

Northeast

# DEALER

The Newsletter of NORTHEAST EQUIPMENT DEALERS ASSOCIATION, INC.

www.ne-equip.com

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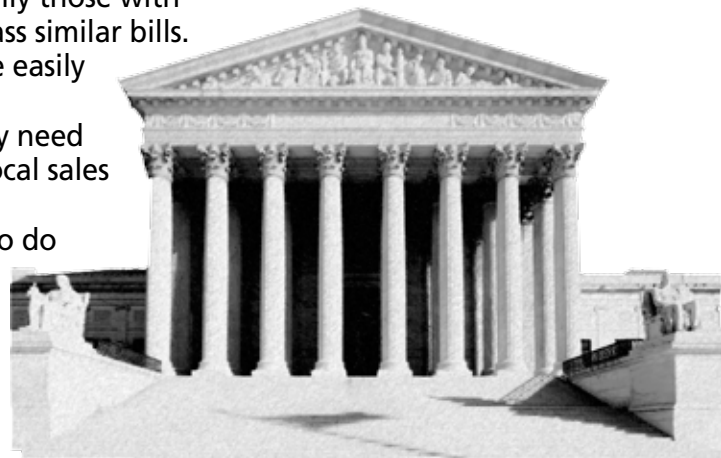
## EDA & HBK CPAs & Consultants Warn Dealers About Supreme Court's WAYFAIR RULING

The Equipment Dealers Association (EDA) and HBK CPAs & Consultants are concerned about the unintended consequences and potential implications the Supreme Court Case, South Dakota v. Wayfair may have on equipment dealers throughout the United States.

The decision, overturning 1992 precedent, means that South Dakota can now collect sales tax from businesses operating outside of the state. Framed as a decision that impacts online retailers only, Rex Collins, Principal with HBK CPAs & Consultants, urges equipment dealers to be aware as this ruling has potentially devastating consequences for their businesses, such as:

- It is very reasonable to assume that other states, especially those with similar economic nexus statutes as South Dakota, will pass similar bills.
- Economic nexus limits (typically \$100,000 - \$250,000) are easily met by dealers.
- Cost of compliance could be extensive. Dealers will likely need to hire personnel or outside firms to handle state and local sales and income tax filings.
- Additional costs may include registrations and licenses to do business in various states and their annual renewals.
- Possibility of paying income tax in a state where your business does not operate a store but sold a piece of equipment.

(See page 16 for related article.)



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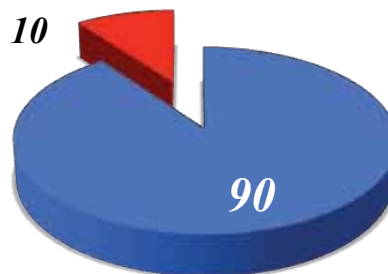
<u>Policy Year</u>	<u>Dividend</u>
2015-2016	30.0%
2014-2015	20.0%
2013-2014	15.0%
2012-2013	15.0%
2011-2012	5.0%
2010-2011	20.0%
2009-2010	25.0%
2008-2009	37.5%
2007-2008	20.0%
2006-2007	35.0%



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# Observations **FIELD**

from the



**Tim Wentz**  
Field Director I  
Legislative Committee  
Chairman  
717.576.6794

Dealers I've visited recently continue to be cautiously optimistic, although a significant number voiced concern regarding the state of the dairy industry, work-force development, commodity prices and continuing frustration(s) with their manufacturer(s) relationship. Warranty compensation logged most of the manufacturer complaints, although I have also heard frustrations regarding dealers being valued as an equal partner, parts pricing, availability (parts and whole goods), floor plan and retail finance programs, product quality and support (or lack thereof), application of market share/performance standards, and the equal application of "dealer" standards to all retailers representing the manufacturer

(Big Box stores included). While some might argue that yesterday's market place was more challenging than today's, I think everyone will agree that being a profitable equipment dealer isn't an easy task!

If I had to use one word to tell dealers how to get the maximum return on their dues investment it would be **PARTICIPATION**, and if I could add another it would be **COMMUNICATION!** That in mind I'd like to take some time and review some of the work your association is doing on our members' behalf.

## WORKFORCE DEVELOPMENT:

Of late, dealers have told me that finding, hiring, training and developing employees has become a top, if not the most pressing, issue for dealers I've visited. I recently stopped to visit a dealership location operating without either a service manager or a location manager while talking to another dealer. They told me that they simply didn't have enough technicians and were turning service work away. Both dealers are leaving far too much money on the table.

We're very excited about our PA Ag Technician Apprenticeship program and hope to have our first round of apprentices enrolled this fall. It's taken a great deal of work and I want to thank **Messick's, Deer Country, Hooper's, Binkley & Hurst** and **Stauffer Diesel** for their leadership, participation and financial support! Building a program founded on competencies, building the capacity for independent testing/confirmation of those competencies is expensive. The pay-off will be that we will have a verifiable and repeatable method for ensuring technicians have the skills they need to "do the job"!

