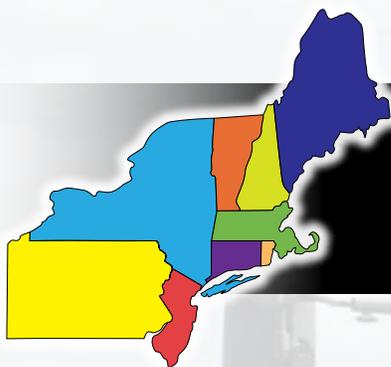


DEALER

The Newsletter of NORTHEAST EQUIPMENT DEALERS ASSOCIATION, INC.



AMERICAN RESCUE PLAN ACT OF 2021

The Federal American Rescue Plan Act of 2021 ("ARPA") was enacted March 11, 2021. The following is a general summary of the new requirements and options for employers with respect to those portions of the ARPA related to **receiving tax credits for voluntarily providing COVID-19-related leave and mandatory COBRA Premium Subsidies**. The ARPA contains many other provisions that may apply to your business. As always, we recommend that you consult with your legal counsel to determine how to implement these new laws and ensure your operation remains compliant in all respects.

1. **FFCRA** – Although the FFCRA's requirement that employers with fewer than 500 employees provide Paid Sick Leave and FMLA+ leave expired on 12/31/20, **employers have the option to voluntarily continue to provide leave and to receive tax credits**. There are new rules and qualifying reasons for leave that apply **starting 4/1/21** for those employers who decide to continue to provide leave and receive the tax credits.

2. **Federal Payroll Tax Credits** – Employers who provide leave from **4/1/21 through 9/30/21** for a qualifying reason can receive Federal payroll tax credits. **Employers** who voluntarily agree to provide FFCRA leave should consult with their accountants regarding the process and details for claiming the tax credits. You can also review the IRS' FAQs **using the following link: <https://www.irs.gov/newsroom/covid-19-related-tax-credits-for-paid-leave-provided-by-small-andmidsize-businesses-faqs>**.

3. **Paid Sick Leave** – Employees **may take up to 10 days / 80 hours of PSL** from 4/1/21 through 9/30/21, even if the employee previously exhausted the leave entitlement before 4/1/21 for **9 qualifying reasons**. The ARPA added 3 new qualifying reasons to the original 6 set forth in the FFCRA.

4. **Employee** is subject to a Federal, State or Local quarantine or isolation order related to COVID-19.

5. **Employee** has been advised by a health care provider to quarantine due to concerns related to COVID-19.

6. **Employee** is experiencing symptoms of COVID-19 and is seeking a medical diagnosis from a health care provider.

7. **Employee** has a bona fide need to care for an individual who is subject to a quarantine or isolation order related to COVID-19 or has been advised by a health care provider to self-quarantine.

8. **Employee** has a bona fide need to care for a son or daughter of the employee whose school or place of care is unavailable for reasons related to COVID-19.

9. **Employee** has a substantially similar condition to COVID-19 as specified by the Secretary of Health and Human Services, in consultation with the Secretary of the Treasury and the Secretary of Labor

10. **Employee** is obtaining a COVID-19 vaccine.

11. **Employee** is recovering from any injury, disability, illness, or condition related to obtaining a COVID-19 vaccine.

continued on page 4

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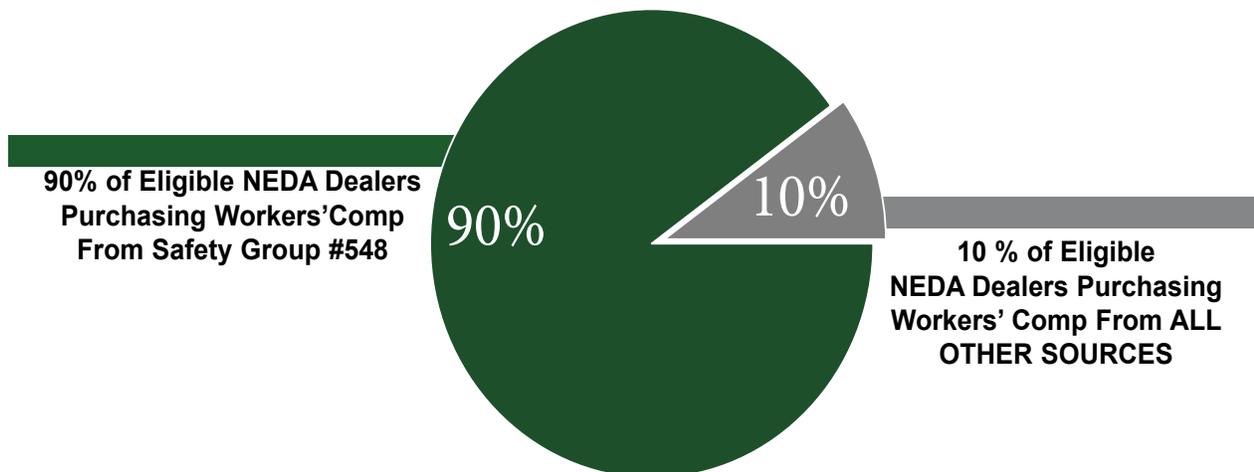
Policy Year	Dividend
2018-2019	40.0%
2017-2018	40.0%
2016-2017	35.0%
2015-2016	30.0%
2014-2015	20.0%
2013-2014	15.0%
2012-2013	15.0%
2011-2012	5.0%
2010-2011	20.0%
2009-2010	25.0%

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Observations from the **FIELD**

By most accounts, sales/traffic supports have been positive and would indicate continuing support of sales, with the caveat being inventory availability. No one seems to know when (or if) we'll see the end of the supply chain "challenges" (https://apple.news/A_3CrA6kYR6iCnlg91YAdjA). That being the case, dealers and the manufacturers' management will have to proactively partner to the benefit of all concerned on the management of parts, whole-goods inventories, and availability.

