

SAFETY PAYS: LP Customers and Weather

As we transition into spring and summer, the threats of cold, snow and ice diminish. While the warmer seasons may be enticing, they bring their own dangers — namely thunderstorms, tornadoes and flooding. And if you're a propane marketer — severe weather incidents can impact the safety of your customers, no matter the season.



Besides being an inconvenience, storms can cause damage to a customer's propane systems. Eric Kuster, vice president of safety, education and compliance for the Propane Education and Research Council (PERC), says, "Any time marketers can take the opportunity to talk to customers about propane safety, it's important to do so, and weather incidents should be part of that conversation."

Kuster says propane tanks today are very well constructed and robust, "but if you get a big limb that falls on top of a tank, for example, it can impact the regulator and piping system. In terms of flooding, propane is lighter than water, so it has a tendency to be buoyant. If the tank begins to float, then there's an issue."

That became a serious problem for several propane marketers across the Midwest when historic flooding in March 2019 covered millions of acres of agriculture, and numerous cities and towns. "I always urge customers to talk to their propane marketers, and vice versa, if there is a propane tank in an area prone to flooding," says Kuster. "There are precautions that can be taken to minimize the risk."

Marketers can also remind customers to clear areas around the tank, avoiding the stacking of items up against or close to the tanks. "The issues we see most often from a safety perspective is when in a severe weather incident — wind or flooding — these items get moved or dislodged and damage the regulators or piping system."

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THUNDERSTORMS



COMMUNICATE THE BASICS

Critical to any weather-related discussion is the basic propane safety information shared in the industry's duty-to-warn materials. "First, the customer needs to know what propane smells like and how to identify it," Kuster advises. "If there's an issue with their tank or line, we want them to recognize the signs of a leak."

Second, if they smell propane, they should know how to shut off their propane system, and third, if they suspect a problem, or have shut off the system, they should contact a service technician to inspect the propane system prior to turning it back on.

Additional information about how to prepare for or respond to specific weather-related incidents is included in a series of consumer materials available from PERC. Free downloadable public service announcements (PSAs) for radio, as well as brochures and newsletters on topics

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including excessive heat, heavy snowfalls, thunderstorms, tornadoes, flooding, wildfires, power outages and earthquakes, are available for marketers from the Resource Catalog on PERC's *propane.com*. "We have material available and we encourage marketers to use it when needed," states Kuster.

DISSEMINATING THE INFORMATION

Because weather incidents are generally unpredictable, with little or no warning, Kuster says mailing out brochures at the beginning of a weather season may not be practical. "If you mail it out at the beginning of the season, I'm not sure people are going to look at it or digest the information," says Kuster.

Instead, he recommends that when a thunderstorm or other weather event is forecast, a marketer post the brochures on their website, Facebook page and other social media. They can also provide the information to local fire departments or emergency management agencies to share on their websites or social media. "I've also known companies that maintain a customer email list and have emailed the brochures to customers or included a link to the brochure on their website," says Kuster. "And partnering with local radio stations to broadcast the public service announcements is another great way to communicate safety to your customers."

"Propane marketers are always looking at safety and how to maintain a customer's propane system," says Kuster, "but I'm not sure that it's always on customers' minds. And sometimes marketers may not know all of the PERC material that they can leverage. It's important for them to understand what's available to them and how they can communicate that safety information to customers—especially in the case of weather incidents."

To access PERC's weather preparedness materials, go to *propane.com*, click on "Resource Catalog" located on the toolbar's upper right hand of the home page, and type "Weather Preparedness" in the search tool. If you have questions, please contact PERC at (202) 452-8975, use PERC's Help Line available on the Resource Catalog page of *propane.com*, or contact your state propane association. ▶



PERC provides a variety of weather preparedness brochures to propane marketers.

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TORNADOES



NEBRASKA - During the Dec. 3, 2019, meeting of the Nebraska Ag Co-op Safety Directors' quarterly meeting, David Brown, with the Nebraska Department of Energy and Environment, provided members with information on how to submit the annual air emissions report online. The reports will no longer be submitted on paper forms. Brad Bousquet, vice president of safety and compliance for Central Valley Ag, discussed issues the cooperative has encountered while utilizing the cable grab systems involved in new construction at their facilities. The next meeting of the association is scheduled for June 2, 2020, at the Quality Inn in Grand Island, Nebraska.



