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## Minnesota Crop Production Retailers

# REGULETTER

### New OSHA Publication Examines Cause of Fatal Fall

A new addition to OSHA's Fatal Facts series emphasizes the importance of using manufacturer-approved lifting equipment to prevent falls. Warehouse Fall from a Pallet Lifted by a Forklift, examines the root causes of an incident in which a worker died in a fall from an improperly raised pallet while pulling stock from elevated shelves. Fatal Facts describes cases in which there was a failure to identify and correct hazardous working conditions before they resulted in fatalities at the worksite. *(Asmark Institute)*

### Senators Question DOT's Withdrawal of Sleep Apnea Rule

Four U.S. Senators penned a letter to U.S. Department of Transportation (DOT) Secretary Elaine Chao challenging a recent decision to withdraw a proposed rule to stiffen obstructive sleep apnea (OSA) requirements for commercial drivers and rail workers. In a letter to Secretary Chao, U.S. Senators Bob Menendez (D-NJ), Cory Booker (D-NJ), Charles Schumer (D-NY) and Kirsten Gillibrand (D-NY) requested the data used by DOT to make the decision to withdraw the prerule, along with its plan to identify and treat rail operators and commercial drivers suffering from OSA. DOT withdrew a joint rulemaking entitled "Evaluation of Safety Sensitive Personnel for Moderately-Severe Obstructive Sleep Apnea" on August 8, 2017.

The senators wrote that they "...strongly believe that DOT should immediately reconsider the decision in order to help avoid future fatigue-related tragedies." The letter

also cited the potential dangers of OSA in the transportation network. Specifically, the National Transportation Safety Board — as early as 2001 — recommended that rail operators be tested and treated for sleep disorders like OSA following a series of deadly derailments. OSA has been the probable cause in a significant number of rail and highway accidents, the Senators stated. Note: Don't be surprised if this topic pops back up with the next change in administrations.

*(Asmark Institute)*

### CVSA Reports on Annual Enforcement Campaign

During Roadcheck 2017, 23 percent of the commercial motor vehicles (CMVs) and 4.2 percent of the drivers were placed out of service. The 72-hour inspection campaign was held June 6 - 8, 2017 with Commercial Vehicle Safety Alliance (CVSA) inspectors performing more than 62,000 roadside inspections throughout Canada and the United States. Of those inspections, approximately 8,000 inspections occurred in Canada and 54,000 in the United States.

Top vehicle violations: 19.4 percent of CMVs were placed out of service. The top three out-of-service vehicle violations included:

1. Brake systems — 26.9 percent
2. Cargo securement — 15.7 percent
3. Tires/wheels — 15.1 percent

If you combine brake adjustment and brake system violations, it accounts for 41.4 percent of all out-of-service vehicle violations.

Top driver violations: 4.7 percent of all drivers inspected were placed out of service for driver-

related violations. The top three driver-related out-of-service violations included:

1. Hours of service — 32.3 percent
2. Wrong class license — 14.9 percent
3. False log book — 11.3 percent

In addition, there were 710 safety belt violations.

Hazmat violations: 12.8 percent were placed out of service for vehicle-related violations and 1.9 percent for driver-related violations. The top three vehicle out-of-service violations for those transporting hazardous materials/dangerous goods were:

1. Loading and securement — 40.4 percent
2. Shipping papers — 22.7 percent
3. Placarding — 20.8 percent *(Asmark Institute)*

### Hazardous Materials Safety Permit for Anhydrous Ammonia Eliminated

DOT has issued a notification that they will no longer require a Hazardous Materials Safety Permit (HMSP) for the transportation of anhydrous ammonia domestically. DOT will no longer interpret 49 CFR § 385.403(e) as requiring an HMSP to transport anhydrous ammonia domestically (UN1005 ammonia, anhydrous 2.2 Inhalation Hazard). Anhydrous ammonia is identified in the Hazardous Materials Table as a Division 2.2 material when transported domestically. Section 173.116(a) provides that there are no hazard zones assigned to Division 2.2 hazardous materials. Because anhydrous ammonia transported domestically is not assigned a hazard zone, DOT no longer considers this material as "meeting the criteria for 'hazard zone C,' or

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'hazard zone D,' as specified in § 173.116(a)" under § 385.403(e). Anhydrous ammonia, when transported domestically, continues to meet the definition of "material poisonous by inhalation" in 49 CFR § 171.8(3) and must be marked as an inhalation hazard in accordance with the special provisions noted in the Hazardous Materials Table.

