evidence in anticipation of litigation. In the case of a catastrophic loss, litigation is easily anticipated. Thus, it is important that an IRMS have the capability to easily initiate a “litigation hold” on all potentially relevant documents once a company has a duty to begin preservation.

Conclusion

Whether it is streamlining document maintenance and retrieval for routine business use and regulatory compliance, to trying to manage the complicated aftermath of a catastrophic incident, an effective IRMS is an invaluable resource. ■

This article is a companion to the authors’ August 24, 2011 presentation at NACD’s OPSEM Conference in Sacramento, California. It should not be relied on as legal advice or a complete description of the law governing record maintenance in any specific state or the District of Columbia. If you have questions or require advice regarding the topics discussed herein, please contact any of the authors at (612) 338-0661 or catastrophicloss@meagher.com.



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Frank M. Modich, Associate. With an extensive chemical and biological background, Frank focuses his legal practice on

complex civil litigation, products liability and catastrophic losses, involving pharmaceuticals, fires, explosions and chemical releases.

Navigating Current Regulations: Avoiding DOT Fines and Penalties

By **Christopher B. Lind**, Director Technology and Regulatory Affairs for Mauser USA LLC

Regulatory Review

At this point it is worth a few words to update the industry on a few selected topics that can have immediate effect on chemical distributors and their customers. Certainly every Department of Transportation topic would fill volumes, so the effort here is to concentrate on what would best be described as "the easy ones." In 2010, the DOT issued fines to 510 companies. Represented were shippers, carriers, testers, packaging manufacturers and third party labs. The total amount of fines was \$ 1,533,278 and ranged from a low of \$180 to a high of \$ 229,500. Large global companies and small operations all were included. Size did not apparently reduce the numbers of violations proving once again bigger is not necessarily better. I presented at OPSEM on this very topic and here's a continuation of this very important issue:

Cap Seals on Closures

Recently two chemical manufacturers were cited and fined for violations of the

transportation law for not closing the drums prior to shipment according to the manufacturer's closing instructions. At fault was the 3/4" plug on their steel drums. In an effort to save time on the fill line the filler ordered the drums from their supplier with the crimp on cap seal already installed on the 3/4" plug. With this cap seal firmly in place there was no way the filler could verify the torque was in accordance with the closing instructions or that there was even a plug in the flange without removing the cap seal. Since this destroys the cap seal another would need to be installed and that is time and money spent.

Rather than have a long drawn out process, the filler paid the fines immediately.

Cap seals are commonly installed by drum manufacturers as an accommodation and convenience to the fillers. Steel drums, plastic drums and IBCs can all be purchased with cap seals or tamper evident devices on at least one

plug already in place. Aside from the fact that the DOT can and will fine fillers for not closing properly, plug torques can relax over time. So it is important that the drums and IBCs be closed according to closing instruction prior to shipment. **That is key: prior to shipment.** Not close and put in storage for months and then ship without verifying the torque value is what is specified. Avoid the easy fine and verify all torques prior to shipment and do not order drums with tamper evident or cap seals preinstalled that prevent verification. Most drum suppliers can send the cap seals and tamper evident seals loose for installation by the filler prior to shipment.

Closing Instructions

Along the same vein are closing instructions. The packaging manufacturer is required to provide closing instructions and descriptions of any special devices needed to perform the task. The filler is required to keep a copy of these at the fill line. Not in a file drawer in an office three buildings away. It is worth the effort to keep each manufacturer's

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instructions laminated and posted at the point where the packagings are closed.

This is an easy one as well. Of the 510 fines 63 citations were issued to filler/shippers for not following instructions (or not even having any handy) and two to packaging manufacturers. All of these 63 citations accompanied other equally easy fines to avoid that will be touched on later. When an inspector visits they will almost always check the training records and closing instructions as it is an easy "hit" for them. They are charged with protection of the public safety and companies that fail the easy ones generally have multiple closets full of skeletons that could present a danger.

The recommendation to keep the closing instructions current and accessible to the people assigned to close the packagings will improve workflow and demonstrate to our regulators that at this point the company knows and abides by the regulations.

Training and Training Records

Experience suggests that one of the first places a DOT inspector will look is at the facilities' training records. Failure to conduct General Awareness and Security Awareness was rampant followed closely by failure to conduct function specific training. How rampant? Shippers and fillers had 155 citations; carriers 7 citations; cylinder and third party testing 25 citations; and 8 citations for

packaging manufacturers.

It is required to conduct these training courses within 90 days of assignment to a hazmat job. And keep records of the materials of these and recurrent training required every three years for as long as the employee is in a hazmat job. The requirements for training and record keeping and all the necessary materials for the General and Security Awareness are all on the website <http://hazmat.dot.gov>. Free. There are outside training companies and consultants that give excellent Hazmat training. Some trade associations have regular training courses at their annual conferences. These can be especially valuable in that networking and problem solving discussions specific to the industry always take place. A record of the competency like the certificate of completion and test materials need to be kept.

Another big miss on industry's part giving away another easy one is Function Specific training. Anything that involves the quality of the product and shipment security can be function specific training. Internal chemical safety programs like recurrent OSHA HAZWOPER or a product demonstration on a new packaging and how to use it are also Function Specific for DOT. Please mark the training records and attendance sheets as Function Specific. This will be a "ding" if it is not properly labeled. It is suggested to go back through past records and either write or sticker or stamp past training as either

Function Specific, General Awareness, Safety, or Security Awareness. And make sure a Security Plan is in place and the subject of training—that is a big ticket fine.

Non UN Rated Packagings and Performance Oriented Packaging (POP) Failures

A surprise is the number of citations for shipper/fillers using non-UN Rated packagings for the transport of hazardous materials. The chemical distribution industry has worked hard to promote its social responsibility for safe and reliable operations. Shippers were cited 40 times for using non-UN packagings. Carriers were cited three times and packaging manufacturers were cited four times. Forty-seven opportunities for disaster. There is no shortage of quality UN packagings and this violation should just not be. One leak or one packaging failure offsets any price savings from the use of a non-UN packaging.

The shipper is responsible for assuring that the packagings used for the transportation of hazmat meet all the requirements of 49 CFR. Using a packaging that has demonstrated POP issues again makes it easy for the regulators. Ten shippers had POP failure citations along with 40 for the testers (mostly cylinder retesters failing tests or not failing defective cylinders) and eight for the packaging

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manufacturers. Packaging manufacturers should be able to provide documentation for the design type product being used that it has successfully passed all of the necessary POP tests. If there is doubt about the integrity of the packaging, do not use it. Experienced fill line operators and packagers do have a "feel" for the containers and an unfilled suspect container is much better than a filled container that has removed the suspicion by leaking all over.

Shipping Papers, Marking, and Labeling

This is the large number saved for last—226 in total. Shippers and fillers had 194 of them. One hundred and ninety-four citations for no hazard label, no UN number, no "RQ", wrong sequence, not identifying contents -- especially for N.O.S. (not otherwise served), and too many for no or incorrect emergency number. There are toll free emergency response numbers that can be used as a fee based service. The toll free number can't simply be used without paying for the service.

