

SAFETY
PAYS

TAKING A LEAD IN SAFETY

Key Cooperative has been looking at safety in a whole new way since 2011. That's when this central Iowa cooperative began a journey that has put them on a course to dramatically change their safety culture by changing behavior.

It began when General Manager Jim Magnuson returned from a roundtable in Kansas City, excited about a collaborative program between the University of Minnesota and DuPont. It was an effort to take DuPont's very effective method of assessing a firm's safety culture and building a behavior-based safety program specific to agricultural cooperatives.

"We had just completed a merger that nearly doubled our size," says Ryan Janssen, assistant safety and employee development director. "We knew we had to do something to examine our safety culture as a result of that merger, and the DuPont initiative looked like it would be a worthwhile investment."

Measuring the safety culture

Key Cooperative was one of 11 cooperatives to sign on to the program. The first step was an initial assessment, taken in December 2011, using a 24-question survey designed to obtain feedback from employees about issues correlated with safety culture. Results came back in January 2012 in the form of a Bradley Curve, a way to measure where a

cooperative falls in terms of the four stages of safety culture—from the weakest 'reactive' stage to the strongest 'interdependent' stage, the point at which an organization experiences the least amount of injuries.

"We were left of where we needed to be," says Janssen. "We knew we had to move toward being a more interdependent company, where employees are not just focused on compliance, but integrating safety into all parts of our company and looking out for each other—basically becoming our brother's keeper."



Janssen, Safety Director Mark Gaunt and Kelly Els, one of Key Cooperative's location managers, attended workshops on incident investigation, safety committees, line management or supervisor involvement, safety observation, and also how to measure progress. "At the end of each workshop we formulated an action plan on how to implement what we learned," he explained. "We are working hard to integrate safety into all aspects of the cooperative, and not just making safety a separate entity or department."

One critical component, he says, has been to get the cooperative's location managers on board. "Kelly Els, our New Sharon

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Key Cooperative's S-14 facility in Roland, IA.

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Addressing Claims Quickly is Key

Two pieces of advice are front and center every crop year. First, slow down, take a breath, and make sure you are doing things right in order to prevent claims. That's especially important this year with many rushing due to the late spring to get crops in the ground and apply fertilizer and pre-emergent herbicides. Second, it's critical to mitigate any claims that might occur. You might ask, what does it mean to mitigate a claim? According to *Google.com*, mitigate means to "make less severe, serious, or painful."

To make an agronomy claim less severe, it is most important to realize the potential for a claim and address the issue as soon as possible. In terms of agronomy claims, just one or two days of lapsed time can make a difference.

For example, fertilizer-related claims are a big cost driver when it comes to Austin Mutual's agronomy claims. Yet, if realized soon enough, they can be some of the easiest claims to mitigate by simply making another fertilizer application to the field. Fertilizer claims often relate to poor spread patterns caused by issues including: equipment malfunction, poor or inaccurate calibrations, or broken/plugged nozzles. Fertilizer is expensive, and reapplication can be costly, but when the alternative is lost bushels of production at today's high commodity prices, adding more fertilizer to a field to fix the

problem can be a bargain.

When crop injury is of concern, it's imperative to address the situation as soon as possible to determine whether mitigation of the claim by replanting is the best option. Replanting can be a difficult decision to make, but Austin Mutual has experience with these situations, and we are here to work with you when and if the need arises.

If you have an agronomy-related claim, let Austin Mutual know as soon as possible so that we can mitigate claims whenever possible. We always ask that everyone follow due diligence to help prevent agronomy-related losses, but know that when they do happen, Austin Mutual is your partner in working to find the best resolution. ▶



Todd Meyer
Agronomist/Adjuster
tmeyer@austinmutual.com
PH: 402-670-7287



TAKING A LEAD IN SAFETY

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location manager, has played an integral role in getting buy-in from the other location managers," says Janssen. "We needed a stakeholder to present it, and he's been the go-to guy."

Other initiatives have included an emphasis on safety committee meetings and bimonthly tool box safety meetings. The company has also instituted a rigorous incident investigation process, striving to get to the root cause of an injury or property damage.

Language makes a difference

Even the language has evolved. "I strive not to use the term 'accident,'" says Janssen. "Using the word 'accident' allows us to take ourselves off the hook, as if there's nothing we could have done. We must have the mindset that every injury or property damage involvement is not an 'accident' but an 'incident.' It's a subtle word choice with very huge implications."