I can't thank them enough for their investments in time, including taking technicians off of the road to participate in meetings and conference calls, and hope that you all will reach out and thank them as we

*continued on page 6*

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# ASSOCIATION

*News*

CT ME MA NH NJ NY PA RI VT  
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## Elder Sales and Service Inc., Announced that LandPro Equipment Acquired its Three Retail Locations

Elder Sales and Service Inc., headquartered in Stoneboro, PA, announced that LandPro Equipment has acquired its three retail locations, Elder Ag and Turf Equipment Co. of Stoneboro and Fairmount City, PA, and East Palestine, OH.

Elder's was established in 1952 by Harry M. Elder Sr. as a Minneapolis Moline and Oliver Tractor dealer. The business grew into a three generation, three location business providing equipment, parts and service for agricultural, commercial, and home owners in Pennsylvania, Ohio and surrounding states. Current owners, Harry M. Elder Jr. and wife Teresa, C.H. McCutcheon and wife Joyce and Harry Elder Sr. and wife Roberta see this acquisition by LandPro as a positive step to continue their family legacy of caring for their employees and customers.

Harry Elder Jr. and C.H. McCutcheon will remain in their roles as store managers. Harry Elder Jr. stated that "becoming part of LandPro will ensure that our loyal customers of over 65 years will continue to receive the excellent products and professional service they have become accustomed to."

LandPro Equipment, the Northeast's largest John Deere Dealership, is an 11- store dealership with headquarters in Falconer, N.Y. and stores located throughout western New York and northwestern Pennsylvania. As Elder Ag & Turf joins LandPro Equipment they will be able to extend even greater opportunity to their employees and customers. LandPro Equipment offers increased buying power with John Deere and many other vendors.

"We are excited to welcome Elder Ag and Turf to our LandPro family. We're rejoicing similar values of hard work, dedication and a commitment to customer service." said Tracy Buck, LandPro Equipment president. "I look forward to building new relationships and continuing to give our customers an outstanding experience."

LandPro Equipment provides new and used lawn and garden, commercial, light industrial and agricultural equipment to western New York, northwestern Pennsylvania and now northeastern Ohio.

*~ Courtesy of Farm Equipment Publication - 6/22/2018  
June 21, 2018 - Posted in Dealer News*

In a continuing effort to enhance our member services, NEDA has added a legislative report function to our website. The listing includes recent actions and links for legislation we are tracking on your behalf in the US Congress, Maine, New Hampshire, Vermont, Massachusetts, Connecticut, Rhode Island, New York, New Jersey and Pennsylvania. [Click here](#) to get the most current legislative report.





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# ASSOCIATION

# News

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## Observations *continued from page 3*

ish our development work, prove the model and move forward. They are the model of dealers maximizing return on their dues via participation and communication!

### Manufacturer Relations:

Hopefully you've received a solicitation for input used to guide discussion at an upcoming IRTF manufacturer visit and dealer agreement reviews and have in turn received the meeting report or agreement review. Simply put, the ITRF program works best when **YOU** participate in the process! Please respond to the solicitations (what is working & what is not) and send in a "updated" dealer agreement. I should also add that if you submitted a question or dealer agreement and did not see the issue addressed in the manufacturer meeting report, challenge us. The question may have been addressed, but didn't make the meeting minutes. The NEDA staff is in regular communication with manufacturer representatives, other associations and dealers and have been effective at either helping to solve "issues" individually and/or facilitating "group" communications. Bottom line, **COMMUNICATION** is the key and NEDA can't help if we don't know about the problem!