The purpose of labeling, placarding, and detailed shipping papers is for the first emergency responders' safety. They need to know what is in that truck and how best to address the problems and protect public safety. The HYPERLINK "<http://hazmat.dot.gov>" <http://hazmat.dot.gov> website has instructional modules for the proper

labeling and shipping paper production. The regulators will instruct on the proper way and how to avoid their fines and ensure safe transportation.

Field Enforcement

The DOT inspectors are well trained in all aspects of their jobs. They are getting more intensive training in other areas like cylinders, explosives, and packaging. This is very good news for public safety. It also means that the field enforcement person is more likely to find more things amiss. This also means the chemical distributor can do more to avoid the easy finds for DOT and the fines that go along with it. In addition the company that gets fined will be visited more frequently to make sure the corrective actions agreed upon in settling the case are in fact in place and in use. Repeat fines can be increased by 25% per occurrence. Civil penalties are currently at a maximum \$55,000 per incident and up to five years in jail. If the incident involves serious injury property or environmental damage or death the civil portion is \$110,000 and ten years in "club fed". These monetary values are up for renewal and \$75,000/\$150,000 is proposed. Criminal penalties can also be assessed for "knowing, willing and reckless" violations. See 49 CFR 107 Subpart D appendix A (II) for a complete list of assessments.

In summary, the quick and easy fixes

discussed here can go a long way to avoiding fines and improving the overall safety of an operation.

- Training—General Awareness, Function Specific and Security Awareness for new employees and recurrent training for tenured employees every three years.
- Post and follow closing instructions.
- Avoid factory installed cap seals and tamper evidence that do not allow for verification of torque
- Use only UN rated packagings for hazmat and use the proper rating for the hazard and packing group
- Use only quality packaging with demonstrated performance
- Properly fill out all shipping documents in accordance with the regulations. No short cuts.
- Training again to make every hazmat employee current with the regulations and aware that their actions have a direct bearing on safety for the company and the public. ■

Christopher B. Lind is Director Technology and Regulatory Affairs for Mauser USA LLC. He can be reached at Chris.Lind@mausergroup.com

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customers by voice, email and texting at all hours of the day, no matter where I am.

Charlie Hinnant

President, Charkit Chemical Corporation



We absolutely could not operate as effectively without our Smartphones. We use both iPhones and Blackberries, depending upon user preference. We support both devices. They provide instantaneous communication worldwide, provide convenience across

platforms, and give us the ability to multitask. They have eliminated the need to use computers to conduct emailing, faxing and document review when out of the office.

Essentially this is one device that allows us to perform all functions with ease of use. A related tool would be the iPad for all features except phone use.

Jeff Martin

President, Horn Company



The Smartphone is by far the best digital device that we work with and one that has the biggest impact on our business. The ability to communicate from anywhere and have all of our contacts and calendars at our disposal no matter where we are is a huge

advantage. We can now work faster for our suppliers and customers.

We are also looking to the future for more data capabilities with this technology. Having customer data, principal data and technical data on hand, will be a monumental advantage. Making this sales information available to our employees, remotely and on-the-go will have innumerable benefits. The Smartphone is essentially an all-in-one mobile office; the dream has come true!

Melanie Koch

Controller & Operations Officer, Chem One Ltd



The one device that I cannot live without would have to be my Smartphone. Not simply because it enables me to stay connected to the office when I am out but also the applications and information that I have on hand when needed. Whether it is being in the warehouse and doing a weight

conversion quickly and easily during inventory cycles, checking a regulation instantly on the web or taking a photograph of a product with an issue and sending it to the carrier or supplier. It is without a doubt a device that allows me to do my job far more efficiently and accurately.

Frank Bergonzi

Director of Corporate Distribution - North America, BASF



My iPad has been a huge benefit to me and improved my efficiency. It makes giving presentations to distributors, as well as internally to colleagues, a breeze. BASF has enabled software which allows us to access office e-mail on the iPad. The mobility and capability of the technology, along with the

WiFi access, make it a very useful tool for business. I have found that I can travel with just the iPad now, as I can access e-mail, my calendar and contacts. I can also bring PowerPoint presentations to the iPad, as its software is compatible. But the best attribute is it makes for a lighter briefcase! ■



RESPONSIBLE DISTRIBUTION VERIFICATION

Congratulations! NACD is pleased to announce that the following Members and Chemical Handler Affiliates have successfully passed NACD's 4th cycle (2010-2012) on-site Responsible Distribution Verification, demonstrating their commitment to the implementation of Responsible Distribution's environmental, health, safety, and security requirements.

As of September 2011

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Alchem Chemical Company
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ARC Products, Inc.
Argo Chemical, Inc.
Astro Chemicals, Inc.
Barton Solvents, Inc.
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Chemical Distributors, Inc. (NY)
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Chou Enterprises Ltd.
Columbus Chemical Industries, Inc.
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D & F Distributing, Inc.
Dakota Distributing, LP
Dar-Tech, Inc.
D.B. Becker Company, Inc.
D.N. Lukens, Inc.
Deeks & Company, Inc. (Ga)
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Glenn Corporation
Dorsett & Jackson, Inc.
DPC Industries, Inc.
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Durr Marketing Associates, Inc.
Edson Industries
Emco Chemical Distributors, Inc.
E.M. Sullivan Associates, Inc.
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Harcros Chemicals, Inc.
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Hawke Chemical Company, Inc.
Houghton Chemical Corporation
Hubbard-Hall Inc.
Hydrite Chemical Co.
Ideal Chemical & Supply Co.
Independent Chemical Corporation
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Industrial Chemicals, Inc. (VA)
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International Distribution Corporation
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J.H. Calo Company, Inc.
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John R. Hess & Co., Inc.
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K-Solv, LP
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Linden Warehouse and Distribution Co., Inc.
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Lowe Chemical Co.
M Chemical Company, Inc.
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Wausau Chemical Corporation
Webb Chemical Service Corp.
Weber Distribution
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Wilson Industrial Sales Co., Inc.

NACD's Responsible Distribution Verification is an on-site visit once every three years, by one of NACD's independent, third-party verifiers, of each of its member companies and chemical handler affiliates to certify implementation of Responsible Distribution. NACD's Responsible Distribution is a mandatory environmental, health, safety, and security management practice. Successful completion of Responsible Distribution Verification is required to retain membership in the Association. If a member or chemical handler affiliate company is not listed above, it is because the company has not yet been verified during the current verification cycle or the company did not successfully complete its initial Responsible Distribution Verification and is being rescheduled for a second, full verification. Members that fall into the latter category must successfully pass the second verification to avoid membership termination. Member company verifications are ongoing.