The program is having an impact. Janssen says Key Cooperative's mod rates have dropped from .93 to .76 in the last three years. And from 2011 to 2012, the cooperative experienced a 24% decrease in incident frequency rates and

a 32% decrease in injury severity. This summer, Key Cooperative employees will take the same assessment survey to see if the safety culture at their company has changed.

He has a gut feeling that they will have moved the needle closer to where they want to be. "This is a slow but deliberate process," he insists. "It's changing a culture, and it's not something that occurs overnight. It's all about influencing behavior in a positive way so that employees will take ownership."

He's seeing it happen. "Today, for example, I'm doing safety audits," says Janssen. "As one of the persons wearing the safety hat, when I walk into an office will people scatter or will they begin asking me questions? I've seen that change happen, and to me that's a measurement tool. Yes, it's subjective, but it's all about human interaction, relationship, and behavior. How do we facilitate behavior change in a positive way, integrating safety into everything we do at work and taking it home to our families at night?" That's the true test of success. ▶



Ryan Janssen

Reduce the ATV Risk Factor

All-terrain vehicle (ATV) use can be risky business. The Consumer Product Safety Commission (CPCS), in 2011, estimated that 107,500 individuals were treated at emergency departments due to injuries sustained in an ATV incident. An estimated 327 people were killed from ATV use that same year. The ATV has become a common off-road vehicle used by ag businesses, especially in agronomy departments. Now is an excellent time to review safety basics with employees dependent on the ATV to do their job.

Take time for pre-ride inspections and riding safety basics

Conduct pre-ride inspections daily before the first startup of the machine:

- Check chain/drive belts for wear and slack.
- Inspect brakes and control for proper working condition and functionality.
- Inspect tires and nuts; set tires at manufacturer's specifications.
- Check all fluid levels (oil/gas).
- Ensure 'stop' or 'kill' switch is in proper working condition.

If there's an issue with any of the above items, take the machine out of commission until such repairs/service to the machine are made. And, when getting ready to take off on the ATV, make sure employees are following these safety steps:

- All riders must wear proper helmet protection.
- Before starting the machine, make sure unit is in neutral.
- Test the braking system while traveling at slow speeds.

Reducing the risk of injury

To reduce the risk of injury or of a fatality while operating an ATV:

- Do not carry a passenger. The ATV's unique handling characteristics require that the operator shift both weight and position on the seat to steer and control the vehicle, abilities which are hampered by extra riders.
- ATVs are small and low to the ground and are not as visible as larger vehicles. Lights, reflectors, and highly visible flags should be used to increase visibility.

- Never ride the ATV on public roads. They are not designed for road use, and hard surfaces increase the risk of overturn.
- Avoid using ATVs while alcohol or drugs are in the bloodstream. Alcohol use is a contributing factor in nearly 10% of all ATV injury accidents and 30% of all fatal ATV incidents.
- Most ATVs are designed for one person. Should an ATV (side-by-side) be designed for two people, ensure that seat belts are in place and in proper working condition.



Dean Kerfeld
Risk Consultant
dkerfeld@austinmutual.com
PH: 320-241-6441

Employees should have training and practice instruction prior to using all ATVs to ensure proper handling techniques. Each ATV driver should read and understand the rules and laws that are provided by the Department of Motor Vehicles, including the proper handling of the machine, use on unfamiliar and uneven roads, and where the ATV can be driven in relation to roads and ditches.

Additional recommendations to reduce the risk of rear overturn include: not carrying more than one-third of the ATV's weight on the rear carrying rack; spreading the load out between the front and rear carrying racks; and never towing a load heavier than the combined weight of the ATV and operator. Follow the manufacturer's loading limitations.

Caution should be taken while traveling through fields and meadows. Debris can build up around the tires, drive shafts, and engine compartment, leading to a potential fire. Not only could this damage the machine, it could also spread to the field, causing loss to grain.

ATVs have become an effective tool for ag businesses today. Follow these guidelines to keep them both effective and safe. ▶

Dean Kerfeld

Dean Kerfeld joined Austin Mutual Agribusiness as its newest risk consultant in April 2013. Dean comes to the position with extensive experience in the insurance field, working 18 years with Ram Mutual Insurance Co., based in Esko, MN, where he served in positions ranging from marketing to adjusting before moving into loss control primarily for ag businesses.