If you are a motor carrier who holds a HMSP exclusively for the transportation of anhydrous ammonia domestically, DOT needs your permission to remove you from the HMSP program. Please send a request for removal from the HMSP program by sending an email to [fmcsa.hmsp@dot.gov](mailto:fmcsa.hmsp@dot.gov). The email should include your company name and US DOT number, a point of contact and a brief statement as to the reason for removal, including that you do not transport any other material requiring an HMSP. This will serve as your formal request and it will be placed in your permanent motor carrier file. For questions or concerns, contact the Hazardous Materials Division at 202-385-2307.

**Note:** An HMSP is still required when transporting anhydrous ammonia classed and described as UN1005, ammonia, anhydrous 2.3 Poison Inhalation Hazard or Toxic Inhalation Hazard, Zone D, in a packaging with a capacity greater than 3,500 gallons. *(Asmark Institute)*

## Experts Doubt Arson Finding in Deadly TX Fertilizer Blast

The fertilizer plant explosion that killed 15 people and injured more than 160 in the town of West may not have been sparked by a deliberately set fire as federal investigators claimed, according to attorneys, arson experts and a former top workplace safety official. The Bureau of Alcohol, Tobacco, Firearms and Explosives has been largely silent on the 2013 West Fertilizer explosion since it announced last year that an arsonist was responsible for the initial blaze and offered a \$50,000 reward for information. No arrests have been made and the ATF won't discuss the case beyond repeating a version of its previous announcement. Read the entire article here: <http://www.firehouse.com/news/12356379/experts-doubt-arson-finding-in-deadly-tx-fertilizer-blast>. *(Asmark Institute)*

## Near-Miss Between Drone and Ag Aircraft in Iowa

These instances can become very critical when emergency response services like medical helicopters, police aircraft near accident scenes and forest firefighters are affected. Any potential collision between a manned aircraft and a UAV could be life threatening. This nearly happened to an ag pilot recently.

Dallas Grimm, a pilot for Redline Aviation in eastern Nebraska, had just finished spraying a field across the river in western Iowa and was climbing out on his way back to the airport. As he was passing through about 350 feet above ground level, he caught a glimpse of white at the lower right side of his windshield. The object disappeared under his wing before he could take evasive action. As he passed the object, he recognized it as a quadcopter UAV that was "parked" in a stationary location. He made several circles around the UAV and looked around for the operator controlling it. A pickup truck was parked next to the field with two men inside the cab, but neither seemed to be observing the UAV. Soon the UAV proceeded to land in a grassy area near the field. The truck drove to the landing site, picked it up and drove away. Grimm and Redline Aviation operator Ryan Lihs believe it had been conducting a field survey for a crop scouting company, and as such was not a hobbyist out pleasure flying.

Redline Aviation reported the incident to the FAA and local law enforcement agencies, but so far, the UAV operator has not been found. This incident is being used as an opportunity to contact broadcast news and print media asking drone operators to use caution for other aircraft using the airspace and obey safety rules and recommendations. *(Asmark Institute)*

## Court Finds Montgomery County's Ban on Pesticide Use on Private Property to be Illegal

The Montgomery County Circuit Court struck down provisions of a local ordinance that would have prohibited pesticide use on private property in the county. Finding the provisions preempted by Maryland state law, which provides for a uniform and comprehensive pesticide regulatory regime across the state, the court prevented the ban on pesticide use on private property from taking effect

January 1, 2018. Karen Reardon (RISE) and Amanda Maizel (CLA) had the rare opportunity to hear this important decision read from the bench. Responsible Industry for a Sound Environment (RISE) along with seven county residents and six local businesses brought this suit to challenge the Montgomery County Council ordinance that, if it were to have taken effect, would have negatively impacted both consumer choice and local lawn care professionals' economic livelihoods. RISE spent the past three years in Montgomery County working with concerned local residents, professional applicators and members to oppose the bill's passage and is pleased with the decision. *(Asmark Institute)*

## Minnesota Labor Law Poster Updates

Minneapolis - Sick and Safe Time (Effective date: July, 2017) - This applies to all employees who work within Minneapolis city limits. They collect 1 hour of paid sick and safe time for every 30 hours worked. This is a substantive change and a new Minneapolis, MN poster is required. Visit: <https://www.asmark.org/Compass/PosterProgram.cgi> to order. *(Asmark Institute)*