**REAP the benefits of membership your PROFITS will follow!**

*Welcome*  
**NEW MEMBER**  
**NEW DEALER MEMBER**

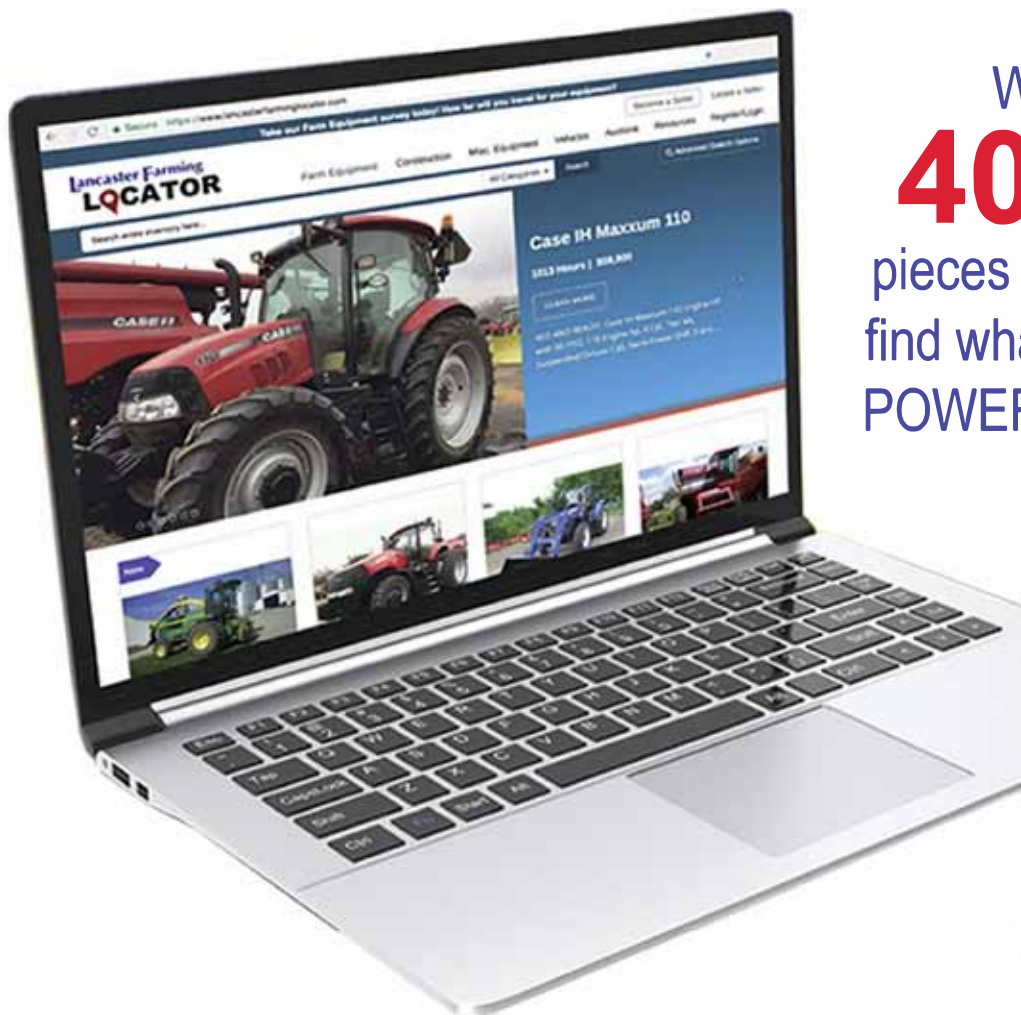
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*News*

*In Memoriam*

## KEVIN V. HOUGHTALING ☞ Middlebury, PA

Kevin V. Houghtaling, age 62 of Middlebury Pa. passed away at his home on Monday, June 25, 2018 with his loving wife by his side. Born May 19, 1956 in Wellsboro, he was the son of the late LeRoy and Viola (Watkins) Houghtaling. He owned and operated Houghtaling's Garage in Middlebury for over 40 years. He was a former member of the Northeast Equipment Dealer Association and the Odd Fellows. Kevin has been an active board member of the Tioga County Fair since 1985, serving as President and Vice President of the executive committee for several years. He is survived by his wife, Colleen and was preceded in death by his sister, Priscilla and a brother, Elroy. Memorial donations may be made to the Tioga County Fair, 2258 Charleston Road, Wellsboro, PA 16901; Susquehanna Health Cancer Center at SSMH, 15 Meade Street, L-3, Wellsboro, PA 16901; Wilmot Cancer Center, 601 Elmwood Avenue, Rochester, NY 14642 or the American Cancer Society.

## Are you Tracking Your Business in Real-Time?

BY BETSY CHASE, CHARTER SOFTWARE

In a world where we've gotten quite used to knowing about and responding to an event almost immediately as it occurs, it only makes sense to use the same approach when tracking and responding to information related to your business. For example, in the same way that you might quickly react to news that could affect the price of a stock you own, take action after being alerted to suspicious purchases on a credit card, or reply to an influx of social media posts about your company is how savvy business owners are now managing their dealerships. The key to this approach is to use a business system that processes your data in real-time, which, according to Wikipedia is "information that is delivered immediately after collection." The ability to track and analyze real-time data offers dealer principals, managers, and owners speed, flexibility, and competitive advantage. Continuously refreshed data viewable on their system dashboard provides business owners with an instant read on their business, reflecting business changes as they occur.

The ability to track and analyze real-time data offers dealer principals, managers, and owners speed, flexibility, and competitive advantage.

Real-time dealership management systems respond to the way that equipment dealers want to manage their business. Users of traditional business systems must wait for data to accumulate, and then be sorted and extracted, resulting in a picture that is out-of-date. What most managers want—and need—is a view of what's happening within their business operations, as it happens.

One of the most important applications for real-time data is a CRM (customer relations management) system, ideally a component of the dealership management system. Up-to-the-

minute information about customers, such as their customer purchase and service history, can be used to make better and quicker business decisions, often within the span of the customer interaction.

Access to real-time analytics also provides better sales insight by letting sales managers see exactly how the sales team is performing. It also has a huge impact on the accounting process. "Real-time accounting in a business system means that transactions are processed as they occur," says Melissa Amen, Customer Success Manager, Charter Software Inc. "In a batch system, transactions may not post until the end of the day, leaving you with the unsavory options of either having to dig through piles of paper or wait until the next day to find what you need," says Amen. "Plus, in a real-time system like ASPEN, the data is right at your fingertips, and the ability to drill-down to transaction detail provides so much flexibility," she adds.

