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# FBI Law Enforcement

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# Hazardous Materials Training A Necessity for Today's Law Enforcement

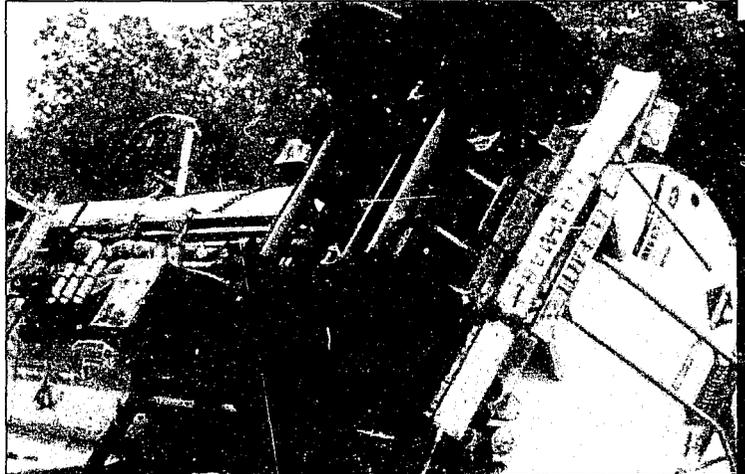
By  
MICHAEL L. DONAHUE

**T**he U.S. Department of Transportation estimates that 500,000 interstate shipments of hazardous materials occur daily in the United States. These shipments involve every aspect of the transportation system, including rail, marine, air, and highway transit.

Although the industry's overall safety record is excellent, accidents involving hazardous materials can, and do, happen. The rising volume of shipments and the potential for mishaps to occur make it imperative that the emergency response community be prepared to deal effectively with such incidents.

The potential for an emergency in any location—from a small town to a large metropolitan area—also reinforces the importance of emergency response training for State and local law enforcement personnel, who are often the first called to the scene of an accident. The initial actions performed at the scene of a hazardous materials incident set the stage for the ultimate success or failure in resolving the emergency safely.

This is especially true in small urban or rural areas, where the probability for an incident may be viewed as low, but where the consequences of mismanaging an accident could be devastating. An



inappropriate response may endanger personnel, the surrounding community, and the environment. Proper training represents the most effective insurance against a minor accident becoming a major disaster.

## REGULATIONS

In 1986, the Office of Technology Assessment issued a report indicating that only 25 percent of first responders—firefighters, police officers, and emergency medical services personnel—received

adequate training to respond to hazardous materials incidents and that over 1.5 million first responders needed additional training. The report went on to cite effective hazardous materials training as the most pressing need in emergency response today.<sup>1</sup>

In the late 1980's, the Federal Government moved to improve preparation levels. In March 1989, the Occupational Safety and Health Administration (OSHA) issued *Hazardous Waste Operations and Emergency Response*, 29 CFR 1910.120, commonly referred to as HAZWOPER. This regulation, which established minimum training levels for emergency response personnel, became effective in March 1990.

Federal legislation mandated issuing HAZWOPER as part of the sweeping Superfund Amendments and Reauthorization Act (SARA) of 1986. Title III of SARA is intended

to improve the overall preparedness of communities throughout the Nation by encouraging the development of comprehensive hazardous materials emergency response plans.

Another section of SARA requires the Environmental Protection Agency (EPA) to issue standards for hazardous waste operations and emergency response. Although the EPA and OSHA standards contain identical substantive provisions, the regulations differ with respect to their scope of coverage.

The EPA's authority extends to State and local government employees conducting hazardous waste operations and emergency response in States that *do not* have a delegated OSHA program in effect. Currently, the EPA's authority extends to 27 States, one territory, and the District of Columbia. EPA regulations cover both compensated and noncompensated State and local

government employees engaged in specified emergency response activities. Therefore, the EPA standards protect unpaid personnel, such as volunteer firefighters, who respond to hazardous substance emergencies.

While OSHA recommends that delegated State programs also cover unpaid employees, not all States follow this recommendation. Although Congress intended that these regulations cover all workers—including firefighters, emergency medical service personnel, and law enforcement officers—OSHA regulations generally do not apply to State and local government employees.

In short, Federal OSHA standards protect all private sector and Federal employees engaged in hazardous waste operations in States *without* an OSHA-approved plan. EPA worker protection standards cover all State and local government employees, including volunteers. In States with an OSHA-approved plan, the State program covers all private sector employees, as well as State and local government employees; Federal OSHA rules still cover Federal employees. States with their own OSHA-approved programs must develop a standard at least as stringent as the OSHA rule.