*Denotes chemical handlers that meet the criteria for Responsible Distribution Affiliates through compliance in the American Chemistry Council's Responsible Care® program

**Denotes member that meets the criteria for Responsible Distribution through compliance in Canadian Association of Chemical Distributors' Responsible Distribution program.

For more information on Responsible Distribution and on-site Verification, visit www.nacd.com



A MINUTE WITH...

Ralph A. Nappi, Jr. President of Transport Resources, Inc.

TRI is a family-owned and operated full-service bulk tank trailer leasing company headquartered in Matawan, New Jersey. Ralph, it turns out, has an NACD twin (see below!) and loves traveling with his wife, visiting his grandchildren and solving crosswords. He discusses advances in technology for improved efficiency and NACD membership benefits in this month's column.

How has NACD involvement helped your business?

Through its meetings and seminars, NACD gives my company access to a diverse audience of chemical shippers and transporters. We've made many valuable contacts and friends at OPSEM and the Annual and Regional Meetings. It's a very youthful and fun group and the support staff is tops! Also, I have an NACD story I'd like to share: My favorite NACD Annual Meeting was at the St. Regis Hotel in Dana Point, CA. Beautiful place! While there, Peter Hess introduced my wife, Terry and me to his Dad, Jack. As he shakes my hand, Jack looks at my name tag, does a double take, and informs me, "You're not Ralph Nappi!" It turns out that a fellow with the same name, no relation, was actively involved with NACD back in the '70s. The first President, I think, Jack told me.

What do you like to do to blow off steam?

I don't have any hobbies. I know that I need a hobby. Does cruciverbism* count?? I'm trying exercise but that's a habit, not a hobby. My wife, Terry, and I love to spend time with our grandchildren, Hannah is 3 years old and Victoria is 18 months and we enjoy traveling together on our own.

**A cruciverbalist is a designer or aficionado of crossword puzzles.*

Where was the last place you traveled for pleasure?

The last place that I travelled to for pleasure was Philadelphia! Hah! (Go, Phils!)

What is your favorite book and what do you like about it?

My favorite book is "A Walk in the Woods: Rediscovering America on the Appalachian Trail" by Bill Bryson. It's the very humorous travelogue of a middle aged man and it also contains diverse and entertaining factual information on the Trail itself and various topics related to Natural Science. Read it!

Follow any sports teams?

Go Phils! Let's beat the Yankees this time!

If you weren't president of a chemical transportation company what could you see yourself doing?

In high school and college I did volunteer work after school and during breaks. Today, I enjoy volunteer work at least once a month. I particularly enjoy getting together with people that I don't really know, getting to know them a little while we work together, and then finishing up, going home, and meeting all new people the next time.

TRI Transport Resources has been in operation since 1970. How has your business evolved since?

Our company has undergone many changes since 1970. Now, as then, tank trailer leasing is our primary focus. We own just under 500 tank trailers and offer them for lease across the U.S. and Canada. Technology continues to drive improvement and features like GPS tracking and roll over prevention are helping to make tank trailers more efficient and safe. In the 80's and 90's we operated an intermodal trucking company specializing in ISO tank containers. In '98 we closed the operation and got our brokerage authority. It's a much better fit for us and it is a great value-add for our lease customers.

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Product Codes: A B D H N R
Primary Contact: Joe Bruzdinski, Jr., General Manager
joejr@globalchemicalresources.com
Code Coordinators: Joe Bruzdinski; Donna Serviss

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Primary Contact: Clayton Brown, CEO
cbrown@ifpc.com
Code Coordinator: Clayton Brown; Jim Mitchell

As of January 1, 1999, when a chemical distribution company's membership application is approved, the company is classified as a **Candidate for Membership**. Candidates will advance to Regular membership status upon completion of Responsible Distribution document verification. Please refer to www.nacd.com for an up-to-date listing of members.

Don't Just 'Train' on CSA, 'Quality Train'!

By **Betty Weiland**, Senior Editorial Manager, Transportation Publishing Group,
J.J. Keller and Associates, Inc.®



As the saying goes, a little knowledge can be a dangerous thing. This adage came to mind when reading the results of the American Transportation Research Institute (ATRI) study, *Compliance, Safety, Accountability: Truck Driver Perspectives*. One of the findings was that drivers with one training session about CSA were more negative toward the program than drivers who had no training or had multiple training sessions. Drivers with no training were neutral to the program but also were the least knowledgeable (not a desirable attribute of a worthy company!).

By now most companies know something about the Federal Motor Carrier Safety Administration's (FMCSA) new enforcement initiative, Compliance, Safety, Accountability (CSA). Generally, CSA allows enforcement to initiate contact with a carrier having safety problems earlier than they did before, and gives enforcement more tools to work with to improve a carrier's safety performance.

What is not as widely understood is that CSA is an enforcement program, not a "regulatory" program. Motor carriers will not find regulatory requirements for monitoring data, verifying data, dealing with warning letters, or training. Even though there are no CSA regulations to comply with, motor carriers can gain from this new enforcement strategy if they understand how the program works and what the outcomes are, make a deliberate decision about the company's approach to the program, and implement that strategy to their drivers and non-driving personnel through training and communication.

FMCSA calls 'Training and Communication' a key process

FMCSA developed the "Safety Management Cycle" to put into focus the six major processes it believes contribute to a successful safety management program. "Training and communication" is one of the six processes in this cycle. When carriers are being investigated, FMCSA enforcement personnel will soon be using the Safety Management Cycle as a tool to aid in finding the root cause of a noncompliance issue.

Required or not, carriers have so much at stake with CSA that it's imperative that everyone in the company is on board and working toward the same end result; that is, good scores. This can only realistically be accomplished through effective training and communication.

Management needs to accept CSA before training commences

Before management can effectively train their drivers and other employees, they must have a solid understanding of the program themselves. All management levels—beginning at the top—must:

- Know what the program consists of,
- Realize what impact it can have on their company, and
- Decide how their company will manage it.

One other issue for management to consider is, along with the impact on their own business, what impact their scores could have on customers and potential customers, current and potential drivers, insurance companies, lawyers and judges, and their community.

Once management has a solid understanding of the program and has decided on their approach, they need to develop/review/revise policies and procedures related to their company's safety, compliance, and accountability efforts. This is huge!

Training is the next step

Only after that should management work up a training program for their drivers and other employees. The training program should include a discussion of the company's policy regarding the program, an explanation of related procedures, a way to measure the employees' understanding of what is presented, and a process for follow-up communication.

The CSA program is complex. The ATRI study showed that most drivers do not know which carrier BASIC scores are available to the public, that only FMCSA enforcement staff can access the CSA scores of drivers, or that a violation is weighted based on when it occurred and how severe it is. In order for a driver to understand these things, the driver first has to understand the general structure of the program, what violations are included in each BASIC, what metrics are used to place carriers in peer groupings in each BASIC, and what the percentile rankings mean.

Of course, the driver scoring system and how it works should be explained in detail. Then there is the matter of carriers who receive a letter or some other type of intervention from the FMCSA. The training needs to cover the steps that the carrier will take when responding to an intervention.