I am not aware of any statistical data, but it would seem that there are an increasing number of articles in "AG and OPE related" media featuring stories concerning the incorporation of AI (Artificial Intelligence) technology into agricultural equipment/operations. Just in the last month, I have seen articles suggesting AI solutions focused on weed control, pest control, nutrient application, and autonomous operation (labor), leading me to the conclusion that, more likely than not, AI will soon be the solution of choice.

Thinking forward, what implications could the incorporation of AI and advanced technology have for the equipment dealers of tomorrow? The first two thoughts that came to my mind were capital and labor – dealers are likely to need significantly more and a better quality of both!

Why capital? The Federal Reserve Bank of St. Louis website includes a graphic representation of "FRED", the producer price index for farm machinery and equipment: machinery parts sold separately (<https://fred.stlouisfed.org/series/PCU33311333111C>). Although there were a few bumps along the way (May '96, Aug '98, March '08 and, most recently, May '16), the graph represents a 52% increase from 100 on Dec 1982 to 189.6 on Dec 2019! For comparison, I used the CPI calculator found at the Bureau of Labor Statistics (BLS) and entered \$ 1.00 and Dec 1982 to get a value of \$ 2.63 for Dec 2019, a 38% increase 14% less than PPI value (https://www.bls.gov/data/inflation_calculator.htm). I doubt that an economist would approve of using the two values to draw any conclusions, but I am fairly sure that they would agree that the pace of machinery price increases (whole goods and parts) has been steady and significant!



TIM WENTZ
Field Director / Legislative Committee Chairman



Long story short, if dealers are to maintain the same volume of unit sales moving *continued on page 6*

The general information provided in this publication is not intended to be nor should it be treated as tax, legal, investment, accounting, or other professional advice. Before making any decision or taking any action, you should consult a qualified professional advisor who has been provided with all pertinent facts relevant to your situation. This publication is designed to provide accurate and authoritative information in regard to the subject matter covered. It is furnished with the understanding that the Northeast Equipment Dealers Association, Inc., the publisher, is not engaged in rendering legal, accounting or other professional service. Changes in the law duly render the information in this publication invalid. Legal or other expert advice should be obtained from a competent professional. Some of the editorial material is copyrighted and JULY be reproduced only when permission is obtained from the publisher and the association. It is furnished with the understanding that the Northeast Equipment Dealers Association, Inc., the publisher, is not engaged in rendering legal, accounting or other professional service. Changes in the law duly render the information in this publication invalid. Legal or other expert advice should be obtained from a competent professional. Some of the editorial material is copyrighted and JULY be reproduced only when permission is obtained from the publisher and the association.

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AMERICAN RESCUE PLAN continued from page 1

12. **Employee** is seeking or awaiting the results of a diagnostic test for, or a medical diagnosis of COVID-19 due to exposure or the employer's request.

13. **Paid Emergency FMLA (FMLA+) Leave** – Employees may take **up to 12 weeks** of paid leave for the **same reasons and at the same rates as PSL** up to a max of \$12,000 total per employee. The first 2 weeks of FMLA+ are no longer unpaid and do not run concurrently with PSL (FMLA+ starts after PSL is exhausted).

14. **Rates of Pay** – The rates of pay for which employers may claim the tax credits depend on the qualifying reason for leave, as follows:

15. **100%** of the employee's regular rate of pay up to \$511 per day (\$5,110 total) for PSL Reasons 1 – 3 and 7 – 9.

16. **2/3** of the employee's regular rate of pay up to \$200 per day (\$2,000 total) for PSL Reasons 4 – 6

17. **2/3** of the employee's regular rate of pay up to \$200 per day (\$12,000 total) for all FMLA+ Reasons.

18. **Non-Discrimination Rules** – Employers cannot discriminate in favor of highly compensated employees, full-time employees and/or on the basis of tenure in determining how to voluntarily provide PSL/FMLA+.

19. **COBRA Premium Subsidy** – Employers are required to front the cost of a 100% subsidy for COBRA health insurance continuation premiums from 4/1/21 through 9/30/21 for qualifying employees who are involuntarily terminated or who have a reduction in hours and will receive a Federal payroll tax credit to cover the cost of the subsidy. Employers should work with their health insurance providers and third-party administrators to ensure they comply with the ARPA's requirements.

20. **Qualifying Employee** – An employee (and the employee's eligible dependents) will qualify for the subsidy if s/he loses health insurance coverage because the employee is involuntarily terminated (for reasons other than gross misconduct) or due to a reduction in hours and the employee elects COBRA continuation coverage.

21. **Employees** are eligible for the subsidy even if they are already enrolled in COBRA, did not elect COBRA when it was initially made available to them, or initially elected COBRA but let the coverage lapse.

22. **Employees** who voluntarily quit or terminate their employment are not eligible for the subsidy.

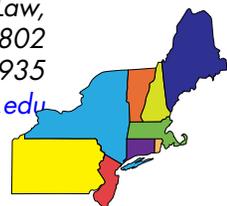
23. **The subsidy** does not lengthen the COBRA period. Accordingly, if the employee's COBRA period begins after 4/1/21 or ends before 9/30/21, the subsidy will be shorter than 6 months.

- **Termination of Subsidy** – The subsidy will apply for up to 6 months from 4/1/21 through 9/30/21, or until the employee obtains group health insurance coverage, whichever occurs first.
- **New Election Period** – Qualifying employees, including those who previously declined or dropped COBRA coverage prior to 4/1/21, will have a new 60-day election period beginning 4/1/21 to elect COBRA coverage. **Employers must provide notice to all qualifying employees.**

24. **Required Notice** – Employers must provide an updated COBRA notice to qualifying employees no later than 5/21/21. The Department of Labor is required to issue a model notice in the near future.

25. **Federal Payroll Tax Credits** – Employers who are required to front the cost of the subsidy will receive a corresponding Federal payroll tax credit to cover the cost of the subsidy with the employer's quarterly payroll tax filings. Employers should consult with their Accountants regarding the process and details for claiming the tax credits.