Based in Sauk Center, MN, his hometown, Dean will be serving Austin Mutual Agribusiness policyholders in Minnesota, South Dakota, and North Dakota. This summer, when he's not out visiting with customers, he'll also be heading to the golf course and boating with his wife, Mary, and their 10- and 8-year-old daughters and 5-year-old son.

Customer service, says Dean, is his priority. "I believe in building relationships with our policyholders and being there to answer questions and provide services when needed." ▶



Niki Payne

Niki Payne was named customer service representative for Austin Mutual Agribusiness in April 2013. She comes to the position with eight years experience in the customer service area with State Farm Insurance Co., and is now ready to assist Austin Mutual policyholders when they call.

Holding a property and casualty license with the state of Nebraska, Niki is the go-to person at Austin

Mutual Agribusiness when policyholders need assistance, whether it's certificates of insurance or changes to their policy. She also assists the company's underwriters.

"I'm strong in providing customer satisfaction," says Niki. "I try to complete what they want in a timely manner. Basically, I get the job done."

This Omaha, NE, resident, and mother of four children ages 21 to 6, is also an avid shopper. "I love to shop," says Niki. "I like looking at anything and everything!" Welcome aboard, Niki. ▶



Heat Up Summer Propane Cylinder Safety



Brian Travis
Loss Control Supervisor/Propane Specialist
btravis@austinmutual.com
PH: 402-658-1831

Summer means increased activity at your propane cylinder filling plant. It also means it's time to review safety basics when it comes to cylinder filling and transport. Failing to do so could result in an incident with tragic consequences. Here's a cylinder safety checklist:

- **All employees should have documented training** on dispenser filling. Employees need to be retrained every three years, according to NFPA 58. PERC's *Dispensing Propane Safely* provides an easy training program. Purchase it at www.propanemarc.com, or check it out for free from AMIC's video library at www.AustinMutual.com.
- **Each time a cylinder is filled, visually inspect it** for excessive rust, dents, gouges, or cuts on its surface. Tip the cylinder on its side to look for corrosion or for any other evidence that the structural integrity of the cylinder might be compromised. If the cylinder has been subject to excessive heat, take it out of service immediately. Inspect valve fittings for anhydrous ammonia contamination. Refuse to fill cylinders found to be unsafe. And, check to make sure the cylinder is correctly labeled, including information on the potential hazards of propane gas.
- **Check to see if the cylinder's qualification is current.** Cylinders need to be requalified 12 years after the date of manufacture, after which time requalification is required every five years by performing the visual recertification, or 10 years by hydrostatic testing. When performing the visual inspection, employees must follow the requirements in CGA Pamphlet C-6, *Standards for Visual Inspection of Steel Compressed Gas Cylinders*. Cylinders due for requalification should not be filled under any circumstances until they have been requalified. Doing so creates enormous liability for your company should something happen to the cylinder.
- **Review requirements for transporting cylinders.** After cylinders are filled, many customers throw them in the back seat and take off. Cylinders must be stored and transported in a position where the relief valve is in communication with the vapor space. This means that most cylinders must be transported and stored in the upright position, and should be secured to avoid tipping over while in transport. NFPA 58 states that a maximum of 90 pounds of propane, with no single cylinder larger than 45 pounds can be

transported in the passenger and cargo areas of a closed body vehicle. Refuse to fill a cylinder larger than 45 pounds if it is to be placed inside the customer's vehicle. Remind customers who are transporting cylinders inside a vehicle to immediately take the cylinders home and remove them so propane vapor will not be relieved from the cylinder into the vehicle. A South Dakota woman received arm burns when she removed a cylinder that had tipped over in her back seat. She had run errands after having the cylinder filled, providing time for the vehicle's inside temperature to warm. The warm temperature caused the cylinder to vent off propane, and because it had tipped over, it vented off liquid propane instead of propane vapor. When she smelled the propane, she immediately stopped and removed the cylinder, receiving the burns.

- **Inspect an RV's propane system** each time before filling to ensure that it is in good condition and safe for filling. Refuse to fill the system if it is found not to be in good condition or the system cannot be filled safely. Make certain all passengers have exited the RV prior to and during filling. Prior to filling, also make certain all ignition sources within 25 feet of the dispenser are extinguished, including all pilot lights inside the RV and that those pilot lights cannot restart during filling.