To truly take advantage of real-time analytics, management and staff need to be ready to act on the data as quickly as it is received—and there is a lot of data pouring into the dealership, all day long. Craig Houseknecht, VP of Operations, MTE Turf Equipment Solutions, says, "With three locations, it can be difficult to keep track of what is going on in multiple parts departments, multiple service departments, managing inventory, etc. Access to the real time data in ASPEN helps us to do our jobs every day by allowing us to see a lot of things we wouldn't otherwise be able to see."

For additional information, phone 303.932.6875, fax 303-932-6427 or visit our website: [www.chartersoftware.com](http://www.chartersoftware.com)





# NEDA

## Northeast Equipment Dealers Association



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### AUGUST 2018

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## WL9RCT

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Case Pack: 20 UNITS

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**WL18RCT**

**WL9RCT**

Qty.

Cost Ea.

**\$15.99**

**\$15.65**

Total

**SUB TOTAL:** \_\_\_\_\_

(IF NOT FOR RESALE) TAX: \_\_\_\_\_

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**TOTAL:** \_\_\_\_\_

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OFFER EXPIRES AUGUST 31, 2018

# Creating a Safety Culture in Fleets/Shops

As a trainer, shop owner, mechanic, and an active member of TANY, I have a unique opportunity to see how various fleets and shops operate. I am able to interact with both the mechanics and the drivers, mainly because of the various trainings I do across the state.

Safety is one of those common-sense rules we all try to follow while performing our tasks. The degree of application of safety tends to vary from fleet to fleet and from shop to shop. Quite often, a major incident will be the driving force behind an organization's focus on safety. In my brakes course, I take the time to explain the dangers of exposure to handling spring brake chambers. I accomplish this through videos, photos, and mathematically showing the forces that are developed to hold air-braked vehicles in a parked mode utilizing spring brake chambers. Through this process I am able to explain the dangers we are exposed to by not properly handling or working with these types of chambers. On occasion, I will run across some technicians going through my trainings who have been injured due to these spring brakes. Every one of those injuries could have been avoided with better knowledge and training.

Communication skills are very important in conveying information, concepts, rules, and regulations. In recent years we have found ourselves in a critical position of having a shortage of drivers and mechanics in the industry. Many fleets and shops have hired non-native English speakers as mechanics and drivers to cover the shortages. Comprehension (or lack of comprehension) of our language, whether verbal or written, can make communications difficult at times.

Recently, I came across an article about a mechanic who was struck and killed by an over-pressurized suspension air spring on a tractor at a repair facility in Kentucky. Tragically, the mechanic was one of only 20 employees and left behind a wife and children. He had been employed at the repair facility a little more than a year as a full-time mechanic. This shop had two mechanics with a combined five years on-the-job experience at this task of replacing the air springs (bags) on the vehicle. The article noted that instead of using jacks and stands to raise the axle and frame, it was common practice for the employees to use the shop's air system connected to the vehicle's air system to raise the axle or frame in order to remove or fit the bag in. As they were raising the left rear frame with

a newly installed air spring, the air spring exploded from over-pressurization, hitting the victim in the forehead and killing him. The typical air pressure put out by the tractor is 120 psi; however, it was discovered that the shop air pressure was at 170 psi.

## **The investigation identified the following factors contributing to this fatality:**

- Lack of safety training on installation and removal of air springs;
- Not following the manufacturer's instructions for PSI;
- Use of shop air compressor instead of the truck's air system; and
- Failing to use proper equipment to raise the axle/frame

## **After the investigation, the following recommendations were made:**

- Employers should enforce the use of manufacturer's instructions and specifications;
- Employers should develop and implement a training program for new employees and annual refresher training for tasks that are deemed highly hazardous; and
- Employers should develop a written safety program and translate written training material into languages that all employees can understand
- Manufacturers should consider offering manuals and instructions in more than one language.

That type of an accident should be a wake-up call to all of us not to get complacent whenever we work on, or around, vehicles, components, and systems that can be hazardous to us. Employers and employees who don't value safety can put everyone, including themselves, in danger. Consider the customer or driver who leaves with a dangerously repaired vehicle. A resulting lawsuit can put you out of business. It takes a team effort to develop a culture of safety. Each shop or fleet has a different culture and different values. Sharing the same goals for safety among all employees is the basis of creating a culture of safety. Respect and dedication by employees are crucial to keeping shops and fleets successful.

*~ Courtesy of Tany newsletter*

# New Jersey Is At It Again – A REMINDER

Motor Carriers that are making pick-ups or deliveries in the State of New Jersey should be aware of New Jersey tax laws that may require registering with New Jersey and filing corporate business taxes with the state.

New Jersey revenue agents are working at weigh stations along the interstate, and are impounding trucks from motor carriers that may owe state taxes. The revenue agents do not have the authority to stop trucks, but once stopped the agents are asking drivers from motor carriers not on the list of registered businesses if they have made pick-ups or deliveries within the state. If the answer is yes, the agents are calculating the taxes owed and impounding the truck until payment is made to the state. The drivers are free to leave the state, without their truck.