~ Article furnished by: Brook Duer, Staff Attorney
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Observations continued from page 3

forward (we can argue about the proper measurement - units vs dollars), dealers will most likely need expanded access to "affordable" capital. Access to capital and its affordability are both directly tied to profitability. That being the case, we'll need to ensure that our ownership structure(s) and management are prepared for the challenge! **Is your dealership ready? What is your plan?**

We will talk more about labor in the workforce development articles and try to explore what other issues might be on the horizon for "future" dealerships in the months to come.

In the meantime, I would like to talk about our legislative advocacy work. April was an especially busy month on the legislative front. We had four new Right-to-Repair bills introduced. We worked hard to support both testimony and legislative visits with legislators in our region. A bill was introduced in PA, leaving ME as the only state in our AOR without a R2R bill. The RI bill is similar to a bill introduced in Nebraska and based on the bill's first hearing I think it's fair to say there were some very "friendly" voices among the committee members. That being the case, this will be our first experience with the Rhode Island legislative bodies and process. **I would like to ask again that anyone with market responsibilities for Rhode Island please contact me!**

As I told you in last month's observations, one of the advocate's strategies has been to **enlist callers to solicit dealers and ask to purchase "diagnostic/service tools" in an effort to demonstrate to legislators that the industry has not fulfilled their promise to deliver diagnostic tools. It is reasonable to expect that staff might not be familiar with these tools.** I fully understand that we are entering into our busiest season and time is precious, **but it is vital that you take the time to educate your parts and service staff about the diagnostic tools that are now available to customers and independent repair shops and, more importantly, that they know what questions to ask, i.e., a customer's name, address, phone number, equipment manufacturer, year, model number, serial number, attachments, etc., followed by questions as to when would be the best time to call the customer back.** This enables us to both service existing customers and mitigate potential consequences generated by calls from the right to repair advocates posing as equipment owners/independent repair shops! I strongly suspect that the "ghost" callers have little if any experience or knowledge of agricultural equipment. "Ghost" or "real", your dealership will be prepared!

We are still waiting for our amendment to the warranty section of CT's fair dealer law (**CT - SB264 AN ACT CONCERNING FAIR REIMBURSEMENT TO RETAIL DEALERS OF POWER EQUIPMENT**) to be taken up by the Senate for consideration, but we have reached out to legislators and staff and are hopeful that the bill will come before the Senate soon!

Unfortunately, legislative work is expensive and time consuming. Please consider making a contribution to NEDA's legislative fund!

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THEFT ALERTS

New Jersey Kubota Tractor

On or around Thursday March 25, 2021, the below described Kubota Tractor was stolen from a property in Holmdel Township, New Jersey. Please forward this alert to anyone that might encounter the equipment and investigators working on similar crimes.

Equipment Details:

2007 Kubota L-3540-D Cab Tractor with Loader

Tractor Serial Number: 30803

(The tractor serial number decal is on the left frame above the front axle.)

Holmdel Township Police Case: 21-4977

Contact Detective Hernando 732-946-4400 Ext. 1744

Operation Safe Driver Week Set for July 11-17 With Focus on Speeding

This year's Operation Safe Driver Week will take place July 11-17 with an emphasis on speeding. During Operation Safe Driver Week, law enforcement personnel will be on the lookout for commercial motor vehicle drivers and passenger vehicle drivers engaging in risky driving behaviors in or around a commercial motor vehicle. Identified unsafe drivers will be pulled over and issued a citation or warning. More information on Operation Safe Driver is [available here](#).

Operation Safe Driver - CVSA - Commercial Vehicle Safety Alliance

~ Article courtesy of TANY of New York

NEDA Adds Cyber Security Program for Membership

We are excited to announce that Secuvant, an industry-leading cybersecurity firm, is our newest Endorsed Provider. Secuvant's mission is to provide clients with a "Clear Path Forward" as they work to establish digital-security protocols, customized to each client, that not only protect companies from cyber threats but build the foundation for their entire digital infrastructure.

Cyber incidents can take a variety of forms within dealerships. A phishing attack, ransomware, a breach of customer information or even compromised software on a piece of equipment can all have devastating effects on your business. Northeast and Secuvant want to better understand your current operations, future concerns and assess the risks that your business faces, so we'd appreciate your participation in a survey.

The survey results will be analyzed by Secuvant and reported back to those who participate. We have two different versions of the survey, depending on your role in the dealership. If you are receiving this survey and do not fit either description below, we'd ask that you forward this email to the appropriate person in the dealership.

If you are an owner, principal, general manager, or similar executive position, please take this survey. If you are IT staff within the dealership (even if IT is not your only role), please take this survey.

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To learn more about how Secuvant could help protect your business, please visit agce.secuvant.com, call 855.732.8826, or email sales@secuvant.com.



FS-2021-09 – American Rescue Plan Act of 2021 (ARP)

The American Rescue Plan Act of 2021 (ARP) allows small and midsize employers, and certain governmental employers, to claim refundable tax credits that reimburse them for the cost of providing paid sick and family leave to their employees due to COVID-19, including leave taken by employees to receive or recover from COVID-19 vaccinations. The ARP tax credits are available to eligible employers that pay sick and family leave for leave from April 1, 2021, through September 30, 2021.

Here are some basic facts about the employers eligible for the tax credits and how these employers may claim the credit for leave paid to employees who take leave to receive or recover from COVID-19 vaccinations.

Eligible Employers.

An eligible employer is any business, including a tax-exempt organization, with fewer than 500 employees. An eligible employer also includes a governmental employer, other than the federal government and any agency or instrumentality of the federal government that is not an organization described in section 501(c)(1) of the Internal Revenue Code. Self-employed individuals are eligible for similar tax credits.

Paid sick and family leave for which tax credits can be claimed.

Eligible employers are entitled to tax credits for wages paid for leave taken by employees who are not able to work or telework due to reasons related to COVID-19, including leave taken to receive COVID-19 vaccinations or to recover from any injury, disability, illness, or condition related to the vaccinations. These tax credits are available for wages paid for leave from April 1, 2021, through September 30, 2021.

The amount of the tax credits and how they are calculated.

The paid leave credits under the ARP are tax credits against the employer's share of the Medicare tax. The tax credits are refundable, which means that the employer is entitled to payment of the full amount of the credits if it exceeds the employer's share of the Medicare tax.