Reminding employees to follow the safety guidelines will ensure that your cooperative and your customers will be safe while handling cylinders and RV tanks this summer. ▶



Manage Contractor Risk Effectively

By Rocky Weber, Crosby Guenzel LLP, PH: 402-434-7300

Agri-businesses have largely been successful in using contracts for price protection, or to transfer the price risk of volatile markets to ag producers. Today, however, we see lack of attention to risk transfer in construction contracts. Many agri-businesses have been constructing large grain storage and handling facilities or crop-input manufacturing and handling facilities. These projects often involve multiple contracts with professionals such as architects or engineers as well as separate contracts for soil stabilization, earth-moving, foundations, pilings and other support components, building contractors, and construction companies.

Many agri-businesses have contracted for such work either without the use of a written contract or by using a form-driven contract presented by the counter-party with very little attention given to details. Ask any business that has been involved in protracted multi-party negligent construction litigation and you will learn that attention to the risk transfer provisions of construction contracts at the outset of the project could substantially protect your company's investment. It could also save hundreds of hours of time and diverted attention dealing with such issues in the event of negligence in the construction or other breach of contract situation.

What are the most common risk transfer provisions in construction contracts?

- **Limitation of Damages Provisions.** Many contracts used by professional architects and engineers contain limitation-of-damages provisions. These provisions provide that if they are found to have been negligent in their work, and the negligence is the proximate cause of damages to the owner, the damages will be limited to a certain amount. It is not uncommon to see these limitations at \$1 million or less, often at \$500,000.

When an agri-business signs a contract with this provision, it will never be able to recover from that party, if responsible, damages in excess of that limitation. In other words, the professional has, via a damages-limitation provision, transferred the risk of its negligence to the owner! We recommend that owners not agree to such limitations unless they are comfortable that total damages in the event of negligence by the other party will be less than the limitation amount.

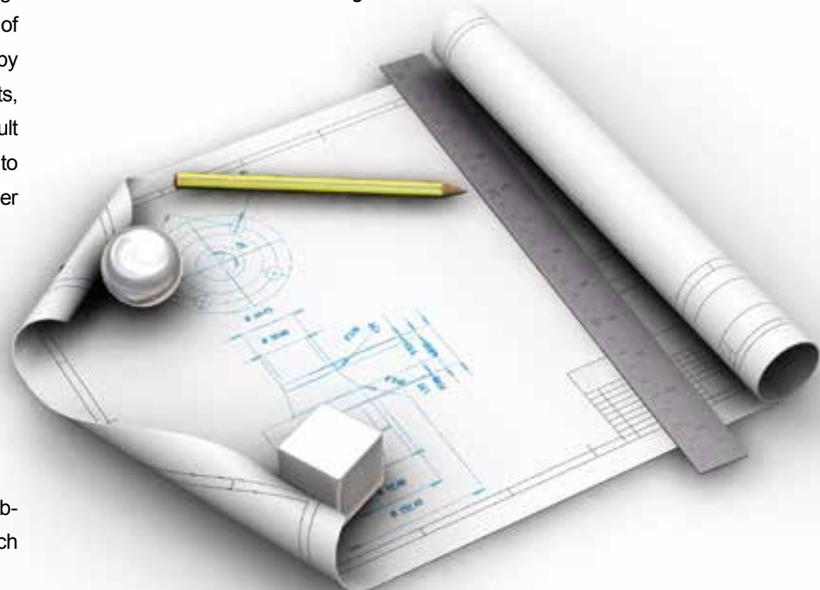
- **Waiver of Consequential Damages Provisions.** Many contracts from professionals, contractors, and suppliers attempt to limit their liability in the event of negligence on their part to only "actual" damages. Actual damages include the cost of repairs and other actual out-of-pocket expense incurred, if proximately caused by the other party to the contract. Consequential damages would include lost profits, damages for loss of use, etc. So, if the owner is a grain company and, as a result of contractor negligence, is unable to fill or turn the storage facility, or unable to ship grain and therefore incurs damages from loss of carry in the market or other profits, such a waiver would prevent the owner from being made whole.
- **Waiver of Subrogation Provisions.** Subrogation occurs when a third party, usually an insurer, pays a claim of an insured and then the insurer looks to the responsible party for reimbursement. Some contracts provide that in the event a third party pays a claim by the owner, the third-party payor would be barred from recovering the amount paid from the responsible party. Pay special attention to such provisions, as many insurance policies provide that coverage may be avoided if the insured has waived subrogation rights against the other party. We counsel owners to clear any such provision first with their insurance companies before executing the contract.