In a recent case, a motor carrier from Canada was held at the weigh station until the motor carrier registered with New Jersey and paid the estimated tax of \$7,700. Motor carriers are then able to file the actual tax return to the state and often are eligible for a refund of some of the tax.

Visit the New Jersey Department of Treasury for more information and forms for registering and filing with the state. [Click here](#)

As with any tax issue, it is recommended that you check with your tax adviser for advice and guidance when it comes to tax laws. ~Courtesy of MMTA

# MANAGEMENT BOOT CAMP 1-DAY



DATES	CITIES
WEDNESDAY OCTOBER 31 <sup>ST</sup> 2018	<b>SYRACUSE, NY</b> DOUBLE TREE EAST SYRACUSE 6301 ST. RD 298 EAST SYRACUSE, NY 13057
WEDNESDAY NOVEMBER 7 <sup>TH</sup> 2018	<b>BOSTON, MA</b> EMBASSY SUITES BOSTON/WALTHAM 550 WINTER STREET, WALTHAM, MA 02451

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# THEFT ALERT

## OTTAWA CAT BACKHOE

On Thursday morning July 19th, 2018, the below described Caterpillar 420-E-IT Backhoe was discovered stolen from a job site on Broadview Avenue, Ottawa, Ontario. The machine was last seen Tuesday July 17th.

### OTTAWA POLICE SERVICE REPORT: 18-176649

#### MACHINE DETAILS:

MAKE/MODEL:2007Caterpillar420-E-IT

TYPE: Backhoe Loader/Tool Carrier

PRODUCT ID NUMBER: CAT0420EPMW01611

**LAW ENFORCEMENT** - For access to NER's equipment ownership registration and theft records, and for machine identification assistance, call NICB: 800-447-6282. For online access, click "Log in" at [www.ner.net](http://www.ner.net)

Report suspicious activity involving equipment immediately: dial 911 if you witness something that does not add up.

National Equipment Register

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rgaiss@ne-equip.com

**Dave Close**, Operations Manager  
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davec@ne-equip.com

**Kelli Neider**, Administrative Assistant  
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kneider@ne-equip.com (Business Forms)

**Tim Wentz**, Field Director / Legislative  
Committee Chairman  
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# HIRE A VET

Looking to hire a veteran? Then you probably already know the many reasons that veterans make excellent employees.

## Two steps to hire a vet

Follow these two simple steps to find and hire qualified veterans.

1. Begin by posting your job opening on your state job bank (each state has this job bank). Follow the instructions on your state job bank website to post jobs.
2. Next, contact a Veterans Employment Representative at an American Job Center – <https://www.careeronestop.org/Veterans/Toolkit/find-american-job-centers.aspx>
3. Let them know you want to hire a veteran. They may ask for details of your job listing(s). They will be able to help you identify qualified veterans.

## Translate military skills

Many veterans have specific skills that can be put to good use in your workplace. To learn about military occupations that may share skills and work experience with the jobs you're hiring for, visit the Business Center's Civilian-to-Military: [Click here](#)

## What about tax incentives?

You may also be eligible for a tax incentive for hiring a veteran. Read about the Work Opportunity Tax Credit (WOTC) Vow to Hire Heroes provisions. [Click Here](#):

## Learn more

Read more about veterans' rights and responsibilities at the elaws USERRA Advisor. [Click here](#)

Find more information and resources to help you recruit, hire, and train employees at Career One Stop's Business Center.

Finding qualified candidates who have served in the military can be a challenge. Learn how to take advantage of your state's tools to connect with Veterans and where you can post jobs at no cost to you by connecting with your state's Job Bank and nearest Veterans Employment Representative by visiting <https://www.careeronestop.org/Veterans/hire-a-vet.aspx>

# Five Minutes With NEDA's Dave Close

Dave Close, Director of Operations for the Northeast Equipment Dealers Assn. (NEDA), gives a behind the scenes look at the changes and challenges he's seen dealers face during his 30-year tenure with the association as well as what benefits belonging to a trade group can bring.



## Power Equipment Trade:

What are the biggest changes you've seen during your career?

**PET:** What are some of the major issues affecting dealers and how can membership in an association help?

**PET:** What may be some membership benefits dealers aren't that aware of (I didn't know membership included that!)?

**PET:** Give us your thoughts on the future of the servicing dealer sales model and the role associations will play in it.

The two-page article and his comments are in the June issue of *Equipment Trade Magazine*. [Click here to read more:](#)

## HEAVY HIGHWAY VEHICLES

Dealers using heavy highway vehicles are reminded that July 1 began the filing period to file Form 2290, Heavy Highway Vehicle Use Tax Return. Returns must be filed and payments made by August 31 for vehicles on the road during July.

The return applies to motor vehicles with a taxable gross weight of 55,000 pounds or more. This generally includes large trucks, truck tractors and buses.

The IRS expects to receive almost 800,000 returns. The IRS encourages all to electronically file because e-filers received their IRS-stamped Schedule 1 minutes after filing. Taxpayers with 25 or more taxed vehicles must electronically file Form 2290.