The tax credit for paid sick leave wages is equal to the sick leave wages paid for COVID-19 related reasons for up to two weeks (80 hours), limited to \$511 per day and \$5,110 in the aggregate, at 100 percent of the employee's regular rate of pay. The tax credit for paid family leave wages is equal to the family leave wages paid for up to twelve weeks, limited to \$200 per day and \$12,000 in the aggregate, at 2/3rds of the employee's regular rate of pay. The amount of these tax credits is increased by allocable health plan expenses and contributions for certain collectively bargained benefits, as well as the employer's share of social security and Medicare taxes paid on the wages (up to the respective daily and total caps).

Claiming the credit.

Eligible employers may claim tax credits for sick and family leave paid to employees, including leave taken to receive or recover from COVID-19 vaccinations, for leave from April 1, 2021, through September 30, 2021.

Eligible employers report their total paid sick and family leave wages (plus the eligible health plan expenses and collectively bargained contributions and the eligible employer's share

of social security and Medicare taxes on the paid leave wages) for each quarter on their federal employment tax return, usually Form 941, Employer's Quarterly Federal Tax Return PDF. Form 941 is used by most employers to report income tax and social security and Medicare taxes withheld from employee wages, as well as the employer's own share of social security and Medicare taxes.

In anticipation of claiming the credits on the Form 941 PDF, eligible employers can keep the federal employment taxes that they otherwise would have deposited, including federal income tax withheld from employees, the employees' share of social security and Medicare taxes and the eligible employer's share of social security and Medicare taxes with respect to all employees up to the amount of credit for which they are eligible. The Form 941 instructions PDF explain how to reflect the reduced liabilities for the quarter related to the deposit schedule.

If an eligible employer does not have enough federal employment taxes set aside for deposit to cover amounts provided as paid sick and family leave wages (plus the eligible health plan expenses and collectively bargained contributions and the eligible employer's share of social security and Medicare taxes on the paid leave wages), the eligible employer may request an advance of the credits by filing Form 7200, Advance Payment of Employer Credits Due to COVID-19. The eligible employer will account for the amounts received as an advance when it files its Form 941, Employer's Quarterly Federal Tax Return, for the relevant quarter.

Self-employed individuals may claim comparable tax credits on their individual Form 1040, U.S. Individual Income Tax Return PDF.

- **Info from Treasury** - <https://home.treasury.gov/system/files/136/Paid-Leave-Credit-Snapshot.pdf>
- **Info from Society for Human Resource Management (SHRM)** - Small Businesses Can Get a Tax Credit for Providing Vaccination Paid Leave
 - <https://www.shrm.org/resourcesandtools/legal-and-compliance/employment-law/pages/vaccine-paid-leave-tax-credit.aspx>
- **Info from The White House - FACT SHEET:** President Biden to Call on All Employers to Provide Paid Time Off for Employees to Get Vaccinated After Meeting Goal of 200 Million Shots in the First 100 Days (The White House)
 - <https://www.whitehouse.gov/briefing-room/statements-releases/2021/04/21/fact-sheet-president-biden-to-call-on-all-employers-to-provide-paid-time-off-for-employees-to-get-vaccinated-after-meeting-goal-of-200-million-shots-in-the-first-100-days/>
- **Info from the IRS** - Under the American Rescue Plan, employers are entitled to tax credits for providing paid leave to employees who take time off related to COVID-19 vaccinations. <https://www.irs.gov/newsroom/employer-tax-credits-for-employee-paid-leave-due-to-covid-19>

~ Provided by Brook Duer, Staff Attorney

Center for Agricultural and Shale Law, Penn State Law

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TAX TIPS:

The recent stimulus package extends the credit through the end of 2021.

The American Rescue Plan Act extends the Employee Retention Credit through Dec. 31, 2021.

So, how does this affect your farm or agribusiness?

A previous column I wrote covered the background and qualifications of the ERC through June 30. This article covers July through December and the qualifications under the “significant decline in gross receipts test,” since most agriculture has not been shut down.

Do You Qualify for Employee Retention Credit?

By **Dario Arezzo** | Apr 06, 2021

Arezzo is a senior tax consultant at Farm Credit East

There are two ways a business can qualify for the ERC:

- The business was either fully or partially shut down because of a government order.
- There was a significant decline of gross receipts. For 2021, this means more than 20%.

As a reminder, the credit is equal to 70% of qualified wages, up to \$10,000 per employee per quarter. Where should you start to see if your farm qualifies?

First, do not overlook the first quarter of 2021. Even if there was not a decline of more than 20% in gross receipts comparing the first quarter in 2021 to the first quarter in 2019, there is a special rule that permits a business to look at the fourth quarter of 2020 to the fourth quarter of 2019 to qualify.

Next, for those businesses that received a second-draw Paycheck Protection Program loan, it is important to know that there is no “double-dipping” when claiming the ERC. For instance, the same wages used for PPP calculations cannot be used to claim the ERC.

There are other items that would have similar treatment as far as “double-dipping” is concerned, so it is critical that this be thoroughly analyzed. This is of particular importance since the American Rescue Plan Act (ARPA) increased the amount of time the IRS can audit the ERC to five years. Normally, the IRS only has three years to audit a return unless there is a significant omission or fraud.

If the business experiences a significant decline in gross receipts in the first quarter — not counting the special rule above — they will automatically qualify in the second quarter of 2021. If this is not the case, the second quarter will have to experience its own significant revenue decline of more than 20%.

For the third quarter of 2021, if the second quarter experienced a significant revenue decline of more than 20%, then that should by itself qualify the quarter. This is due to a special rule that allows an employer to look to the previous quarter.

However, this special rule, while acting similarly to the special rule for the first quarter of 2021, is part of ARPA, and so the IRS will need to confirm this in its guidance like it did for ERC under previous legislation.

If this is not the case, then the third quarter will have to experience its own significant revenue decline of more than 20%. This same analysis done in the third quarter would be the case for the fourth quarter.