Going back to the ATRI finding about drivers with only one training

David Binder Presented with Chairman's Award at Annual MA Hazmat Conference



David Binder of Tanner Industries Inc was presented the TRANSCAER Chairman's Award September 22, 2011 during the Massachusetts Association of Hazardous Materials Technicians 19th annual training conference, in recognition of his dedication and support as chairman of TRANSCAER's (Transportation Community Awareness and Emergency Response) anhydrous ammonia training program.

TRANSCAER, a voluntary, nationwide outreach effort that helps communities prepare for and respond to hazardous material transportation incidents, launched its nationwide Anhydrous Ammonia Training Tour earlier this year, to educate and train officials in states across the country on emergency response to anhydrous ammonia release incidents.

"I am pleased to honor David for the active role he has taken to ensure the success of this trailblazing training program in cities and states across the nation," said Rollie Shook, chairman of the National TRANSCAER Task Group and Global Emergency Services Leader for Dow Chemical Co. "The success of this tour has relied heavily on David's outstanding leadership, and as such I am pleased to present him with this year's Chairman's Award."

As Director of Quality, Safety & Regulatory Affairs and Lead Trainer in the Ammonia Safety & Emergency Response Training (ASERT) program for Tanner Industries, Binder has facilitated ammonia safety and emergency response training programs throughout the world for industry, fire department, emergency response, and emergency management personnel.

Since 1992, Mr. Binder has been involved in the ammonia industry and emergency response training and planning. He is a member of the National TRANSCAER Task Group and currently serves as the Chair of the Philadelphia Local Emergency Planning Committee and Chair of the Responsible Distribution Committee of the National Association of Chemical Distributors.

session, and adding to that the complexity of the CSA program, it is reasonable to expect to hold several training sessions on CSA. This affords the opportunity to follow up on what was covered previously and to correct any misunderstandings. As part of the training, company management should discuss their company's scores and where they are improving and/or backsliding. The more the company shares, the more drivers and other employees will feel like a part of the program.

Training is an ongoing process

Let's face it: most people, even us adults, need to be exposed to a new concept or program more than once to incorporate it into our mindset and behave accordingly. The FMCSA also recognizes this and looks at training and communication as an ongoing process. Thus, after the initial training is completed, the company must engage in ongoing communication regarding CSA and how the company is doing. This can be accomplished by reminder notes, articles, and informal discussions, or through formal refresher training (such as having the topic included during a driver safety meeting).

This continual flow of information will keep drivers and other employees involved and focused on safety and compliance.

A carrier's training/communications process is fair game for an investigator

Right now FMCSA is training their field personnel on the elements of the Safety Management Cycle. With this training, safety investigators will have the knowledge to delve further into a carrier's processes and safety management controls.

For example, if a carrier is getting roadside violations for Section 391.45(b) Expired medical examiner's certificate, the investigator may ask "why" questions to get to the root of this problem. By asking "why," it might be discovered that dispatch was scheduling drivers for runs that wouldn't get drivers back before the driver's medical card would expire. After again asking "why," the dispatcher believed that drivers had a grace period to renew the medical card. After another "why," it becomes apparent that the dispatcher was either not trained or not completely informed on the topic.

One solution to this problem would be to dispel myths about any grace period after the medical exam card expires. Training could take place and include not only operations/dispatch but drivers as well. Other forms of communication could also be used such as posters, paycheck stuffers, and the like to explain the facts.

Don't just "train" on CSA, "quality train." This means that training should not stop after a single session or after educational materials are handed out. A combination of thorough training and ongoing communication about CSA will help keep everyone on board with Compliance, Safety, and Accountability! ■



Betty Weiland is Senior Editorial Manager of the Transportation Publishing Group, Editorial Resources Unit, for J.J. Keller and Associates, Inc.® J. J. Keller & Associates, Inc.® is a regulatory compliance partner of NACD. To reach them for DOT assistance, call 1-877-564-2333.

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Sales & Marketing Optimization (SMO)

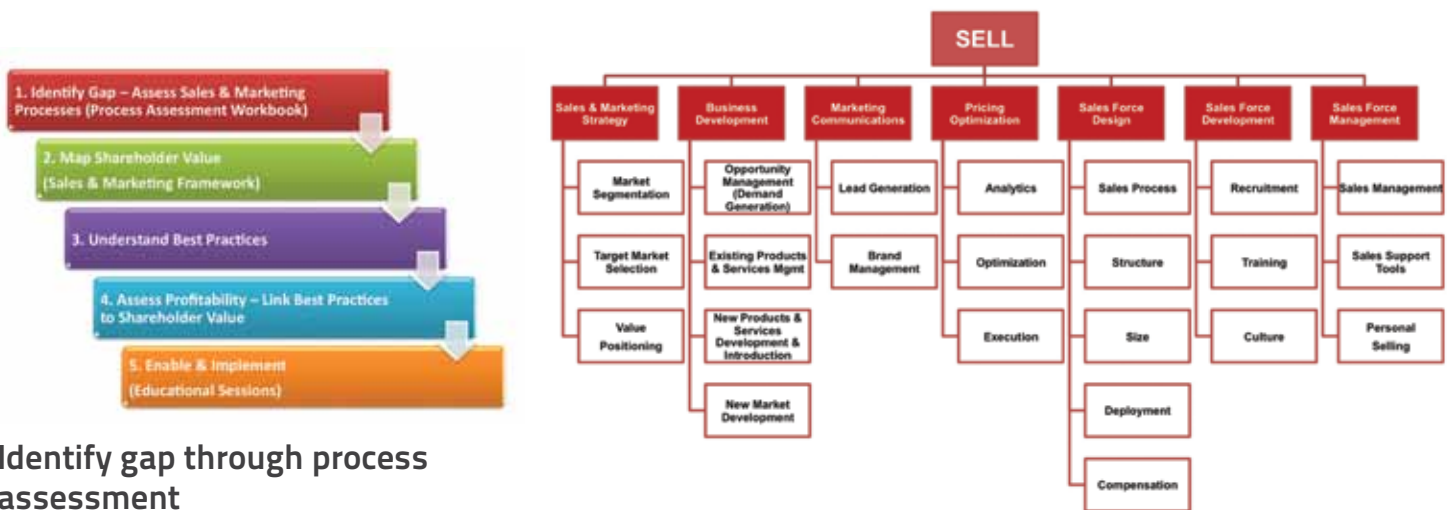
By **Dr. F. Barry Lawrence**, **Senthil Gunasekaran**, and **Pradip Krishnadevarajan**, Texas A&M University

In 2007, the Supply Chain Systems Laboratory at Texas A&M University's Industrial Distribution Program decided to conduct an unusual test. They wanted to know how profitable a distributor could be if they correctly implemented the most relevant best practices for their needs. For the case study they used, the team found that the distributor could double earnings and triple return on investment (ROI). The method they used was to model the process, put metrics on it, model the best practice, measure its results, then connect the metrics to financial elements in the Balance Sheet and Income Statement and finally determine shareholder value by measuring the impact on ROI.

