

Minn. 3.3
#398

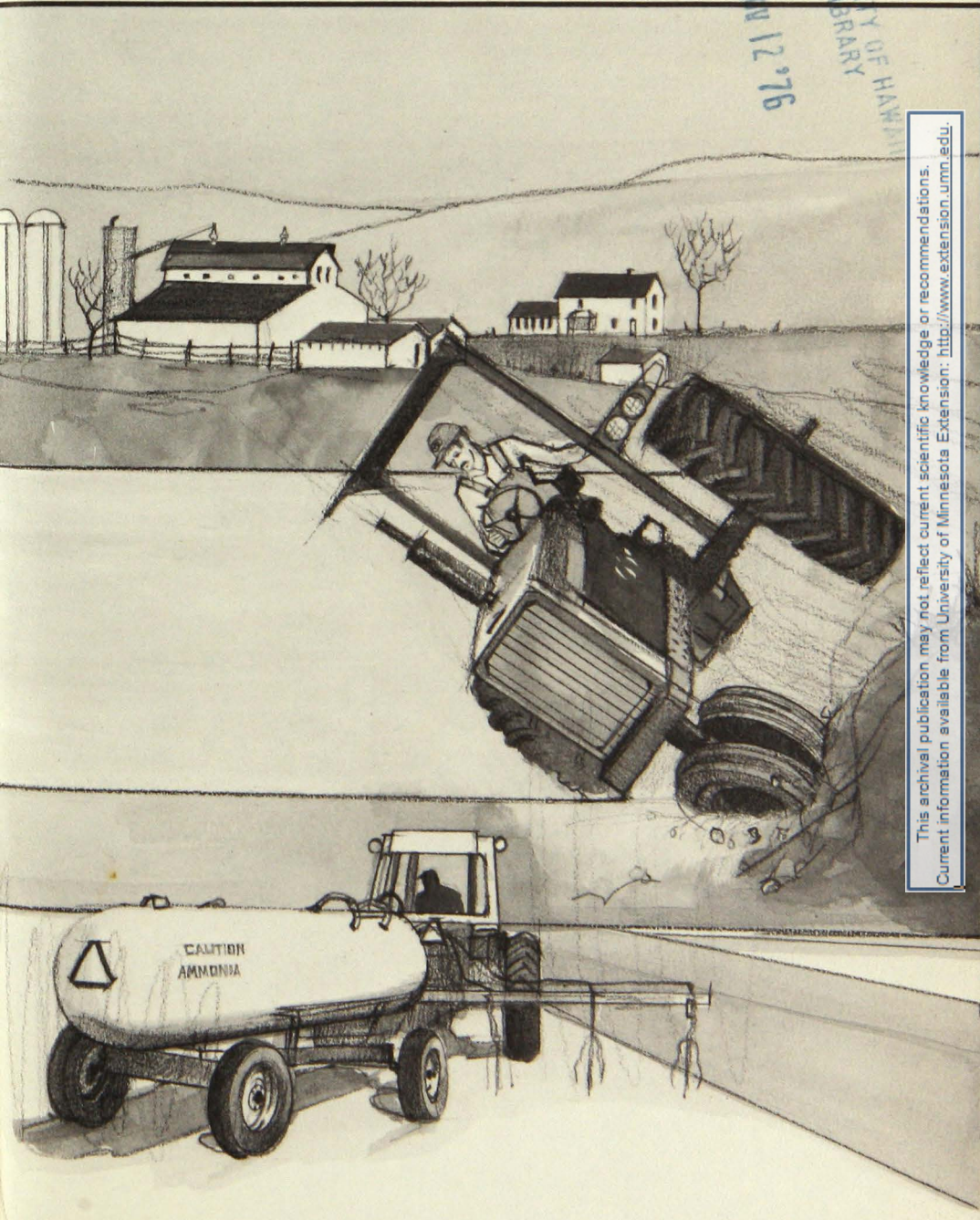
Extension Bulletin 398 - 1976

OCT 12 1976

the occupational safety and health act (OSHA) and agriculture

Robert Aherin, extension safety
program specialist

UNIVERSITY OF MINNESOTA
LIBRARY
MAY 12 '76



This archival publication may not reflect current scientific knowledge or recommendations.
Current information available from University of Minnesota Extension: <http://www.extension.umn.edu>.

The Occupational Safety and Health Act (OSHA) of 1970 is surrounded by uncertainty and controversy among many employers, including those on farms. One thing is certain—OSHA is here to stay.