Agricultural employers should also keep in mind that H-2A laborers are not subject to Social Security and Medicare taxes, and therefore do not qualify. For those employers who may qualify for the ERC, it is critical to discuss this issue with your payroll and tax specialist since the calculation can be complex.

~ Article courtesy of *American Agriculturist*

CVSA's 2021 Out-of-Service Criteria Now in Effect

Starting today, the Commercial Vehicle Safety Alliance's (CVSA) 2021 North American Standard Out-of-Service Criteria are now in effect. Commercial motor vehicle enforcement personnel use the criteria to identify commercial motor vehicle and driver violations that result in the vehicle or driver being placed out of service. The 2021 out-of-service criteria replace and supersede all previous versions.

[Read more here: CVSA's 2021 Out-of-Service Criteria Now in Effect - CVSA – Commercial Vehicle Safety Alliance](#)

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IMPORTANT INFORMATION BELOW

RIGHT TO REPAIR – DEALERS

With the increase in technology has also come the increase in productivity of equipment, to the point that what was once considered unbelievable has turned into the mundane. I once thought a large combine that was harvesting 24,000 bushels of corn a day would be hard to improve upon. That is now considered half a day's work for the current larger class combines of today. I remember when tractors crossed the 200 PTO horsepower mark, thinking it would be hard to harness much more power than that in a two-wheel drive tractor. Now with front wheel assist, tractors with 350 horsepower and more have become available. With the increase of productivity has also come the increase of cost of the equipment as well as the cost to maintain the equipment. One wonders how much longer or how much higher the cost curve can continue to go up and will the productivity curve keep up with it.

With all these increased costs it is no surprise that some farm customers are searching for ways to contain them. Independent repair shops have always been a part of the marketing and repair chain in the farm equipment world, and today is no different. Farmers wanting to repair and maintain their equipment themselves will continue to be part of the process, and quite often is a point of pride of ownership to the farmer. Also, using an independent repair person who may very well be a relative of the farmer is nothing unusual. And as we all know, quite often this independent repair person is someone who originally worked at a local dealership, receiving years of training from that dealership only to leave and go into competition with them. It is a fact of the entrepreneurial spirit of this great nation and something that will be cherished for years to come. Rather than fight against this spirit, dealerships most often embrace it and attempt to work with independent repair shops as much as possible and peacefully coexist with them.

Problems do arise though, when customers and repair shops feel that they are not allowed information or tools necessary to repair and maintain the newer, highly technical equipment. Notice I used the term **“feel”** in the previous sentence. The feeling that information and tools are not made available to customers has spawned a whole movement across America know as Right to Repair. From a dealership point of view, this phrase, Right to Repair, is nearly comical. Dealers have always encouraged customers to repair and maintain their equipment to the degree the customer is comfortable in doing. Dealers have also provided training to customers to assist them in these repairs. But with the advancement of technology, some repairs are no longer quite as simple as they were 15 to 20 years ago. Now the need of electronic service tools (computers) and specialized voltage meters have become a necessity, and volumes of written information is needed in diagnosing and repairing equipment. It is when the feeling that these tools and information are not made readily available that end users of equipment or repair shops begin to feel discriminated against. To us in the dealership world, this is total nonsense. We know that the information and tools are readily available to anyone who wants to buy them. We also will make the training to use such tools and information available to any person who wishes to pay for it.

So why do we continue to have Right to Repair legislation introduced in state legislatures across the nation? Mark Hennessey, our CEO and President of INEDA stated it best during the hearing on LB 543. We have an awareness problem. Customers and independent repair shops are not aware of how many tools and how much information is already available to them for purchase or for free. And to be honest, dealerships have some blame to share in this also, as we have not done an outstanding job of making sure our customers know this information is available, and how much repair work can be accomplished “over the air” by generating repair codes at the dealership and sending them via satellite or cell phone tower communication directly to the affected machine that is down.

Right now, is the time that dealers MUST implement an enlighten-

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Northeast Dealer | 13
MAY 2021

AFTER THE ROLLOVER... IT'S TOO LATE

Any time a tanker truck is involved in an accident, it makes headlines.

An incident occurred in California where a driver was reported to be speeding and lost control of the tanker while rounding a curve. The truck hit a guardrail and overturned. Heat from the ensuing fire caused support beams to collapse onto the roadway below. The driver survived and no other injuries were reported; however, the tractor, trailer, and load of fuel were destroyed. Costs to repair the highway could eventually run into the tens of millions of dollars.

Could something like this happen to your drivers?

Several factors may have contributed to the accident described, but tanker accidents are a risk for any petroleum marketing operation. Fortunately, there are measures you can take to help prevent rollover accidents. The first and most important is to hire qualified drivers. Always conduct background checks on prospective drivers—obtain motor vehicle records, check with past employers, check criminal records, and ask about past experience and training. Also, require drug and alcohol screening.

Driving a truck is a dangerous profession and driving a fuel transport is one of the most dangerous. Improvements in traffic safety have resulted in a decline in fatal crashes involving trucks over the last twenty years according to the National Highway Traffic Safety Administration (NHTSA) and other analysts.ⁱ But, when accidents do occur, the losses are usually severe. Federated Mutual Insurance Company conducted a two-year study of auto claims made by petroleum and convenience store marketers that showed rollover accidents accounted for nearly 3 percent of the frequency and almost 25 percent of the severity (cost) of these claims.

What are the causes of transport rollover crashes?

Oftentimes speed—coupled with the centrifugal force of the liquid load—causes a transport to roll. In these accidents, the tractor and trailer is usually totaled and the load of fuel either burns or runs into the nearest drainage area, such as a creek or river. In many cases, the driver does not survive the crash or fire.

Most rollovers are the result of excessive speed and often occur when the transport enters an exit ramp too fast. According to the NHTSA, “traveling too fast for conditions” accounts for 67 percent of large truck crashes.ⁱⁱ Rollovers also occur when a driver “overcorrects” after a wheel runs onto the shoulder of the road. In either situation, the center of gravity changes resulting in a rollover.