#### PROVISIONS

Both the OSHA and EPA worker protection standards affect employers whose workers engage in the following activities:

- Cleanup operations at uncontrolled hazardous waste sites when a government authority requires the cleanup<sup>2</sup>



Mr. Donahue is the associate director of CHEMTREC, a public service operated by a chemical trade association in Washington, DC.

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- Corrective actions at treatment, storage, and disposal (TSD) facilities regulated under the Resource Conservation and Recovery Act (RCRA)<sup>3</sup>
- Voluntary cleanup operations at uncontrolled hazardous waste sites<sup>4</sup>
- Hazardous waste operations conducted at RCRA TSD facilities<sup>5</sup>
- Emergency response operations without regard to location, where there is the release or a substantial threat of release of a hazardous substance.<sup>6</sup>

Since other OSHA programs protect employees who respond to traditional fire and medical emergencies, HAZWOPER does not address these types of incidents. However, HAZWOPER requires that employers provide proper emergency response planning, training, and medical surveillance to all affected and potentially affected employees.

## ENFORCEMENT

In general terms, OSHA can issue civil fines for noncompliance with the provisions of its standards. Additionally, in certain situations, such as the willful death of an employee, OSHA can refer cases to the U.S. Department of Justice for criminal prosecution. Although the EPA adopted a similar set of hazardous materials training regulations, its directive currently possesses no specific enforcement provisions for noncompliance. And, while a public official has yet to be prosecuted for

failure to comply with either SARA or OSHA requirements, the possibility certainly exists.

## TRAINING

The Hazardous Waste Operations and Emergency Response rule sets minimum training requirements for emergency response personnel including law enforcement officers, who may be required to respond to hazardous materials incidents. OSHA mandates that the training be based on the duties and functions performed by each responder in a community safety agency. All employees hired after the effective date of the standard

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 ”

must receive appropriate training before they take part in actual emergency operations.<sup>7</sup>

The OSHA standard divides training requirements into five distinct “levels.” Each level specifies unique training requirements.

In the first responder (awareness level), employees must possess sufficient training or proven experience to recognize and report the

presence of hazardous materials in an accident. Personnel in the second training category, first responder (operations level), must demonstrate competency at the “awareness level” and complete a minimum of 8 hours of more advanced hazardous waste response training.

Hazardous materials technicians, the third competency level, must complete at least 24 hours of training at the “operations level” and must possess sufficient experience to demonstrate additional expertise. Hazardous materials specialists—the fourth training category—must complete at least 24 hours of training at the “technician level” and possess sufficient experience to demonstrate additional expertise. Those designated as on-scene incident commanders must complete at least 24 hours of training at the first responder-operations level and possess sufficient experience to demonstrate additional expertise.

## First Responder (Awareness Level) Training

Of the five training tiers, most law enforcement officers function at the first responder (awareness level). As stated in the OSHA standard, personnel at the “awareness-level” are considered “likely to witness or discover a hazardous substance release and...are expected to initiate an emergency response sequence by notifying the proper authorities of the release.”<sup>8</sup> Generally, first responders at the awareness level take no action beyond notifying hazardous materials emergency response personnel and taking initial steps to ensure community safety.

Personnel at the first responder (awareness level) should receive training or possess sufficient experience to demonstrate competency in the following areas:

- An understanding of their role in the agency's emergency response plan, including familiarity with site security plans and knowledge of the *Emergency Response Guidebook*, published by the U.S. Department of Transportation (DOT)
- The ability to recognize the presence of hazardous materials in an emergency
- A rudimentary understanding of hazardous materials and the risks they present, and
- The ability to recognize additional resource needs and to notify appropriate personnel.

In addition to the OSHA standard, the National Fire Protection Association (NFPA) also developed guidelines for hazardous materials emergency response. *The Standard for Professional Competence of Responders to Hazardous Materials Incidents* (NFPA 472) is a voluntary, national consensus standard.<sup>9</sup> The 1992 edition of NFPA 472 includes the following definition and goals for first responders at the awareness tier. "Personnel at this level are those who, in the course of their regular duties, may be the first



on the scene of an emergency involving hazardous materials. These employees are expected to recognize the presence of hazardous materials, protect themselves, call for trained emergency response personnel, and secure the area."<sup>10</sup>

### Refresher Training

In addition to initial training requirements, emergency responders must also receive annual refresher training or demonstrate sufficient competency in relevant areas on a yearly basis.<sup>11</sup> While the OSHA standards mandate no specific refresher training curriculum, personnel must receive sufficient training to demonstrate competencies in specified areas.