~ Submitted by Rex A. Collins, CPA (IN), CVA  
Cell: (317) 504-7900

# FMCSA Declines To Define "Personal Conveyance", But Knows It When It Sees It

FMCSA's approach to "personal conveyance" in the guidance. Important clarification includes movement when laden, when HOS exhausted after loading/unloading, and when at the direction of safety official when "off duty".

However, while not defining the distance or time limits of "personal conveyance", the guidance provides examples of what it does, and does not, mean. These examples and the explanation provide major insights and changes. You can find the guidance at <https://www.fmcsa.dot.gov/sites/fmcsa.dot.gov/files/docs/regulations/404421/cmv-personal-conveyance-regulatory-guidance.pdf>

"Personal conveyance" has had as many definitions as there have been trucking companies and drivers that use it. It has been construed in a way to reconcile the limits of driving and "on duty" time to meet the needs of a particular type of activity.

The advent of ELD's has made the meaning of the term even more important. Having to account for all movements of a commercial motor vehicle ("CMV"), the time allocated to "personal conveyance" will be important to account for time that is not "on duty" or "driving".

As with the prior guidance, the recent guidance still does not give a definition. Instead, the FMCSA still takes the approach that it will "know it when it sees it". "Personal conveyance" that is:

For more than two decades, we have lived with a guidance rather than a definition. That guidance made "personal conveyance" hinge on whether or not the CMV was "laden". A "laden" vehicle did not qualify for "personal conveyance". Period.

If the CMV was "unladen", the guidance then looked at the activity involved.

"Personal conveyance" would be considered to include from home to the terminal and vis versa. It would also include a short distance to a restaurant or entertainment while en route. If, of course, the CMV was unladen.

The new guidance makes a major change in that does not require the CMV to be "unladen". The reason for the removal of the "laden" exclusion is to make "personal conveyance" available to straight trucks and work vehicles from which loads and equipment cannot be removed. Whether "laden" or "unladen", the guidance then looks at the nature of the activity of the CMV in determining whether it constitutes "personal conveyance".

There are two other major clarifications. Frequently waits to load or unload drain a driver's HOS, but they are then forced by the shipper or receiver to leave their premises.

Under the new guidance, "[t]ime spent traveling to a nearby, reasonable, safe location to required rest after loading or unloading" is "personal conveyance". The time driving must allow adequate time for required rest and must be to the first resting location reasonably available. The commentary notes that if the driver cannot park at the nearest location their record of duty status (log, ABORD, ELD) should note and explain this.

Another major clarification of the guidance is that "personal conveyance" includes "[m]oving at the request of a safety official during the driver's off duty time." However, the CMV must be moved to the no further than the nearest reasonable rest and safe area to complete the rest break. Other types of travel that qualifies if also framed by examples

rather than established by definition. Those examples are travel as follows:

- From en route lodging to a restaurant or entertainment and back;
- From the last on-duty location to the driver's permanent residence and back;
- Time spent transporting personal property while off-duty
- Authorized use of a CMV to travel home after working at an offsite location.

These are examples of what will be considered "personal conveyance", not a starting point for creativity.

Conversely, the guidance gives examples of what is NOT "personal conveyance". Those examples are as follows:

- Movement that improves it work-related position, such as closer to a loading/unloading location;
- A towing unit that no longer meets the definition of a cmv after delivering the towed unit and is directed to return to pick up another unit;
- Continuing a trip in interstate commerce, even if unloaded, until the driver reaches their permanent residence, lodging, or terminal;
- Bobtailing or pulling an empty trailer to retrieve another load;
- Time spent driving a CMV to a facility for maintenance;
- After put out-of-service for exceeding maximum HOS unless directed to location by law enforcement at the scene;
- Travel to terminal after loading or unloading.

~ Courtesy of TRANSPORT CENTER UPDATE  
November, 2017 -- Vol. 9, Issue 2

## FMCSA Issues Alternative Process for Veterans Affairs Certified Medical Examiners

On June 11, 2018, the Federal Motor Carrier Safety Administration announced a final rule to establish an alternative process for physicians who are employed with Veterans Affairs to be added to the National Registry of Certified Medical Examiners.

The alternative process allows VA physicians, having successfully completed the online training and testing developed by FMCSA, to perform medical examinations and issue medical examination certificates to CMV operators who are military veterans enrolled in the VA system. Additionally, the rule clarifies the registration requirements and eliminates the 30-day waiting period before retesting for all Medical Examiners.

This rule, which was required by the Fixing America's Surface Transportation Act and the Jobs for Our Heroes Act, will take effect on August 10, 2018. A summary is available by [clicking here](#)

~ Reprinted from *The Dispatch*

# FMCSA Announces Pilot Program to Allow 18- to 21-Year-Olds with Military Driving Experience to Operate in Interstate Commerce

On July 6, 2018, FMCSA published a notice providing the details of a three-year pilot program to study the safety outcomes of commercial motor vehicle drivers under the age of 21 with military experience, between the ages of 21- 24 operating in interstate commerce and 18-20 years olds operating in intrastate commerce. The pilot program would consist of 50 motor carriers and 600 drivers from the three groups.