Some drivers don't realize that the posted speed on an exit ramp is for an automobile. A truck with a high center of gravity must enter the exit ramp at a slower speed than an automobile.

A large truck may have only one-third of the basic stability of an automobile. It is difficult for a full-sized car to generate the force necessary to roll over. However, it is not difficult for a fuel transport to generate the force needed to roll when the load shifts to the outside of the tank. It becomes easier to roll when the tanker is half empty and with suspension problems

Other common reported causes of transport rollovers are:

- Driver fatigue
- Lack of driving experience for the type of vehicle and trailer
- Driver distraction (cell phones, phantom vehicles, or animals)
- Physical features that decrease a driver's awareness of conditions (air-ride seats and new automatic transmissions)

Regardless of the cause—transport crashes can and will change your business.

What do drivers need to know?

Driver training and driver awareness are critical in the prevention of rollovers at your business.

- Training drivers on the **dynamics of load surge** is key. Liquid tanks filled to their normal capacity (with 5 percent outage or less) handle essentially the same as a similar truck with a solid load. However, drivers must consider the characteristics of a partially loaded (or unloaded) tank.
- In general, a down-loaded tank will be less stable under cornering and braking conditions, a factor drivers need to know for safe driving of the unit. When unloading a transport, always unload the smallest compartment last if there is a possibility that the entire contents may not be unloaded. Start unloading with the center of the transport, unloading the front compartment last.

Training your drivers on the **effects of speed and liquid loads** may reduce the possibility of one of your transports rolling over.

ⁱ National Center for Statistics and Analysis, “An Analysis of Fatal Large Truck Crashes,” June 2003.

ⁱⁱ National Highway Traffic Safety Administration, “Large-Truck Crash Causation Study: An Initial Overview,” August 2006.

To help in the prevention of rollover accidents, Federated Insurance offers a training program to address areas identified as leading causes of transport rollovers. Program material includes a video, “The Point of No Return,” and a Leader's Guide. If your business is insured with Federated, your local Federated representative will provide you with a free copy.*

**This program may not be available in all states or for all businesses.*

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RIGHT TO REPAIR

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ment program for their customers when a new piece of machinery is delivered to the customer. It **MUST** become a part of the delivery process. Customers **MUST** be instructed on how to access the information that is contained on the computer module inside the tractor cab or in cell phone apps. Customers **MUST** be made aware that all service tools (computers and hard tools) are available for purchase. Customers **MUST** be made aware that everything a dealership uses in repairing equipment is also available to the end user. If dealers do not accomplish this task, we will continue to fight Right to Repair legislation, and at some point, we will no longer be able to defend our position of not allowing MODIFICATION of software on our equipment. We cannot allow this to happen. **Please, if you have not already, start incorporating a process of education to your customer at time of delivery of new equipment of the tools and information available for them to purchase and use. Only you can prevent further legislative action against our industry.**

~ Article courtesy of Mark Othmer
Iowa Nebraska Equipment Dealers Association

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But, if you merely recommend that employees get a COVID-19 shot, and one of them has an adverse reaction, you do not need to record it. OSHA is exercising its "enforcement discretion" only to require the recording of adverse effects to required vaccines at this time.

The impact (value) of the association's legislative advocacy, work-force development, and Industry Relations work can easily be overlooked. Our efforts cannot be accomplished without significant financial investment, support, and grassroots participation. If we're to continue that work, we are going to need your help participating in and financially supporting our legislative work, association governance/direction, and program development. We need your help recruiting new members, participating in legislative visits, giving testimony, contributing financially to the legal/legislative fund, association governance/direction, and program development!

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S-Corp? C-Corp? Is There Even A Difference???

ABSOLUTELY.



BY ROMAN BASI

It is no secret that taxpayers and business owners want to pay as little money to the federal government as possible. Tax deductions, tax credits, and other means of reducing your tax burden are good throughout the year. But when was the last time you evaluated the taxation structure of your entity? While some small businesses fall under sole proprietors (where income is reported on an individual's Schedule C) or partnerships (where income is reported on a business' Form 1065), others may prove it to be more beneficial to elect either S corporation or C corporation status with the Internal Revenue Service to minimize their tax burden.

S corporations are corporations that elect to pass corporate income, losses, deductions, and credits through to their shareholders for federal tax purposes. Shareholders of S corporations report the flow-through of income and losses on their personal tax returns and are assessed tax at their individual income tax rates. This allows S corporations to avoid double taxation on the corporate income. S corporations are responsible for tax on certain built-in gains and passive income at the entity level.

To qualify for S corporation status, the corporation must meet the following requirements:

- Be a domestic corporation.
- Have only allowable shareholders.
 - May be individuals, certain trusts, and estates and.
 - May not be partnerships, corporations, or non-resident alien shareholders.
- Have no more than 100 shareholders
- Have only one class of stock
- Not be an ineligible corporation (i.e., certain financial institutions, insurance companies, and domestic international sales corporations).
- File a Form 2553 (Election by a Small Business Corporation)

You will note that according to the above rules, one s corporation cannot own another. However, as with most things in tax law, there is a work around! A parent S corporation uses Form 8869 to elect to treat one or more of its eligible subsidiaries as a qualified subchapter S subsidiary (QSub).

The QSub election results in a deemed liquidation of the subsidiary into the parent. Following the deemed liquidation, the QSub is not treated as a separate corporation and all the subsidiary's assets, liabilities, and items of income, deduction, and credit are treated as those of the parent.

C corporations operate quite differently. In forming a corporation, prospective shareholders exchange money, property, or both, for the corporation's capital stock. A corporation generally takes the same deductions as a sole proprietorship to figure its taxable income. A corporation can also take special deductions. For federal income tax purposes, a C corporation is recognized as a separate taxpaying entity. A corporation conducts business, realizes net income or loss, pays taxes, and distributes profits to shareholders. All c-corps pay a flat 21% tax rate on net business income.

The profit of a corporation is taxed to the corporation when earned, and then is taxed to the shareholders when distributed as dividends. This creates a double tax. The corporation does not get a tax deduction when it distributes dividends to shareholders. Shareholders cannot deduct any loss of the corporation.