SOUTH DAKOTA - The South Dakota Ag Cooperative Safety Directors met Jan. 15, 2020, in Brookings. Joshi Deepak, research associate in the Department of Agronomy, Horticulture and Plant Science at South Dakota State

University, presented on drones, discussing commercial drone use and rules and regulations including how to obtain a license from the Federal Aviation Administration. Members also discussed all-terrain vehicle policies, including licensing and Department of Transportation requirements. The next meeting is scheduled at the Mitchell Technical Institute in Mitchell, S.D., on March 18.



IOWA - The Ag Cooperative Safety Directors of Iowa met Jan. 15, 2020, in Story City, Iowa. Angie Rothrock, claims consultant with Nationwide Agribusiness, discussed contractor and visitor safety. Kyle Rich, motor

vehicle enforcement officer with the Iowa Department of Transportation, and Bill Kassel, loss control specialist with TrueNorth Insurance, presented on distracted driving. Chris Downs, a consultant with Iowa OSHA, engaged members in a safety discussion on fixed ladders, platforms and self-closing gates. The final presentation, by Nationwide Agribusiness representatives Alan Tweten and Randy Mehrer, focused on grain fires. The next meetings are scheduled for March 18 and July 15, 2020.

SMART HIRING OF INDEPENDENT CONTRACTORS



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The terms “gig workers” and “gig economy” are receiving news coverage lately, most of it centered on the employment models of Lyft, Uber, Amazon and a number of tech companies. Rather than hiring traditional employees, these companies hire workers as independent contractors. The practice provides both greater flexibility in meeting labor needs and some attractive economic advantages as opposed to hiring traditional salaried or hourly employees.

The agribusiness sector has been utilizing independent contractors well before the term gig worker was coined. Some provide custom application of chemicals, fertilizer and/or tender truck service, grain hauling, feed delivery, seed treatment, seed production and crop scouting. Historically, many of these independent contractors were retained via a verbal agreement and handshake.

Unfortunately, much of the recent coverage of gig workers has focused on negative incidents, including criminal acts performed by some ride-share drivers, or rogue delivery personnel. The parent company then tries to duck responsibility for the actions of the independent contractors even though they were acting as their agents. Evading liability may or may not be possible, depending on the business arrangements.

HANDLE AGREEMENTS WITH CARE

In today’s society and litigation environment, it is critical that independent contractor agreements are handled properly. This includes having valid, legal written agreements with the independent contractor that spell out the parameters of the work to be performed, payment provisions, and a shift of liability to the independent contractor for their own negligent actions. In addition, the agreement should stipulate payment arrangements and provisions for continuing or terminating the agreement. This is particularly important if they are performing a critical or time-sensitive role for the parent company where an unannounced termination of services would have serious consequences.

If any equipment is being provided to the independent contractor, there should be a written equipment use/lease agreement. This document should specifically describe the equipment being provided, and the independent contractor should acknowledge the listed equipment was received in good working condition. In addition, the agreement needs to confirm the independent contractor has knowledge of, or has received training on the proper use and operation of the equipment. The agreement should also specify who is responsible for ongoing maintenance of the equipment, and who is responsible for any damage to it.

KNOW WHO YOU’RE HIRING

It is also necessary to properly vet each potential independent contractor, and require them to provide proper supporting documents. In the case of custom application, you should request and maintain copies of the independent contractor’s applicator’s license as well as documents showing their training is current. This would also apply to any individual employees of the independent contractor. Truckers need to provide a valid CDL license, as well as documentation of DOT registration, haul-for-hire authority and HazMat endorsements, if needed.

VERIFY INSURANCE COVERAGE

Finally, it is critical to verify the independent contractor has proper insurance coverage for the work they are to perform. A certificate of insurance is mandatory prior to allowing the independent contractor to perform any work on your behalf. This certificate should come from the insurance company, and not the local agent. The certificate should list your company as an additional insured, and the policy must be properly rated and endorsed for doing outside work. If the independent contractor is responsible for damage to any equipment being provided, the policy should either have this equipment listed specifically, or have an endorsement for non-owned equipment coverage. If the independent contractor will be utilizing additional employees, a valid worker’s compensation insurance certificate should also be obtained.