If you employ part- or full-time employees, or if you ever intend to, you should become familiar with your rights and obligations under this law.

The following information, presented in a question and answer format, should answer many of the questions you may have concerning OSHA as it applies to agriculture.

Why do we have the Occupational Safety and Health Act?

Laws often are made because we have failed to take action ourselves to prevent some bad effect on our society. Approximately 14,000 employees are killed on the job each year in the U.S. More than 2,000,000 others are being disabled as a result of work-related accidents or illnesses. OSHA was enacted to improve this situation.

Authors of this act also wanted similarity in state safety laws. Some states had strong safety requirements; others were weak and not enforced. Some employers were taking advantage of their employees by setting up facilities in states with the weakest safety laws.

Why was agriculture included?

Farming is one of the most dangerous professions in the U.S., ranking third after mining and construction in the number of people killed per 100,000 workers. More than 2,200 agricultural workers die in farm accidents each year and another 200,000 are disabled.

Department of Labor statistics show that production agriculture makes up approximately 4.4 percent of the nation's work force, but accounts for more than 16 percent of the job-connected fatalities in the U.S.

When did the law come about?

The law was signed December 29, 1970 and went into effect in April 1971.

Whom does OSHA affect?

Any employer in a business affecting interstate commerce. Farmers definitely affect commerce because most of their products are marketed outside the state in which they are produced. Thus, every farm employer who has one or more, full- or part-time employees must comply with this law.

Members of the immediate family are not considered employees and are not within the Act's coverage. Exchanged or traded labor between families is not covered unless there is some type of financial payment involved. Outside contractors, including custom operators, are not under the employer's responsibility.

What is OSHA's purpose?

To assure, as much as possible, every working man and woman in the nation safe and healthful working conditions and to preserve our human resources.

Who administers OSHA?

It is the responsibility of three federal agencies—The Department of Labor, Department of Health, Education and Welfare, and the Occupational Safety and Health Review Commission.

Where do the states fit in?

Congress directed OSHA to encourage the states to develop and operate their own job safety and health programs that must be "at least as effective" as the federal program.

Congress also provided matching funds for operating costs to those states with approved plans.

Does Minnesota have a state plan?

Yes, we operate under a state OSHA plan that is administered by our State Department of Labor and Industry.

Does the Federal OSHA Administration retain any authority over states with approved plans?

Yes, after a plan is approved, OSHA retains authority to enforce federal standards until it determines, on the basis of at least 3 years of operation, that the state program is meeting all OSHA requirements. After that, the state operates the program.

Even then, OSHA's presence continues in two ways:

*It will inspect for any standards not covered by the state program.

*It will continue to monitor and evaluate the state's operation and can withdraw approval if the plan is not being administered properly.

Where a state does not submit a proposed plan, OSHA will continue its inspection and other activities in the state.

What are OSHA standards?

Standards are statements about a specific hazard that may exist in the work place and how the hazard is to be coped with.

Are there different types of standards?

Yes, there are two types—horizontal and vertical.

Horizontal standards apply to general practices, methods, and processes found in any type of work, such as fire protection, housekeeping, and storage of materials.

Vertical standards apply to work practices, methods, and processes of a particular industry. At this time, agriculture only has vertical standards.

How can I find out when a new standard is being proposed?

All proposed standards are published in the Federal Register. Many state and federal organizations and agencies including most public libraries receive this publication. Most will provide this information upon request.

What agriculture standards are now in effect?

At the present there are six agriculture standards:

1. Slow-Moving-Vehicle Emblems (SMV)
2. Storage and Handling of Anhydrous Ammonia
3. Pulpwood Logging
4. Temporary Labor Camp Housing
5. Roll-Over Protective Structures (ROPS) on Farm Tractors
6. Guarding of Farm Field and Farmstead Equipment

How are agricultural standards developed?

The national OSHA Agriculture Advisory Committee studies areas of concern and determines the need for new standards. The committee is made up of members representing labor, farm employers, the public, and the federal government.

After conducting hearings and in-depth research on the need for a particular proposed standard, the committee then makes recommendations to the Department of Labor. The Department of Labor will then publish the proposed standard in the Federal Register if it agrees with the Advisory Committee recommendation. After publishing a proposed standard, the Department of Labor will request public comments. After reviewing these comments, the final standard may or may not be issued.

Will there be other agriculture standards issued?