While C corporation profits are taxed twice, since the 2017 Tax Cuts and Jobs Act was signed into law, C corporation taxes are a flat 21%. Individual federal income tax rates can go as high as 37%. Another change with the 2017 tax law is that owners of pass-through entities like S corporations may be able to deduct 20% of the business income from their individual tax returns. C corporation owners are not afforded that luxury.

continued on page 22

... others may prove it to be more beneficial to elect either S corporation or C corporation status with the Internal Revenue Service to minimize their tax burden.



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BY JOHN CHAPIN

The Two Most Important Character Traits of Successful Salespeople

TWO KEY TRAITS OF TOP-PRODUCERS

Trait #1: Extreme Ownership

The most successful salespeople take complete ownership of everything in their life, and I do mean everything. From sales numbers all the way to car accidents, they see themselves as ultimately in control of, and responsible for, anything related to getting their job done and meeting obligations. In this way they are empowered so that when something goes wrong, they can immediately grab the bull by the horns and do what they have to in order to remedy the situation. They don't spend time complaining, playing the victim, or throwing their hands up in a "what's the use, it's out of my control" fashion. I've seen the best salespeople overcome weather, power outages, tornadoes, car accidents, trips to the hospital, and almost everything else you can imagine, to make sales calls and hit their numbers. If you have a meeting scheduled with them and the world is coming to an end, you can bet everything you own that they'll be there.

Top salespeople are committed to and completely accountable to their clients, their family, themselves, their company and co-workers, and everyone else they come into contact with. They are hard workers and self-starters and have the willingness to push themselves harder than anyone else can possibly push them. If you tell them to make 20 calls, they'll make 30. If you tell them they're going to have to work nights and Saturdays, not only will they do that, they'll also be the first one in in the morning and they'll work Sundays too. You don't need to look over their shoulder to make sure they're doing what they should be doing. They understand they have an obligation to their clients, and to the company that pays them, to go above and beyond put in maximum effort.

Top producers are completely sold on their product to the point which, if it's one they themselves can own, they do, along with their family and friends. They have conviction and are passionate about helping others while at the same time saving people from the competition who at best, will not take as good of care of them as they will and, at worst, will even take advantage of them. They have a willingness to go far above and beyond for prospects and clients and will do anything and everything to win fairly and ethically.

Top producers understand that success is completely up to them. They take complete ownership, extreme ownership, reminding themselves that they are 100% responsible for their success. If they fail, they own it. Everything begins and ends with them. They don't blame anyone or anything outside of themselves. You won't hear them complaining about the competition being cheaper, the supposed bad market for their product, or the new industry regulations. They know that even in the toughest of conditions, someone is thriving, and they're determined it's going to be them. You also won't hear them blaming outside forces for a lost sale, past failure, or anything else that has put them in their present position in life.

Trait #2: Extreme drive and determination

The best are extremely driven and determined. They know why they are doing what they are doing and they know who and what they are doing it for. They know that the super stars aren't super-human, they are average, flawed individuals just like the rest of us. The difference is they've found a reason, a purpose within them, that gets them up early, keeps them up late, and keeps the fire of motivation and determination burning brightly within them and they use it to outwork everyone.

The champions are like extreme athletes when it comes to dedication, commitment and preparation. They make do-or-die commitments. They do whatever it takes to make their dreams and vision a reality and are willing to fight, or even die, for what they believe

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Top salespeople are committed to and completely accountable to their clients, their family, themselves, their company and co-workers, and everyone else they come into contact with.

LANTERNFLY'S ATTRACTION TO VERTICAL SILHOUETTES COULD HELP MONITOR, TRAP IT

By Amy Duke - March 29, 2021

UNIVERSITY PARK, PA — Like moths to a flame, spotted lanternflies are visually drawn toward and seemingly captivated by vertical objects such as utility poles, a behavior that could be valuable in predicting where the pests might be heading, according to entomologists in Penn State's College of Agricultural Sciences.

Research from the laboratory of Tom Baker, recently published in the Journal of Insect Behavior, is laying the foundation for future strategies to monitor and possibly trap the invasive insect from Asia, which first was found in North America in Berks County, Pennsylvania, in 2014. The

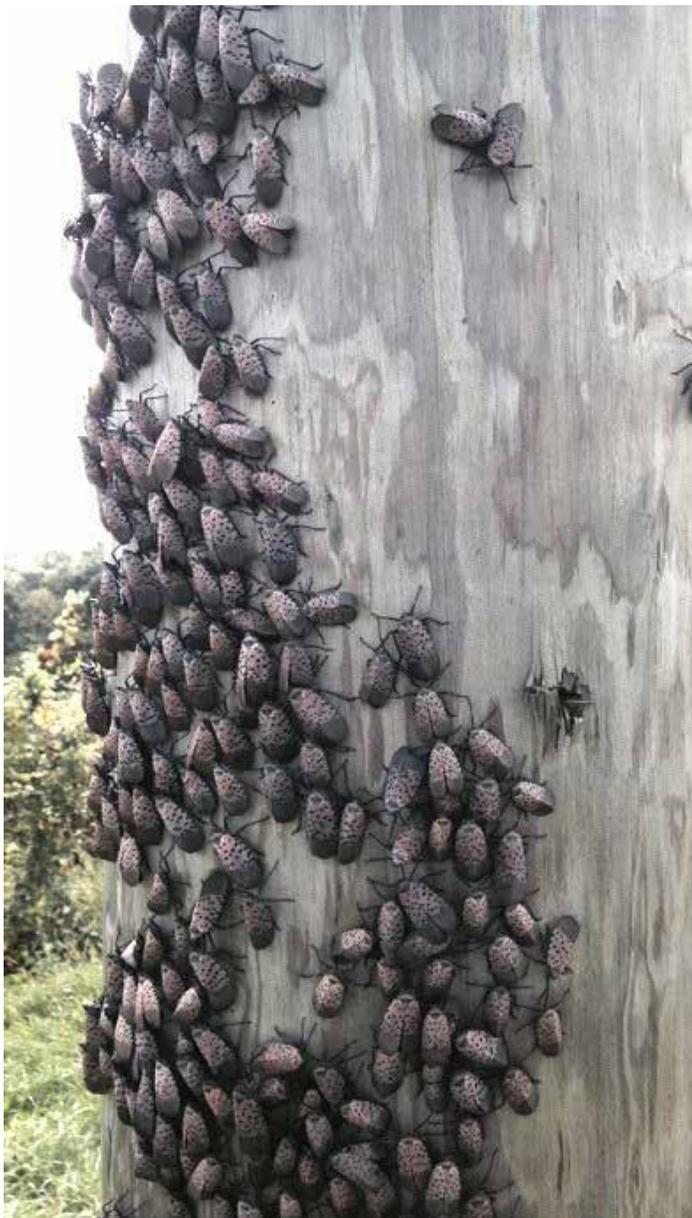
planthopper now is confirmed in 34 Pennsylvania counties and several surrounding states.