Performing due diligence prior to entering into an independent contractor agreement is absolutely necessary to avoid headaches and serious financial consequences should something go wrong. ▀



MINNESOTA - Members of the Ag Cooperative Safety Directors of Minnesota listened to a presentation on the new Federal Motor Carrier Administration’s Drug and Alcohol Clearinghouse during the organization’s Jan. 15, 2020, quarterly meeting. Liz Rheingans, CEO of Custom Safety and Compliance, provided a review of the database which contains information pertaining to violations of the U.S. Department of Transportation drug and alcohol testing program for holders of a Commercial Driver’s License (CDL). According to Rheingans, the Clearinghouse will be used by employers for pre-employment and annual queries on CDL drivers as well as being used by state and federal authorities. The next meeting is scheduled for July 8, 2020.

AGRONOMY 101: ASK THE RIGHT QUESTIONS



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During spring agronomy presentations, I ask, “What’s easier to prevent, a tornado taking out a \$500,000-structure or spraying the wrong product on a crop that causes a \$500,000-loss?” The question helps drive home the critical point in preventing misapplication claims: we need clear and effective communication.

Miscommunication and assumptions are major contributors to agronomy claims. Many claims result when producers make changes to their planting plans and fail to pass the information along to the salesperson. That miscommunication, which can result in the loss of hundreds of acres of crop, can be avoided if your agronomy team takes the time to ask follow-up questions.

LISTEN, PROCESS AND REPEAT

The art of communication can be daunting but essential. Begin by listening to your customer and processing what they are saying. Follow up by explaining to them how you understand what was said — and then determine if everyone is on the same page.

Sometimes, even when both parties think they are on the same page, not everything is crystal clear. In one incident, a crop was killed due to the confusion caused when a generic glyphosate was used. A salesperson put together a spring application plan with the producer. The salesperson recommended a generic glyphosate with a brand name, explaining to the producer that it was a glyphosate product. A week after application, the producer called back, saying his crop was dead and asked if they had sprayed his conventional crop with Roundup®. When it was explained that the generic product used was just like Roundup, the producer asked why he wasn’t told that during the planning sessions.

Was the information provided to the producer during the planning session clear enough so that he understood it was a product exactly like Roundup? Was the producer actively listening? It is possible that had the salesperson asked the producer to summarize their conversation during the planning session, they could have caught the misunderstanding. It would also have been helpful to give the producer notes from the conversation that pointed out the brand name the generic product replaced.

LEAVE “ASSUME” OUT OF EQUATION

Communicating with fellow employees can be just as challenging. Many times, the word “assume” raises its ugly head when a misapplication claim is investigated. The agronomy business today has too many moving parts to allow assumptions in any part of the process. No matter how certain most people think they understand what was said to them, it may not be the intended message. When verbal instructions are given, they need to be repeated back to eliminate “assumptions.” When new agronomy sales staff are brought on board, bring them up to speed on the importance of clear communication and to always ask follow-up questions when taking application orders. Several claims have been the result of new sales staff not getting sufficient information from the customer.

Finally, be very aware of the confusion over “E” herbicide products for soybeans. There is Engenia®, Enlist™ products, and to some extent XtendiMax® (which sounds like an “E”). No order should be given or taken without verifying the product’s chemical family. These products are advertised all winter and spring about as much as political ads during an election year. No doubt there will be customers who call in and ask for their soybeans to be sprayed with Enlist but really meant Engenia — or vice versa. Taking the time to clarify — and communicate clearly with the producer — will make a big difference in a successful and misapplication-free season. ▾

SAFETY COMMITTEES: THE VITAL LINK



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A safety committee's purpose is to bring workers and managers together to achieve and maintain a safe, healthful workplace. It's easy to start a safety committee, but developing an effective one requires employees and managers committed to achieving that goal.

According to OSHA, the most effective safety committees work together to find solutions to problems that cause workplace accidents, illnesses and injuries. Fewer accidents, injuries and illnesses mean lower workers' compensation claims costs. An effective safety committee provides a forum for problem solving, designs and implements programs, acts as a monitoring body for safety, as well as involves more people in the company's overall safety and health management.

In many organizations, it is the energetic group that sparks interest and participation in the safety program from all levels of management and front-line employees. Through the safety committee activities, the message is communicated that employees are the company's most valuable resource.

CREATING AN EFFECTIVE COMMITTEE

Anyone can start a safety committee, but to make it effective, the committee must be built on a foundation of management commitment and must be accountable for achieving its goals. The committee must:

- Involve employees in achieving the committee's goals.
- Identify workplace hazards.
- Review reports of accidents and near misses.
- Keep accurate records of committee activities.
- Evaluate its strengths and weaknesses.