Agencies should base the number of hours devoted to refresher training on the experience and pre-

vious training levels of agency personnel. For employees who do not receive refresher training but are able to demonstrate competency, employers must document, on a yearly basis, the method used to determine this capability.<sup>12</sup>

### FIRST RESPONDER RESPONSIBILITY

When first on the scene of an emergency involving hazardous materials, law enforcement personnel should analyze the situation to determine the nature of the potential threat. To do so, first responders should survey the accident area from a safe location to identify the name and identification number (or warning

placard) of any hazardous cargo.

With this data, first responders should refer to the DOT *Emergency Response Guidebook* for information pertaining to the specific materials involved. Once first responders establish the nature of the threat, they should then implement initial community protective measures and notification procedures consistent with local emergency response plans, agency standard operating procedures, and the current edition of the DOT *Emergency Response Guidebook*.

### OTHER EMERGENCY EMPLOYEES

Hazardous materials incidents may require a response from a wide spectrum of personnel. These include skilled support personnel and specialist employees.

## Skilled Support Personnel

Trained in the operation of specialized mechanical equipment—such as cranes, hoists, and backhoes—skilled support personnel generally are not employed by the same agencies as the other emergency response employees at the incident scene. Although they may be exposed to hazards during an emergency response, these workers remain at the scene only a short time to perform immediate emergency support work that cannot be performed by trained emergency response personnel.

Still, to ensure their safety, OSHA requires skilled support personnel to receive an initial briefing at the site, which must include the following elements:

- Instruction on the proper use of personal protective equipment
- A review of the potential on-site hazards
- An overview of the duties to be performed
- An overview of other safety and health precautions.

This briefing must be given before personnel participate in any emergency response operation that involves hazardous materials.

## Specialist Employees

Commanders may also call upon specialist employees to assist in an emergency response effort. These individuals possess specialized knowledge concerning some aspect of emergency response or hazardous substances. Although OSHA does not specify hourly training requirements for these

workers, specialist employees, such as chemists, industrial hygienists, and environmental engineers, must receive yearly training commensurate with their area of specialization.

## EMERGENCY RESPONSE PLAN

For any agency that may be involved in an hazardous materials response effort, including law enforcement departments, the OSHA standard mandates the development of an emergency response plan. These plans must be in writing and available for inspection and reproduction by employees and OSHA personnel.<sup>13</sup>

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In developing plans, employers must take into account the variety of potential emergencies that could occur within their agencies' jurisdiction. OSHA specifies that emergency response plans address:

- Pre-emergency planning and coordination with outside parties
- Personnel roles, lines of authority, training, and communication

- Emergency prevention
- Determining safe distance ranges and places of refuge
- Site security and control
- Evacuation routes and procedures
- Decontamination procedures
- Emergency medical treatment and first aid
- Critiques of response and followup
- Proper use of personal protective equipment and emergency equipment.

Emergency response plans must also include procedures for establishing an incident command system and must identify the chain of command that will operate during hazardous materials emergencies. In addition to the OSHA requirements, the Superfund Amendments and Reauthorization Act specifies additional planning requirements that address overall emergency response efforts.

Law enforcement agencies without existing emergency response plans should contact other fire or police agencies to obtain copies of their plans and then use them as guidelines in developing their own. Emergency response plans are not only essential to comply with the law but they also serve as an important preplanning document that defines the roles, responsibilities, and emergency operational procedures for department personnel *before* an incident occurs.

## CONCLUSION

Despite the industry's enviable safety record, every jurisdiction in

the Nation must prepare for the possibility of an emergency involving hazardous materials. Recent Federal regulations and voluntary industry initiatives encourage public safety agencies at all levels to take proactive steps to protect personnel, communities, and the environment.

Agency administrators should remember that the goal of these Federal regulations is to protect emergency response personnel and the public in the event of accidents. Due to the number of hazardous materials shipments throughout the United States, agency administrators should make every effort to prepare now for emergencies. The potential for an incident makes effective planning in this area critical. ♦

#### Endnotes

<sup>1</sup> U.S. Congress, Office of Technology Assessment, *Transportation of Hazardous Materials*, OTA-SET-304 (Washington, DC: U.S. Government Printing Office, July 1986).

<sup>2</sup> 29 CFR 1910.120 (a)(ii)

<sup>3</sup> Ibid.

<sup>4</sup> 29 CFR 1910.120 (a)(iii).

<sup>5</sup> 29 CFR 1910.120 (a)(iv).

<sup>6</sup> 29 CFR 1910.120 (a)(v).

<sup>7</sup> 29 CFR 1910.120 (q)(6).

<sup>8</sup> 29 CFR 1910.120 (q)(6)(i).