These findings show that telephone poles attract flight-dispersing spotted lanternflies, which are visually drawn to turn and land on the poles when they are less than about 10 feet away. They remain on the pole for many minutes, even hours, while crawling up toward the top to try to take flight again.

However, a large proportion of those launching themselves from the pole are drawn back to the pole, which serves as a sort of "visual magnet" from which the insects cannot escape for a while. The pole thus attracts and retains a large proportion of the lanternflies that are drawn to it.

See balance of this important article supplied by PSU extension and/or call-888-4BAD-FLY (888-422-3359) – [Click here](#): To read more on Lanternfly's attraction to vertical silhouettes could help monitor, trap it.

~ Penn State University (psu.edu)



An accumulation of spotted lanternfly adults on the telephone pole at the study site on Sept. 26, 2018. Most of the lanternflies are quiescent, but some, at right, can be seen beginning to walk up the pole. One of the pests, shown in silhouette at bottom right, has its stylets inserted into the pole.

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S-Corp? C-Corp? *continued from page 18*

Both C and S corporations must file a federal income tax return. C corporations use Form 1120 to calculate their taxes due. S corporations use Form 1120S as an information return. S corporations must also prepare a Schedule K-1 for each shareholder to include with their individual returns. As a tip to current S corporation shareholders, DO NOT file your individual tax return until after receiving the Schedule K-1 regarding the business.

While both C corporations and S corporations are responsible for income tax withholding and payroll taxes for salaried employees, S corporations have additional requirements.

In an effort by the IRS to prevent tax avoidance schemes, distributions to S corporation shareholders "must be treated as wages to the extent the amounts are reasonable compensation for services rendered to the corporation." In short, S corporation shareholders cannot take dividends in place of a salary to avoid payroll taxes. This is an area where S corporations are heavily audited.

C corporations generally escape scrutiny on how owners are paid. Because salaries are deductible and dividends are not, any gain shareholders receive by taking dividends in place of a salary is largely canceled out by double taxation.

If an individual's personal tax rate is greater than 21%, it may be worthwhile to consider converting their business entity to a c corporation. If you own a small business and have any questions regarding your tax structure, please reach out to the professionals at The Center for Financial, Legal and Tax Planning, Inc at (618) 997-3436.

Article courtesy of: Basi, Basi & Associates at The Center for Financial, Legal & Tax Planning, Inc.

- Mergers & Acquisition • Business Valuation
- Business Succession Planning • Strategic Planning and Negotiation for Buying or Selling a Business

Successful Salespeople

continued from page 20

in. Top producers realize that there is no such thing as get-rich-quick or overnight success. They know that you must pay the price for success in advance and they do. They are willing to suffer and put in lots of work and they don't require immediate rewards or payoff. They are willing to work like no one will for three, five, or ten years or more, to live the rest of their life like no one can.

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Finally, the best understand that, yes, sheer will and determination will pretty overcome any obstacle and take you anywhere you want to go in life. They apply that will and determination at a level that few humans are willing to match. They decide on a goal and then cut off all avenues of escape, they burn the boats behind them. They made the decision to climb the mountain knowing they are either getting to the top, or they are dying on the side of the mountain, but they are not coming down, they aren't quitting. It's all-or-nothing, do-or-die.

John Chapin is a motivational sales speaker and trainer. For his free newsletter, go to: www.completeselling.com John has over 31 years of sales experience as a number one sales rep and is the author of the 2010 sales book of the year: Sales Encyclopedia. (Axiom Book Awards) - The largest sales book on the planet (678 pages). 508-243-7359 - 24/7 - johnchapin@completeselling.com - www.completeselling.com



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Indefinite Leave. Can You Terminate?

What is the responsibility of the employer when a newly hired employee provides I-9 documentation that shows two different surnames? Specifically, a driver's license and a Social Security card that do not match. The employee states that the SS card has her maiden name and her driver's license has her married name.

A: The US Citizenship and Immigration Service (USCIS) addresses this issue on its website at "**Examining Documents**" where it states the following:

"If your employee ... provides a document in which the name the employee wrote in Section 1 is completely or substantially different from the name on the document ... then you should ... ask the employee the reason for the name change. If your employee maintains that the name in Section 1 is his or her legal name and you are satisfied that the document reasonably appears to relate to the employee, you may accept the document." The USCIS further recommends that employers in this situation "attach a memo to the Form I-9 explaining the discrepancy. If the employee voluntarily provides proof of a name change, you may keep a copy of it with the memo."

The employee in question has presented documents with two different surnames (and presumably she used one of them when completing the Form I-9). It is certainly feasible that the married employee in question might have her maiden name on her social security card (if she has not yet updated the document) and her married name on her driver's license. As the USCIS notes above, if the documents reasonably appear to be genuine and to relate to person presenting them, you may accept them. We do recommend attaching a memo to the I-9 to indicate that the employee advised that the discrepancy in the surnames on the documents is because one is her maiden name (SS Card) and the other is her married last name (driver's license). Should she present a copy of her marriage license or similar certificate to evidence this further – although this is not required and we advise against mandating that she do so – the employer can make a copy of such document and attach it to the memo and I-9 as well.

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