Yes, there will be others issued in the months and years ahead. Standards that are presently being considered and developed include:

1. Agricultural Noise
2. Walking and Working Surfaces
3. Portable Power and Hand Tools
4. Field Sanitation
5. Electricity
6. Nuisance Dust
7. Housing as a Condition of Employment
8. Ladders
9. Personal Protective Equipment
10. Transportation of Agricultural Workers

Won't it be expensive to comply with these standards?

Initially there will be an added cost to comply. OSHA hopes to reduce accidents, which should lower insurance rates and workman's compensation costs and increase profits.

Is it possible for a farm employer to receive any financial assistance to comply with OSHA?

Yes. The Act contains a section amending the Small Business Act to make it possible for small employers to obtain long-term loans through the Small Business Administration (SBA) to help them comply with the standards.

Congress made it clear that the Act is not intended to be a burden on small business. Any small business that "is likely to suffer substantial economic injury" in coming into compliance is eligible for a SBA loan.

Who must keep records?

Any employer who has 11 or more employees at one time during the year must keep and maintain accident and business records. A booklet, "Record-Keeping Requirements Under the Occupational Safety and Health Act," explaining the procedure and containing the blank forms, is available from the state OSHA division.

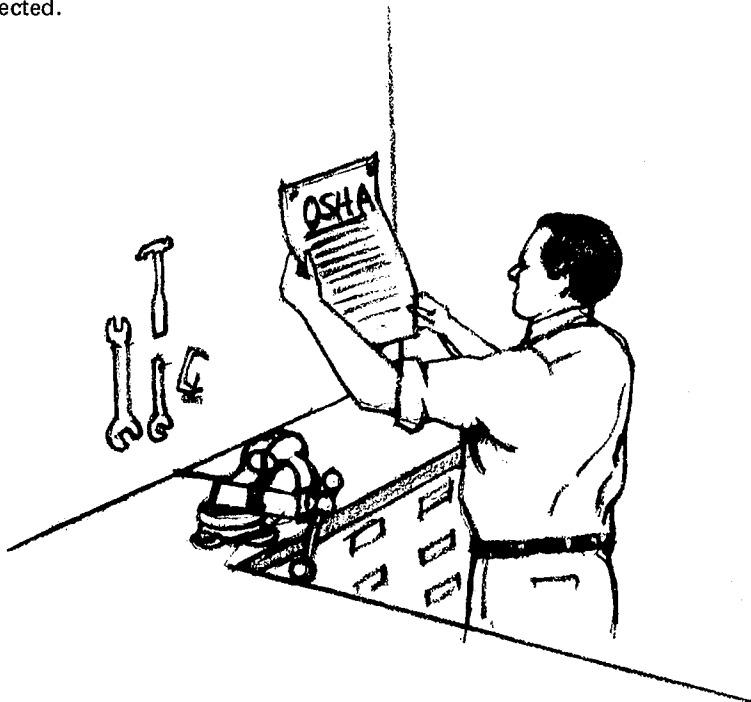
What if I fail to keep OSHA records?

In Minnesota you can be fined \$100.

Must I inform my employees about OSHA?

Yes, each employer must display an OSHA poster which informs employees of their rights and responsibilities. This poster must be located in a prominent place. This might be the farm shop, machinery storage area, or at the location where employees report to work.

Minnesota has its own OSHA poster available from the Department of Labor. Failure to display the poster is an automatic \$50 fine if you are inspected.



What else must the employer do?

In the event of an on-the-job fatality or if one accident results in the injury or illness of five or more workers, the State OSHA Division of the Department of Labor must be notified within 48 hours. If an employer fails to do this, he or she could be subject to a serious fine.

How is the Act enforced?

By a group of trained professionals called compliance officers or safety investigators. These people do work place inspections and issue citations when warranted. Be cautious. If a person is presented to you as a compliance officer or safety investigator, check credentials. If you have a question, call OSHA to verify that the individual is with OSHA.

Can they make inspections whenever they want to?

Inspections are made during the employer's regular daytime working hours unless circumstances would require otherwise.

What if I don't want my farm or worksite inspected?

If you refuse the entry of an OSHA inspector on your work site after he or she has proven his or her identity you can be fined up to \$1,000.

What types of violations are there?

Three types of citations can be issued for a violation. They are serious, non-serious, or De Minimus.

A serious violation is one where there is a high probability of an accident resulting in death or serious injury.

A non-serious violation is a situation where there is injury potential. However, an accident shouldn't result in death or total disability.

A De Minimus violation is one where you have not exactly met the letter of the law, but it does not have direct or immediate relationship to safety and health.