<sup>9</sup> *Standard for Professional Competence of Responders to Hazardous Materials Incidents*, (NFPA 472), National Fire Protection Association, Quincy, Massachusetts, 1992. Compliance with NFPA is not required by law, unless specifically adopted for reference by individual States. However, the September 1989, edition of NFPA 472 formed the basis for training requirements contained in OSHA 1910.120.

<sup>10</sup> Ibid.

<sup>11</sup> 29 CFR 1910.120 (q)(8).

<sup>12</sup> 29 CFR 1910.120 (q)(8)(ii).

<sup>13</sup> 29 CFR 1910.120 (q)(2).

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### Manuscript Specifications

*Length:* 1,000 to 3,000 words or 5 to 12 pages double-spaced.

*Format:* All manuscripts should be double-spaced and typed on 8 1/2" by 11" white paper. All pages should be numbered, and three copies should be submitted for review purposes.

### Publication

*Basis For Judging Manuscripts:* Manuscripts are judged on the following points: Factual accuracy, style and ease of reading, structure and logical flow, length, relevance to audience, and analysis of information. Favorable consideration will generally not be given to an article that has been published previously or that is being considered for publication by another magazine. Articles that are used to advertise a product or a service will be rejected.

*Query Letters:* The Editor suggests that authors submit a detailed one- to two-page outline before writing an article. This is intended to help authors but does not guarantee publication of the article.

*Author Notification:* Receipt of manuscript will be confirmed. Letters of acceptance or rejection will be sent following review. Articles accepted for publication cannot be guaranteed a publication date.

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factor can be determined. For example, supervisor A makes a quality decision—a perfect 10 on a 10-point scale. However, for various reasons, employee commitment to the decision is low—a 2 on a 10-point scale. As a result, a relatively ineffective decision is established ( $10 \times 2 =$  a fairly low effectiveness factor of 20).

Now, consider that in the same matter, the supervisor involves employees in the decisionmaking process. The quality of the decision is compromised somewhat (dropping from 10 points to 7), but the commitment to it increases substantially (from 2 points to 8). In this case, the effectiveness factor ( $8 \times 7$ ) is a much more acceptable 56 points.<sup>3</sup> This means that the decision may not be as good, but it is almost three times as effective.

These seem like good odds. Nonetheless, many managers hesitate to involve employees in decisionmaking for fear of opening the door to other options, contaminating their own thinking, or compromising their positions. However, successful administrators know that the effectiveness of their decisions depends on quality and commitment, and they understand that commitment comes through employee involvement.

### Solution to Problems

When individuals become involved in the problem-solving process, they become sincerely committed to generating solutions. Moreover, when employees identify their personal goals with the goals of their organizations, they release an enormous amount of energy, creativity, and loyalty. They gradually allow their perceptions to “thaw,” broadening their thinking so that they offer well thought-out alternatives.<sup>4</sup> For these reasons, enlightened leaders and business managers throughout the industrial world use this simple principle of involvement.

Conversely, by using an authoritarian approach to problem-solving, managers slip into a condescending,

or vertical, communication pattern. If employees sense that they are being “talked down to,” or that a manager’s motive is to manipulate workers rather than to make meaningful change, then they will resist the changes being asked of them.<sup>5</sup>

The most important element in establishing a content and prosperous atmosphere is to insist upon free, open, and honest communication up and down the management structure. Employees must participate more in organizational decisions to unlock their full potential, while managers take on the role of facilitator and expeditor.<sup>6</sup>

### Conclusion

Law enforcement managers make a multitude of decisions every day. No one suggests turning every judgment call into a collaborative process. But, by involving employees in major decisions, managers do more than invite

diverse opinions from those who will most likely be affected. They foster an environment of cooperation and empowerment that promotes compliance and strengthens agencies.

Managers should embrace this concept. Even if it may not always work, the problems that they now experience when implementing change will diminish. ♦

“  
One simple tenet holds true in any occupation: If employees are not involved, they will likely resist change.  
”

### Endnotes

<sup>1</sup> Stephen R. Covey, *Principle-Centered Leadership* (New York: Summit Books, 1991), 217-223.

<sup>2</sup> *Ibid.*, 217-223.

<sup>3</sup> *Ibid.*, 219.

<sup>4</sup> *Ibid.*, 220.

<sup>5</sup> *Ibid.*, 222.

<sup>6</sup> David C. Cooper and Sabine H. Lobitz, *Quality Policing: The Madison Experience* (Washington, DC: Police Executive Research Forum, 1991).

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*Sheriff Corsentino heads the Pueblo County, Colorado, Sheriff's Department. Chief Bue heads the Sedalia, Missouri, Police Department.*

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