The safety committee plays an important role in keeping the workplace hazard-free by:

- Ensuring representatives know how to recognize hazards and understand basic principles for controlling them.
- Focusing on identifying hazards and unsafe work practices that are likely to cause serious injuries.
- Conducting thorough workplace inspections at least annually.
- Documenting hazards during annual inspections and discussing how to control them.
- Including employer and employee representatives on the inspection team.

When there is an accident or incident, it's not necessary for the committee to conduct the accident investigation itself, or to participate in investigations; however, the committee



should ensure that management does so. The committee should also carefully review accident reports to help management identify accident root causes and determine how to control them.

In addition, accurate, well-organized records document the committee's accomplishments and can inform the committee what it needs to do to improve. The following documents should be in the safety committee's file:

- Accurate minutes of each safety committee meeting
- Committee reports, evaluations and recommendations
- Management's response to committee recommendations, and
- Employee safety suggestions and hazard concerns.

MANAGEMENT SUPPORT IS CRUCIAL

Without management support, a safety committee won't survive. Demonstrate support by encouraging employee involvement and acting on committee recommendations. Representatives demonstrate commitment by attending committee meetings, following through on assigned tasks, and encouraging other employees to get involved in identifying hazards. The safety committee is also responsible for monitoring how management holds employees accountable for working safely and for recommending ways to strengthen accountability.

An effective safety committee needs help from everyone. It must have a method for employees to report hazards and offer safety suggestions, and then act on those suggestions and recognize an employee's contributions to a safer workplace.

If you have a safety committee, promote its activities and accomplishments. If you are starting a committee, let employees know, describe its role and explain management's commitment and support.

Your Main Street America Agribusiness risk consultant can help you to establish and/or maintain an effective safety committee and be a resource for advice and activities. ▀



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DRUGS, ALCOHOL AND THE CDL DRIVER



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Federal and state transportation agencies enact regulations and ensure their compliance to help make travel safer for all. Several of those regulations are specific to the use or misuse of drugs and alcohol by a Commercial Driver's License (CDL) driver. The regulations require employers to establish policies and procedures and to train their employees regarding the regulations.

The Federal Motor Carrier Safety Administration (FMCSA) regulation 49 CFR Part 382, "Controlled Substances and Alcohol Use and Testing," prohibits the use of controlled substances and the misuse of alcohol. In addition, the Department of Transportation (DOT) regulation 49 CFR Part 40, "Procedures for Transportation Workplace Drug and Alcohol Testing Programs," prescribes testing methods to be followed.

The FMCSA regulations require that employers develop a written policy on controlled substances and alcohol misuse in the workplace. The regulation also requires that the policy be provided to every driver, and the employer maintain a statement signed by each employee certifying receipt of the policy.

Employers must also provide training to all persons who supervise drivers subject to the regulations. The training is to enable supervisors to determine whether reasonable suspicion exists to require a driver to undergo drug or alcohol testing. The two-hour training must include at least 60 minutes of training on alcohol and 60 minutes on controlled substances and cover the physical, behavioral, speech and performance indicators of probable alcohol misuse and use of drugs. Recurrent training is not required. These requirements are covered in Main Street America

Agribusiness's Annual Transportation Survey, which is sent to policyholders prior to their annual loss control visit. You can find them in questions 18-21 of Section 3: Controlled Substance and Alcohol Testing Program.



In terms of Main Street America Agribusiness's requirements for policyholders:

- Employers must have a written drug and alcohol program distributed to all affected employees.
- Any supervisor of driver personnel must attend or have attended the one-time, two-hour training.
- There shall be at least two trained individuals per company, and
- Documentation of the training, such as certificates or rosters with dates, needs to be on file.

Every day employers put their drivers behind the wheel of all types of equipment and entrust that responsibility to the driver. And with the legalization of certain recreational drugs in some states, the possibility of having drug-related situations could increase. It becomes even more critical that employers have the proper policies and procedures in place and supervisors understand how to deal with a driver who may be impaired by alcohol and/or drugs. Educating drivers and training supervisors is essential for these programs to be effective. Non-compliance and/or enabling substance-abusing behavior to continue puts everyone's safety at risk, and transfers the consequences and liability of their behavior to others — which could put your company at risk.

Your risk consultant can provide policy and procedure templates, and online or local classes are available to help meet these requirements. ▀