To ensure that strict qualifications safety standards are met, FMCSA has established participation criteria and an internal process to monitor both the carrier and pilot program drivers to ensure highway safety is maintained. FMCSA requires OMB approval for the information collected in the pilot and is currently accepting public comment for 60 days. When the proposed information collection is approved, FMCSA will start accepting applications for the pilot program. The results of this pilot program will be publicly available and reported to Congress.

View a summary of FMCSA's pilot program [Click here](#)

~ Reprinted from *The Dispatch*

# FMCSA Denies ELD Exemption Request

After nearly a year of waiting, Western Equipment Dealers Association (WEDA) on behalf of Northeast Equipment Dealers Association (NEDA), has obtained advanced notice that the Federal Motor Carrier Safety Administration (FMCSA) will be denying our request for exemption from the Electronic Logging Device rule.

The FMCSA did not provide clarity or insight as to why our application for exemption is being denied. The letter cites that research shows the ELD rule will improve safety and reduce the overall paperwork burden for both motor carriers and drivers. It also states that granting farm equipment dealers an exemption would not achieve an equivalent, or greater, level of safety than would be achieved absent the exemption.

The FMCSA's decision was also based on comments received during the notice and comment period. An overwhelming 88 percent of filed comments were supportive of our request for exemption. Despite that, the FMCSA will publish their final decision denying our request in the federal register.

In light of this unfavorable outcome, WEDA will be turning to Congress for a legislative fix to the ELD rule. WEDA has already begun working on federal legislation in anticipation of this outcome. H.R. 5949 is a bipartisan bill co-sponsored by several members of the House Transportation Committee. The bill would exempt farm equipment dealers from the ELD mandate in many circumstances.

WEDA will continue advocating on behalf of dealers for reprieve from federal overreach and burdensome regulations such as the ELD rule. Member engagement will be crucial in the effort to pass legislation to repeal this unworkable federal mandate. Regardless of this outcome, WEDA will continue to pursue public policy outcomes that benefit successful dealers.

Questions please call the Association at 800-932-0607.

# A Short Note on the Impact of the Supreme Court's Wayfair Decision on Dealers

On June 21st, the Supreme Court of the United States issued its decision in the South Dakota v. Wayfair case. This decision will generally have a tremendous detrimental impact on dealers and their dealerships. This Wayfair case is likely the most significant state tax decision issued in over 50 years and changes the rule for collecting and remitting sales tax to a state from that of requiring a dealer to have a physical presence in that state to one of simply doing business with customers from that state (so-called "economic nexus").

We recommend that you listen to the recent HBK Dealership Industry Group's Third Thursday Webinar which provides a more complete picture of the dramatic impact of this ruling on dealers and their dealerships. The webinar can be accessed by going to [www.hbkcpa.com/resources/hbk-webinars](http://www.hbkcpa.com/resources/hbk-webinars) and viewing the July 19, 2018 webinar.

Prior to the Wayfair decision several states had adopted economic nexus statutes; but, it was unclear whether these statutes would be effective. As a result of the Supreme Court decision state's are feeling emboldened to adopt or enhance their economic nexus statutes. Some states require as little as \$10,000 in sales in a 12-month period in order to mandate the dealer to collect and remit sales tax to that state. Thus far, 27 states have enacted economic nexus rules with varying economic activity thresholds. These states and the thresholds are listed below.

State	Threshold	State	Threshold
CT	\$250,000	NJ	\$100,000
MA	\$500,000	PA	\$ 10,000
ME	\$100,000	RI	\$100,000
VT	\$100,000		

Rex Collin, Principal at HBK CPAs & Consultants. He directs HBK's National Dealership Industry Group, which provides tax, accounting, transactional and operational consulting exclusively to dealers. Rex can be reached by email at [rcollins@hbkcpa.com](mailto:rcollins@hbkcpa.com); or by phone at 317-504-7900.

Shane Finn directs HBK CPAs & Consultants State and Local Tax Practice ("SALT") with special emphasis on the impact of SALT on dealerships. Shane can be reached by email at [sfinn@hbkcpa.com](mailto:sfinn@hbkcpa.com); or by phone at 215-628-8080.

(See related article on page 1)



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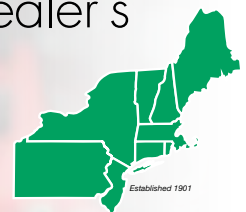
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# 10 STEPS TO SUCCESS

## HOW TO RESPOND TO AN EEOC COMPLAINT

The EEOC and state and local agencies have been filing more administrative charges in recent years and that trend is likely to continue.

Because administrative charges can be precursors to discrimination lawsuits, it is critical for you to handle them properly. These 10 tips will help you prepare to respond:

### 1. TELL THE WHOLE STORY

Often, an EEOC charge contains just one or two paragraphs, containing little more than conclusory allegations of discrimination. Resist the temptation to put minimal effort into your response.

It is usually advisable to provide a comprehensive response, detailing the circumstances surrounding the employment relationship and the reasons for adverse employment actions. Try to nip the claim in the bud by giving the agency all the facts. Demonstrate that there were legitimate business reasons for your actions.