There was a glaring problem at the end, however. The best practices for sales and marketing were not well documented and were at the lowest implementation level of all. This indicated that the most powerful functional impact, sales, was not part of the equation and another important impacting area, marketing, was virtually non-existent in most distribution firms. The estimates for optimal distributor profitability, therefore, were too low. To get the numbers right and to ensure the success of the other best practices sales and marketing best practices needed to be uncovered, documented, and tested for shareholder value. This project would be no small undertaking and obviously needed a major collaboration from best practice firms and professional researchers. In short, another consortium was in order.

The Sales and Marketing Optimization research consortium was a collective effort of CRDBP (Council for Research on Distributor Best Practices – an entity formed by Texas A&M University and the National Association of Wholesaler-Distributors) and 19 distribution firms from 7 lines of trade. Its mission was to develop and codify best practices in sales and marketing for distributors and test these practices to determine shareholder value. The research was conducted based on the 5-step methodology in the following figure.

The steps are designed to first determine the distributor's actual practices and compare them to best practice to determine where they are on a continuum of Common, Good, and Best Practice. The gap is determined and then tested for the impact on ROI of closing it.



Identify gap through process assessment

As a first step, a one-day personalized research workshop was conducted with each participating member company separately. The objective was to assess sales and marketing processes of participating distributors. This step served two purposes – it helped the research team to (1) develop a detailed framework for sales and marketing processes in the wholesale distribution industry and (2) assess current status of these processes at the participating firms.

The framework consisted of 21 business processes. The processes were assigned into seven categories – sales & marketing strategy, business development, marketing communications, sales force design, development and management. Through research, common, good and best practices were identified for each of these 21 processes. Pricing optimization was treated as a single process though it is comprised of 3 activities (analytics, optimization and execution).

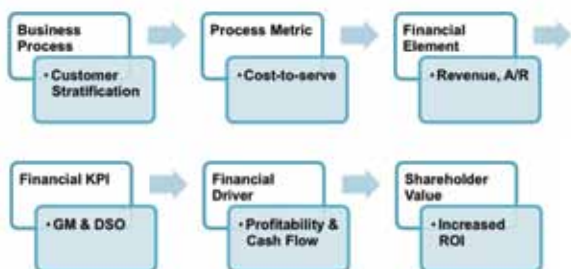
These processes were assessed along this spectrum of common to good to best and then rated based on inputs received during the research workshops. This step further helped consortium members understand where they ranked in each process category and also how they compared to other members (as a benchmark). Each participating member received a personalized assessment report highlighting process gaps and opportunities for their firm. As a result a generic process assessment workbook was developed and delivered to consortium members for further assessment and action.



Out of 19 participating firms (from 7 lines of trade), 2 firms had two best practices, 9 firms had one best practice and 8 of them did not have any best practices. Keep in mind, that distributors who are a operational "train wreck" do not join university consortia. These firms were, in general, what many would consider to be best practice firms.

Map shareholder value

Having identified process gaps, the next logical step was to understand the impact of these gaps on shareholder value so the distributors could prioritize and improve performance. The research group developed the logic to connect business processes to shareholder value through process metrics and financial elements. Following this logic, process metrics were identified for each business process and then linked to financial elements and metrics. For example, customer stratification is one of the business processes under the business development category. One of the process metrics to measure customer stratification is cost-to-serve, which can be linked to a financial element – accounts receivable. This can be measured through a financial metric – days sales outstanding (DSO). The shareholder value is represented by 4 financial drivers – growth, profitability, cash flow and asset efficiency – and DSO is a cash flow driver.



Using this process, each business process was linked to shareholder value. This resulted in the 'Sales and Marketing Framework' map – a key deliverable depicting the link between sales and marketing strategy (market segmentation, target market selection and value positioning), business processes, metrics (process and financial) and shareholder value (look for the map in the upcoming NAW books on Sales and Marketing Optimization).

Understand best practices

With the 'Sales and Marketing Framework' map as a reference, the research team identified the best practices for each business process. The best practice for each business process consisted of key elements, methodology, examples and implementation components. For instance, sales force compensation had 5 key elements – level of pay, method of pay, performance metrics, variable pay structure, and the three-way alignment. The best practice methodology for the second element (method of pay – fixed vs. variable) included two major perspectives – degree of influence wielded by sales person and degree of differentiation demonstrated by the firm through its value proposition – and a combination method to arrive at a final pay structure.



Finally, the best practice explained four key aspects – people, process, technology and metrics – that are critical for any best practice implementation and sustained improvement. The same structure was followed to explain the best practices for another 20 business processes as well.

Assess profitability – Link best practices to shareholder value

The research extended to the next critical step of linking best practice implementation scenarios to shareholder value. This step used real-world financial numbers from participating consortium members (after masking the identity for confidentiality reasons) to demonstrate the impact on shareholder value when they chose to implement certain best practices.



For example, as a result of implementing customer stratification best practice, one may decide to redeploy sales force efforts – resulting in varied amount of time spent by sales force with different customers. This re-deployed effort (as a result of best practice implementation), for instance, moving the effort from service-drain customers to the opportunistic category, resulted in increased profitability and cash flow. This analysis quantified those improvements for a given level of re-deployment effort. This step helped distributors understand the power of best practices as well as any inherent challenges such as short-term financial losses, if any.

Enable & Implement (Educational Sessions

In this final step, the research concluded with the importance of learning and growth components for any successful best practice implementation and the sustainability of resulting improvements. For any wholesaler-distributor, sales and marketing is the highest impact function supported with the level of highest human capital. Hence any 'change' in this space cannot be mechanical or just technology-driven. People have to be educated on best practices; processes have to be demonstrated; technology has to be customized; and metrics have to be linked to shareholder value. This is the recipe for an involved-implementation of any sales and marketing best practices which will then be owned by team members for sustained improvements in customer service and shareholder value.



The consortium is followed with educational sessions starting in the fall of 2010. The next consortium, "Optimizing Distributor Growth and Market Share" begins this summer. It will use all the findings from the Optimizing Distributor Profitability and Sales and Marketing Optimization consortia to develop best practices for growing the firm profitably.

Conclusion

The research yielded a few valuable insights resulting from this leading edge consortium:

- Business development through 'complexity & opportunity management' is a competitive advantage for distributors
- Three-way (customer, sales force & company) alignment is fundamental to sales force performance
- Understanding (& educating the sales force about) the business "we want to do" is as critical as defining your value proposition to customers
- 'Art' (experience & judgment) can lead to 'growth' but 'science-assisted art' will lead to 'profitable growth'. Note that we still need the art in this most significant function of wholesaler-distributors.
- Finally, even sales & marketing processes can be measured, controlled, and linked to shareholder value & customer service. ▪



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The NACD **Chemical Handler Affiliate Program** is designed for chemical handlers whose primary function excludes the supply, manufacturing, or distribution of chemicals. Examples include public warehouses, recycler, and carriers. Chemical Handler Affiliates, like NACD members, are required to comply with Responsible Distribution.