When will I receive a fine?

If you are cited for a serious violation you will be fined. You may or may not be fined for non-serious and De Minimus violations depending on the nature of the hazard.

Can fines be severe?

They could be. The penalty for a single violation can range up to \$1,000 and for a repeated or willful violation up to \$10,000 and possible imprisonment. But only rarely does the situation warrant such extreme penalties.

What must I do if I receive a citation?

You must post the citation near the place where the violation occurred. Leave it posted until the citation is corrected or for three working days, whichever occurs first.

The citation will contain a date by which the situation must be corrected (abated) and any penalty that may accompany the situation.

What if I don't agree with a citation?

If after reading the citation you feel it or any accompanying penalty is unjust, you have 15 working days to notify OSHA that you wish to appeal. If you appeal, a hearing date will be established and, at the hearing, the burden of proof rests with OSHA.

How likely am I to be inspected?

You probably are less likely to be inspected if you are engaged in production agriculture than in any other major industry. As OSHA increases its staff and as more standards are developed, your chances for receiving an

inspection will increase. You are more likely to receive an inspection if you have a fatality in your work force or if one of your employees files a complaint.

What is an employee complaint?

OSHA states that "Employees or their representatives have the right to file a complaint with the Department of Labor and Industry requesting an inspection if they believe unsafe or unhealthful conditions exist."

Can I fire an employee for filing a complaint?

No. The Act provides that employees shall not be discharged or discriminated against in any way for filing safety and health complaints or otherwise exercising their rights under the Act.

Can I get help to determine if my work site has any hazards?

Yes. The Minnesota Department of Labor and Industry encourages employers and employees to reduce hazards voluntarily and to develop and improve safety and health programs in all work places and industries. To assist employers and employees in achieving voluntary compliance, work site consultation services are available on a priority basis by writing or calling the St. Paul OSHA Training Office (telephone 612-296-6862).

Where can I obtain further information, educational materials, forms, and posters?

Minnesota Department of Labor and Industry
Occupational Safety and Health Division
444 Lafayette Road
St. Paul, MN 55101
(612) 296-2116

OSHA Region V Area Office
110 South Fourth Street, Room 437
Minneapolis, MN 55401
(612) 725-2571

OSHA Region V Office
230 South Dearborn Street
32nd Floor, Room 3263
Chicago, IL 60604
(312) 353-4716

In summary, what are my responsibilities as a farm employer?

Generally, you have six responsibilities:

1. Comply with the OSHA "general duty clause," which states that you must supply every employee a work place free from recognized hazards that are causing or are likely to cause death or serious physical harm. Even though a specific standard for a hazard does not exist, the employer is still obligated to take action to cope with any serious danger present.
2. Comply with all Agricultural Safety and Health Standards that pertain to your operations.

3. Keep and maintain records on employee's work-connected injuries and illnesses if you employ 11 or more people during a year.
4. Keep employees informed of their rights and obligations under the law, by posting the Minnesota OSHA poster.
5. Instruct employees on any particular work hazards associated with their job.
6. Cooperate with OSHA inspectors.

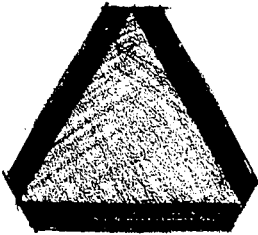
Will OSHA solve the agriculture accident problem?

No. Present OSHA standards are only concerned with a few of the hazards associated with agricultural operations. Farmers, their families, and any person or organization associated with agriculture must become more familiar with the hazards involved in farming and how to realistically deal with these safety and health considerations. The cost of agricultural accidents has been extremely high in terms of human and economic losses. Through effective legislation, design of safer farm equipment, positive incentives and assistance from the insurance industry and other organizations, and stronger educational efforts, we can remove agriculture as one of the most hazardous industries in the U.S. and increase our productive potential.

SUMMARY OF THE SIX CURRENT AGRICULTURAL STANDARDS

1. Slow-Moving Vehicles (SMV)

This standard states that the SMV emblem must be displayed on the rear of all farm vehicles or towed equipment while traveling at speeds of 25 miles per hour or less on public roads. The emblem should be mounted with the point up at a height of 2 to 6 feet above ground level.



2. Anhydrous Ammonia

The standard includes requirements for the construction, location and installation, valves and fittings, and safety relief valves on anhydrous ammonia containers.