- **Builder's Risk Insurance.** Common laws generally provide that when improvements are made to real property, the improvement becomes the property of the owner, even though the improvement is not substantially complete for occupancy or use. Builder's risk insurance policies allow a general contractor or builder to insure the construction project from the time materials are delivered on-site to substantial completion from casualty risks such as fire, wind, vandalism, etc. Many contracts provide that the owner is the responsible party for any casualty loss during construction. Owners need to be sure that their insurance package provides for such coverage or require that the contractor provide builder's risk insurance so that such risk remains with the contractor until substantial completion of the project.

- **Indemnity Provisions.** Indemnification provisions are perhaps the most commonly used risk-transfer mechanisms. In their most simple form, a party to a contract agrees by indemnification to be responsible to the other party or any third parties for its negligent acts or omissions, or the negligent acts or omissions of its agents, employees, contractors, etc. Many parties, however, seek to transfer this risk by only indemnifying the other party for acts involving "gross" negligence. This essentially requires proof of recklessness on behalf of the responsible party, a burden that is often very difficult to reach. Simple negligence, in contrast, is much easier to prove. Care needs to be given as to how narrow or broad indemnification provisions in contracts are, exactly what conduct is being indemnified, and how such provisions affect the relative risk of the contracting parties.

While the above provisions directly relate to transfer of risk and are most common, there are unlimited opportunities for risk to be unintentionally assumed by a party to any contract. The best defense is to read every contract being executed, and have a contract reviewed by legal counsel and insurance professionals to be sure that it not only correctly reflects the intent of the parties, but also that economic risks are not being unwillingly assumed.

Rocky Weber is a lawyer with Crosby Guenzel LLP, Lincoln, NE, which serves as legal counsel to many farmer-owned cooperatives and other agri-business entities and handles contracting and construction issues for its clients. ▶





3905 S 148th St., Suite 100 | Omaha, NE 68144

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WWW.DRIFTWATCH.ORG Now available, listings/maps to help ag businesses avoid sensitive areas when spraying. Currently active for parts of Austin Mutual territory, this site will help you stay clear of certified organic crops, orchards, vineyards, bee hives, etc.



NEBRASKA -

Participants at the quarterly meeting of the Ag Cooperative Safety Directors of Nebraska (ACSDNE) on April 18 were introduced to a new TRAM fall protection product by Cameron Baker, CEO of Standfast Corp. ACSDNE Chairman Brad Bousquet of CVA, discussed an iAuditor, a free app from SafetyCulture that can be used to record inspection of facilities, saving time during an audit.

Members also elected 2013 officers: Jim Brokaw, Aurora Cooperative, chairman; Mark Hueftle, CPI, vice chairman; Roberta Christiancy, Frontier Cooperative, secretary/treasurer; and Phil Pelc, United Farmers Cooperative, communications director.

MINNESOTA -

Ag Cooperative Safety Directors Association of Minnesota (ACSDMN) Secretary/Treasurer De Ann Miller explained that ACSDMN is currently in the early stages of setting up the organization's structure, including its nonprofit status, and hopes to be fully operational by 2014.

SOUTH DAKOTA -

Terry Lively of Farmers Elevator Coop presented information on accident investigation programs during the March 27 meeting of the South Dakota Ag Cooperative Safety Director Association (SDACSDA). Terry explained the benefits of accident investigations and how to perform them.

The business meeting included a discussion on how to increase involvement by more cooperatives in order to increase membership. The next meeting will be held at 10 a.m. on July 17 at the Mitchell Technical Institute.

IOWA -

Medical certification requirements as part of the CDL was just one of the subjects covered by Jodi Stephenson, with the Iowa Division Office of the Federal Motor Carrier Safety Administration (FMCSA), at the Iowa Ag Cooperative Safety Directors (ACSDIA) meeting March 19.

Contractor safety on the job site was another safety topic covered by Doug Mateer with LeMar Industries. Nick Steinbach, safety coordinator with Two Rivers Cooperative, discussed a contractor incident at one of their co-op's locations. The next meeting will be July 9.