See NACD Membership Directory for Product Code definitions.

OPSEM WRAP-UP:

Regulatory Compliance and Much More in Sacramento

This year's Operations and Purchasing Conference in sunny Sacramento, California was one of the most successful programs yet! The NACD planned a packed 4-day program which kicked off with the Geikkakan Sake Facility tour and ended with a breakfast program on employee health and safety. With the ever-changing regulations of the current administration, NACD thought it was vital to educate members on current regulatory changes affecting all levels of the chemical distribution industry.

Attendees had great material to choose from this year:

- Michael Loolara, Compliance Solutions Group and Clyde Pearch, Eagle Group USA, led two internal audits workshops complete with a hands-on case analysis. Attendees found this workshop helpful in assessing their own Responsible Distribution Code requirements and improving their organization's practices.
- "Integrated Records Management Systems" led by Russ Melton, Darren Hepper, Rob Graff and Frank Modich, Meagher and Geer, dove into the world of comprehensive records management. Best methods were discussed as well as the use of a records management system in preparing responses to electronic discovery requests.
- Randy Block, Kestrel Management Services, LLC, presented on the hot topic of regulatory compliance management and helped to refine attendees' regulatory compliance programs by reviewing the steps successful organizations follow to assure regulatory knowledge.
- NACD's own Jennifer Gibson and Kathleen Roberts, Bergeson & Campbell PC, presented to a packed room regarding the regulatory outlook, providing an overview of the regulatory initiatives underway that impact companies and what changes are on the horizon.
- Franklin Vega and Michael Cochran, ATC Industrial Division, offered many great tips on supplier and inventory management to ensure companies run as smoothly as possible.
- "Regulatory Trends in Chemical Packaging and General DOT Transportation Issues" led by Charlie Rottmund, a Senior Safety Consultant, J.J. Keller & Associates and Chris Lind, Mauser Corp., succeeded in keeping members in-the-know on how recent citations can be avoided and how to further prepare or avoid regulatory issues.

Throughout the conference members enjoyed networking at the receptions and coffee breaks.

It's a relief for many to know that the challenges they face at their organizations are similar to other companies' challenges and NACD works tirelessly to provide the most current education and opportunities for growth to its members.

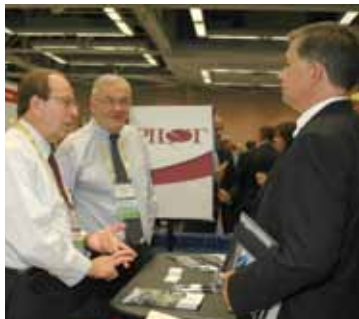
The OPSEM Committee has found that people 'don't know what they don't know' until they attend the conference. Not all member companies have a dedicated full time regulatory employee at their facilities. There is much to learn and stay on top of; especially this year. Many members are struggling with the changes and new regulations. The current environment in Congress called for a program of regulatory compliance, DOT updates, and inventory reporting matters with all of the TSCA changes; all of which were covered this year.

The OPSEM Committee works hard to make the program special and current each year. They choose new speakers to get different views and a fresh perspective. Patricia Turcan, OPSEM Chairman and Committee member had this to say about the conference, "We actually changed the format last year, adding a brunch and ice cream social. We had a lot of positive feedback on it, so we tried it again this year. The other change we made this year was our Keynote speaker, Jeff Havens. Instead of a motivational speaker, with a related topic, we went for comedy. Regulatory classes can be very dry and we wanted to lighten things up. Jeff did a great job. Everybody I spoke to loved him. We are about to plan next year's OPSEM in October. We want to continue to add value to our members, both personally and professionally. We will see what the next hot topics in regulations are and build from there."

Jeff Havens' opening speech was a welcomed light-hearted and fun distraction from the heavy regulatory issues on hand. One of the phrases discussed during the session, "Bless your heart!" could be heard repeated throughout the conference



OPSEM Planning Committee



for fun between attendees. Another entertainment highlight included the networking and closing reception at the California State Railroad Museum. The museum features 21 restored locomotives and railroad cars, some dating back to 1862. Attendees enjoyed the new setting and historical aspect to the venue.

The Committee reviews every member conference survey to find out exactly what members want from the conference and they use the surveys to guide the programming for the next year's focus and material. Turcan added that next year will feature developments on both CSA2010, the ongoing TSCA amendments, and a full track of sessions on purchasing.

Start your engines for OPSEM 2012 in Indianapolis, IN scheduled for August 22-24!



Accepting the award is G.S. Robins & Company Operations Manager, Bryant Buescher (pictured right). Andrew Skipp, NACD's Chairman of the Board and President & CEO of Hubbard-Hall Inc. (pictured left) presented the award to Bryant.

G.S. ROBINS & COMPANY HONORED WITH RESPONSIBLE DISTRIBUTION EXCELLENCE AWARD

G.S. Robins & Company, headquartered in St. Louis, Missouri was presented with NACD's 2011 Responsible Distribution Excellence Award. In announcing the award, Andrew Skipp, NACD's Chairman of the Board and President & CEO of Hubbard-Hall Inc. said, "NACD is proud to recognize G.S. Robins & Company as the 6th recipient of this award. Now part of the Brenntag organization, their commitment to process improvement, their involvement in the local community, and the education of their employees have certainly not gone unnoticed. They exemplify the high standards required by Responsible Distribution."

In accepting the award, Operations Manager, Bryant Buescher commented, "The employees of G.S. Robins & Company are honored to be the 2011 Recipient of the NACD's Responsible Distribution Excellence Award. Our company has gone through a major transformation over the past few years and our employees, along with our senior management, were dedicated to the implementation process of the 12 Responsible Distribution Codes. The commitment to reach and exceed these standards did not come without a lot of hard work and the efforts of many. The guiding principles defined by the Responsible Distribution Codes, not only allowed for us to succeed, but to also show our commitment to these goals to our customers, suppliers and community."