The portions most applicable to farmers include the specifications for nurse tanks on farm vehicles, rules of application, filling of applicator tanks, protective clothing, emergency procedures, and informing workers on exposure to toxic or lethal chemicals.

3. Pulpwood Logging

This standard applies to farmers who harvest pulpwood. It covers environmental conditions, clothing and personal protective devices, first aid, hand tools, explosives, stationary and mobile equipment, machinery guards, mufflers, and guylines. Also included are instructions on logging, construction, and maintenance of roads and bridges.

4. Temporary Labor Camp Housing

The standard covers environmental aspects of housing such as site selection, building construction, space, ventilation, and heating. It also prescribes sanitation requirements for cooking and eating space, water supply, laundry, bathing facilities, toilets, refuse disposal, insect and rodent control.

5. Roll Over Protection Structures

The ROPS standard requires all tractors over 20 horsepower operated by an employee and manufactured after October 1976 to be equipped with a roll over protective structure.

“Low Profile” tractors used in orchards, barns, hop yards and greenhouses are exempt from the standard. Also exempt are tractors using loaders, cornpickers, etc. when ROPS will interfere with their operation. But as soon as the equipment is not being used, the ROPS must be replaced.

All ROPS structures must meet specified performance requirements adopted from the American Society of Agricultural Engineers Standard on Roll Over Protective Structures.

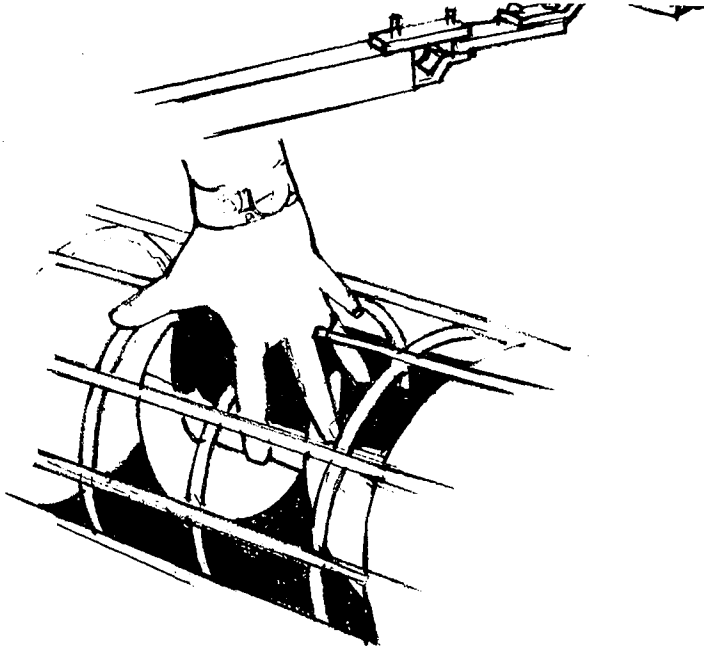
Training Requirements—As of June 1975, employers must train every employee in safe tractor operation. This includes fastening seat belts on tractors with Roll Over Protective Structures, proper operation in and around ditches, staying off very steep slopes, watching where they are going, smooth tractor operation, proper hitching, how to park a tractor properly, and not allowing extra riders.



NOTICE

AGRICULTURAL MACHINE GUARDING STANDARD

The effective date of this standard has been postponed. All June 7 and Sept. 7, 1976 dates have been changed to October 25, 1976.



6. Machinery Guarding

This standard has four basic requirements that affect farm employers:

- 1) All farm field (typically mobile) and farmstead (typically stationary) equipment manufactured after June 7, 1976 must have guards placed on all "nip-points" of power transmission components. (Presently nip-point guarding is provided by manufacturers of agricultural machinery.)
- 2) Effective June 7, 1976 all agricultural equipment, regardless of age, must have a completely guarded power take-off shaft.
- 3) Effective June 7, 1976, farm employers must instruct every employee and at least annually thereafter in the safe operation and servicing of all machinery they operate.
- 4) Effective September 7, 1976, means must be provided to prevent the accidental start-up of electrical power by another person while your employee or employees are performing repair or service work.

You can obtain additional information on these agricultural standards at your county extension office.

Issued in furtherance of cooperative extension work in agriculture and home economics, acts of May 8 and June 30, 1914, in cooperation with the U.S. Department of Agriculture. Roland H. Abraham, Director of Agricultural Extension Service, University of Minnesota, St. Paul, Minnesota 55108. We offer our programs and facilities to all persons without regard to race, creed, color, sex, age, or national origin.