Responsible Distribution is NACD's premier environmental, health, safety and security program that is implemented by all of its members and many of its chemical handler affiliates. For more information on Responsible Distribution, go to http://www.nacd.com/dist_process/

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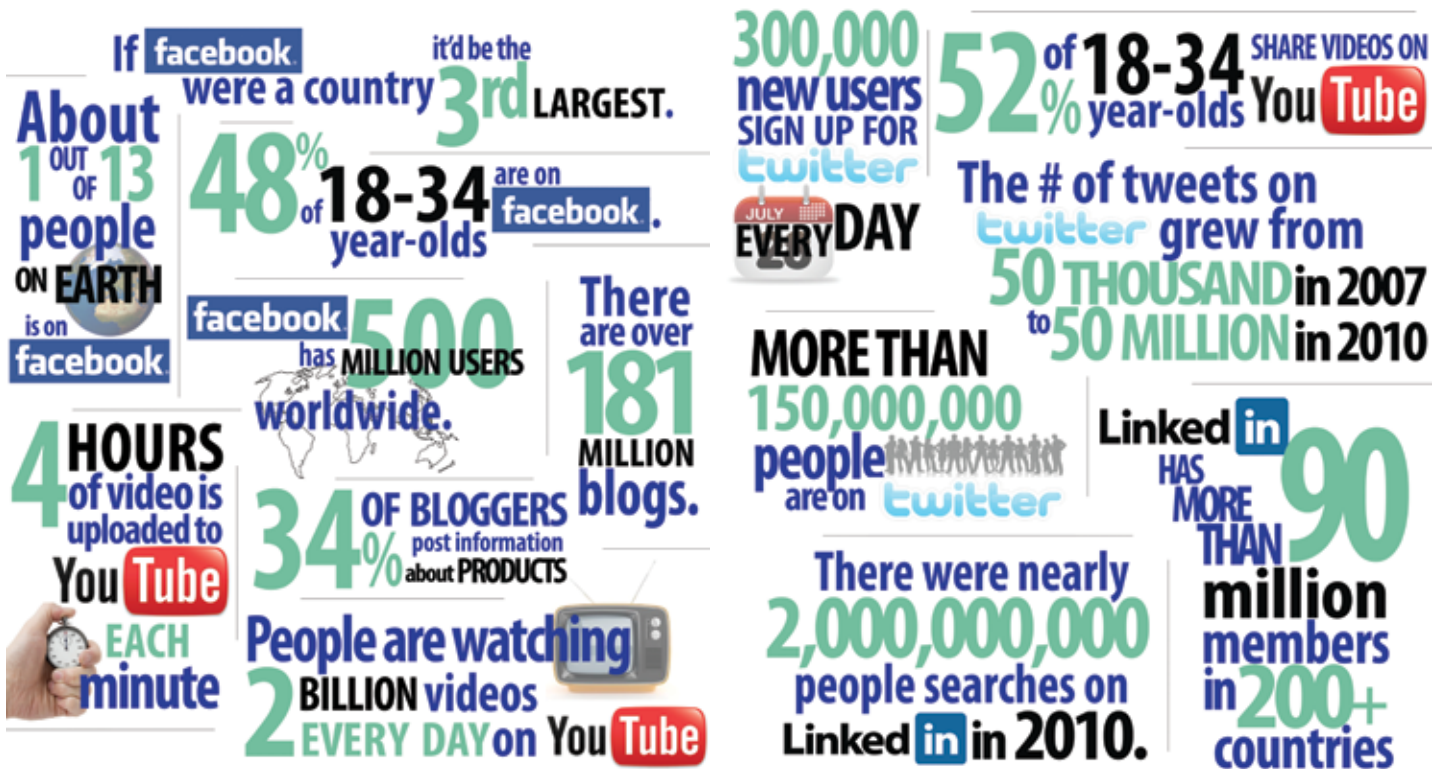


GOLD



MEDIA





Social Media and Cloud Computing: Are They Relevant for Your Business?

By **Sean O'Donnell**, President, Datacor, Inc.

Social media and cloud computing are emerging technologies that hit the mainstream of American business life in 2010 and are worth watching as we move into 2012. While chemical distributors today may be aware of these technologies, they may be wondering if social media or cloud computing are relevant for their businesses.

Forward-thinking chemical distribution managers are always on the lookout for new technologies and new ways to apply them to promote their business, streamline operations and service their customers better. But what exactly are social media and cloud computing and should you consider them in your strategic plan in 2012 and beyond? A closer look at the two new technologies will help answer these questions.

The Value of Social Media

Social media refers to the mixing of technology and social interaction for the creation of value to the users. The 'social' component is the sharing which occurs via the Internet.

The 'media' elements are the digital words, sounds, pictures and video which are sent and received and the 'value' can be personal, cultural, societal or financial such as for business. Common perceptions are that social media is a fad, that 'Facebook is for college kids,' and that no-one uses it to generate business. But social media has gone way beyond the craze phase and has emerged as a rising trend to make note of for today's businesses.

The use of business-to-business social media is on the rise, according to a March 2010 study by Forrester Research. Results of a survey showed responders planning to spend double the amount on interactive marketing in the next five years. The study forecast a specific increase in social media spending from \$11 million to \$54 million by 2014. A 2010 advertising and marketing survey conducted by Outsell's showed that more than half the respondents said that Facebook was 'extremely' or 'somewhat' effective.

You may be already testing the use of social

media for business purposes. Commonly used social media tools include social networks such as Facebook and LinkedIn, blogs such as Twitter and Blogger, and multimedia sites such as YouTube. Wikis, Internet forums, social bookmarking sites and news sites with comments are also considered social media. These tools are important to businesses because they can shape opinion, influence buying decisions and create brand recognition and loyalty.

Social media differs from other forms of media such as print advertising and email blasts in a very important way. You cannot control the message. Information is updated instantly and fact and opinion are often intermixed. The message you are putting out to consumers concerning your product often gets hijacked or taken off track. Because much of social media is anonymous, the message is often inaccurate and incendiary. In addition, once content is on the web, it is out and stays out.

Shaping Your Social Media Image

Chemical distributors should be aware of social media and use it to shape the image of their business before someone else shapes it for them. Your strategy should be to play defense and a little offense. Set alerts for your company name and your products on sites such as Google and Twitter so that you are aware of how you are being represented in social media. You are then in a position to respond and influence opinion when content hits the web.

When social media has a negative effect on your company's reputation it is important to have a strategy in place to offset the impact. Diluting the damage can best be accomplished by adding positive content about your business to the web. These channels include press releases (www.openpr.com and www.free-press-release.com), YouTube commentary (www.youtube.com), a Wikipedia page (www.wikipedia.org) and a company and/or personal profile (www.linkedin.com, www.zoominfo.com, www.manata.com, www.google.com/profiles and www.spoke.com).

Perhaps the best defense in the social media arena is to create your own image by placing positive content about your company on

the web. Two of the more significant and accessible sites are LinkedIn and YouTube. LinkedIn provides a venue to communicate with your customers, coworkers, suppliers and industry peers. The site facilitates 'staying in the know' of industry trends, events and opportunities, allows you to find out 'who knows who' and leverage existing relationships to grow new ones, and helps you promote events, awards, tradeshow and new products.

Another site, YouTube, also provides an avenue to create the right image of your company. YouTube is a video sharing website that allows users to upload, share and view videos. By placing a well conceived and professionally produced video about your chemical distribution business on the site, you can put the message 'out there' that you want seen and heard. With YouTube, you can link to suppliers, chemical industry associations such as the NACD, and to positive news stories about your company or employees. You can add your own content on community events, company outings, green initiatives, awards ceremonies and charity events. Importantly, you can also respond to inaccuracies about your company with a 'response video.'

Social media for chemical distributors is really about social networking using the latest

technologies and it is a trend your business should consider implementing as part of your sales and marketing efforts.

Cloud Computing: Operating in the "Cloud"

The other emerging technology throughout 2011 was cloud computing. Many people have heard the phrase and have a vague idea of the meaning but don't really understand what it is and why they should care about this new technology. The fact is that business computing is being transformed by a new paradigm – a cloud computing system. In this model, your data and your computing infrastructure are operated 'in the cloud' via the Internet and the workload is shifted to someone else. With cloud computing, the burden and expense associated with information technology is greatly reduced. You pay a third party to provide and maintain the underlying infrastructure.

Cloud computing can be defined as the computer hardware, systems software, data centers and applications provided over the Internet on a demand basis – similar to the way a public utility operates. The cloud can be either 'public' where services are provided in a pay-as-you-go manner to users or 'private' where the cloud infrastructure is operated



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solely for a specific business or organization. Clouds can also be designated as 'hybrid,' a combination of a private cloud and a public cloud that allows a business to ramp up its computing power by increasing system capacity with external dedicated resources.

With cloud computing, businesses have a new way of consuming and utilizing information technology to serve their needs. In an on-premise environment, you are responsible for providing the infrastructure to operate your system. It consists of computer hardware and software, a server, system security and a data storage system. As the business grows, the infrastructure must also expand. As technology updates and upgrades, you are on the hook to keep the infrastructure in line with the changes.

A Shared Information Technology System

In contrast, cloud computing offers businesses an alternative way to manage computing needs through a shared system. Instead of purchasing and being responsible for the maintenance of an information technology system, you pay for what you need and use. Instead of buying a server, your company pays for the use of a server. With a cloud computing system, the majority of the technology workload is shifted away from your company

and on to the shoulders of the 'cloud.'

What are the benefits of this new technology for your company? The primary advantage for the user is that the infrastructure and data backup are the responsibility of someone else. The hardware, software, server and data storage are maintained and upgraded by a third party. All you need in the way of infrastructure is access to the cloud through an Internet connection and interface software.

While cloud computing offers many advantages, this new technology has its drawbacks. The biggest issues at present are data security and data ownership. Many companies are reluctant to jump into a new technology without reassurance that their highly confidential data is well protected. It is important that you have a relationship with your cloud provider and are confident in their ability to secure your data. Also at issue is data ownership. When your data is stored in the cloud, who really owns it – the cloud provider or your company? What would happen if your cloud provider went out of business? Because your data information is critical to the success of your chemical distribution business, you need to know the company that is storing your data. You should meticulously research their background and be completely confident in their credentials. When you own and maintain your company's

information technology rather than using the cloud, you have these guarantees. Cloud computing may be in the future for your company, but you need to have an absolute guarantee that your data is secure and that you will have access to it when you want it whether today or tomorrow.

In summary, social media and cloud computing may prove to be the 'next best thing' for business but for now, it may make sense to test the waters and adopt a 'wait and see' attitude. However, as these technologies continue to emerge, they may offer benefits such as cost savings and operational improvements that impact your bottom line. The larger the benefit, the more sense it will make to include these technologies in your strategic business plan. ■



Sean W. O'Donnell is President of Datacor, Inc., a developer of business management software for chemical distributors and manufacturers, and an affiliate member of the NACD. Sean can be reached at swodonnell@datacor.com or (973) 822-1551. To learn more, visit www.datacor.com.



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SENATOR PAT TOOMEY HONORS 2011 NATIONAL CHALLENGE WINNER

Pennsylvania Senator Pat Toomey honored 2011 National *You Be The Chemist* Challenge winner Andrew Lingenfelter with a certificate for his accomplishments in this year's competition. Senator Toomey recognized Andrew for his hard work in preparation for the question-and-answer competition. He also acknowledged the efforts of educators Meghan Loewry and Steven Strelch for their support and guidance of Andrew through all levels of his participation in the competition.

A member of Senator Toomey's staff, James Fitzpatrick, attended this year's National Challenge & International Year of Celebration Dinner that immediately followed the national competition and held at The Franklin Institute in Philadelphia, PA.

Acquire. Amaze. Achieve.

The Chemical Educational Foundation (CEF) is working with members of the chemical industry, many of them NACD members such as yourself, to help educators acquire new teaching materials that amaze students with the wonders of science and encourage them to achieve greater understanding of the world around them. In doing so, CEF is continuously enhancing the offerings of the successful *You Be The Chemist* (YBTC) programs.



As the next phase of YBTC program expansion, CEF is working to integrate all of its programs by linking the content covered in the YBTC Essential Elements professional development program, the lessons in the YBTC Activity Guides, and the information in the YBTC Challenge study materials. This integration will provide valuable science education resources that may be implemented within a community on multiple levels – as a cohesive unit or individual components.

When provided as a cohesive unit – experiments from the Activity Guides are used in the workshops of the Essential Elements professional development program that provide educators with suggested teaching techniques. The educators then take the Activity Guides back to their classrooms to engage their students in science education and encourage them to further explore the subject. For those teachers who teach grades 5–8, use of the Activity Guides works to prep students for participation in the Challenge. In addition, the Challenge study materials offer educators and their students a comprehensive source of basic chemistry information to further explain concepts addressed in the Activity Guide lessons (at all grade levels).

Alternately, schools may opt to just participate in only one *You Be The Chemist* program. For example, a school may participate in the Challenge only, hold an Essential Elements workshop utilizing the Activity Guides, or just use the Activity Guides within the classroom.

This integration allows CEF to offer an unparalleled resource for enhancing science education, specifically chemistry education, for K–8 students. CEF wants educators and students in your community to acquire, amaze, and achieve. Visit www.chemed.org or contact CEF at comments@chemed.org or 703/527-6223 to find out how to integrate the YBTC programs in your community.

The Chemical Educational Foundation Welcomes New Staff Members



Alyssa King joined the CEF staff in June 2011 as Assistant, Programs & Outreach. Her responsibilities support the development and implementation of CEF's *You Be The Chemist* programs throughout the country.

Alyssa's previous work experience includes a sports promotions internship with the University of Virginia Athletics Department and assisting the development department of the Mount Vernon Ladies' Association at George Washington's Mount Vernon Estate. Alyssa earned her Bachelor of Arts degree in history and economics at the University of Virginia in Charlottesville, VA.



Brian Taylor joined the CEF staff in August 2011 as the Assistant, Marketing & Communications. His responsibilities support the marketing and communication efforts of CEF's *You Be The Chemist* programs throughout the country.

Prior to joining the CEF staff, Brian held two internships in the communications field. In 2009, he worked as a public relations intern at Barnabas Health in Toms River, New Jersey, and in 2010 he worked as an advertising intern at The Marathon Group in Mt. Laurel, New Jersey. Brian holds a Bachelor of Arts degree in Communication Studies and Media Arts & Design from James Madison University in Harrisonburg, Virginia.

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