### 2. USE DOCUMENTATION

If you have documents supporting your version of events, consider including them in your response. Documentation dating from the time of the adverse employment action can be the best way of discrediting the allegations. Attendance records, sales reports and e-mail messages can all help prove that events happened as you say they did, and that the company's concerns were bona fide.

### 3. VERIFY THE RESPONSE'S ACCURACY

Attorneys love catching an employer in a lie. Since the information you submit could be used in later legal proceedings, make sure everyone involved reviews the response and verifies the accuracy of every statement.

### 4. HIGHLIGHT CONSISTENT PAST DECISIONS

One of the best ways to demonstrate that a decision was not motivated by unlawful discrimination is to point to the same actions being taken against similarly situated employees who are not members of the charging party's protected class.

For example, if the charging party alleges that her termination was motivated by discrimination against women, tell the agency of instances when you terminated men for the same misconduct.

### 5. REMEMBER, THE AGENCY DOES NOT KNOW YOUR BUSINESS

In telling your version of the events, share details about your business that will help the agency understand your actions. Think about why the charging party's performance concerned you. Would that be readily apparent to an outsider?

For example, if you are legally required to have a certain number of staff on hand at all times, explaining

this will emphasize why poor attendance would be a significant problem in your workplace.

### 6. MAINTAIN CONFIDENTIALITY

Information about the charge should be on a need-to-know basis, especially if the charging party is still employed.

*continued on page 20*



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# Northeast Equipment Dealers Association

128 Metropolitan Park Drive—Liverpool, NY 13088—www.ne-equip.com-800-932-0607

## THINK ASSOCIATION FIRST!

The logo below was designed to be a constant reminder that your Association staff is here to serve you – our members. Your Association is an excellent source for just about anything you will need to operate your business on a day-to-day basis. Your Association can help you solve the puzzle that is often times the daily operation of your business. Why not give it a try ... call 1-800-932-0607. Our services are intended to assist you and your business to survive in any business climate.

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Attend our NY Farm Show  
2019 Dates: February 21-23



New York Farm Show is held each year in February at the New York State Fairgrounds in Syracuse, NY. It is produced by Northeast Equipment Dealers Association and the Farm Progress Companies. It continues to be the largest indoor Farm Show with 215,000 square feet of indoor displays in the east. The show includes workshops and AG related seminars. It is the spring agricultural and outdoor power planning show for the Northeast for farmers and commercial landscapers. For more information call Scott Grigor, Farm Show manager, at 315-457-8205 or visit [www.nyfarmshow.com](http://www.nyfarmshow.com)

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# EEOC Complaint continued from page 18

If you know investigators will contact employees, couch your message in terms like this: "While we do not feel there is any merit to the allegations, we respect Employee X's right to bring this charge. If you are contacted by the agency, you should cooperate and be completely honest with the investigator."

## 7. BE PROMPT AND COOPERATIVE

Do not put off preparing your response. Anti-discrimination agencies are less inclined to provide extensions than they once were. Failure to respond to a charge in a timely way can result in an adverse determination.

## 8. WORK WITH LEGAL COUNSEL

Because a discrimination charge can be the first step in a chain of legal actions, you must protect your company's interests. Many employers ask their attorneys to investigate and prepare the response. At the very least, have an attorney review a draft before you submit it.

## 9. CONTACT YOUR INSURER

Insurance policies require insured parties to provide prompt notice of claims. Many employment-practices liability policies define claims to include

discrimination charges. Failing to apprise the insurer of a charge could result in denial of coverage, for not only the charge but also all subsequent legal claims.

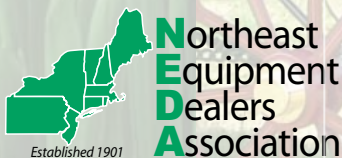
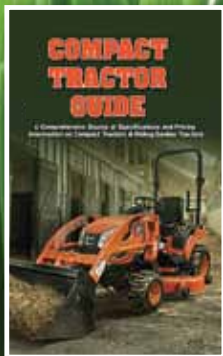
## 10. PRESERVE ALL DOCUMENTS

Courts are increasingly imposing harsh sanctions on companies that fail to adequately preserve relevant evidence. When you receive an administrative charge, collect and preserve all documents that could be relevant. You may also want to suspend any routine practices that might result in the destruction of relevant records, particularly electronic information like e-mails, voice mails and Internet usage records.

**Final note:** Taking the charge process seriously and defending against the allegations at this stage can increase the likelihood of a favorable determination and help prevent further legal actions.



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## Future Food Needs Present \$240B Addressable Market for Precision Farming Technology

Worldwide adoption of precision farming technologies will be needed to meet a needed 70% increase in food production by 2050, according to research from Goldman Sachs. In the face of this challenge are growing opportunities for manufacturers and dealerships. With a need for greater yields identified, researchers estimate a \$240 billion addressable market in these technologies, meaning there is nearly a quarter trillion dollars' worth of revenue opportunities.

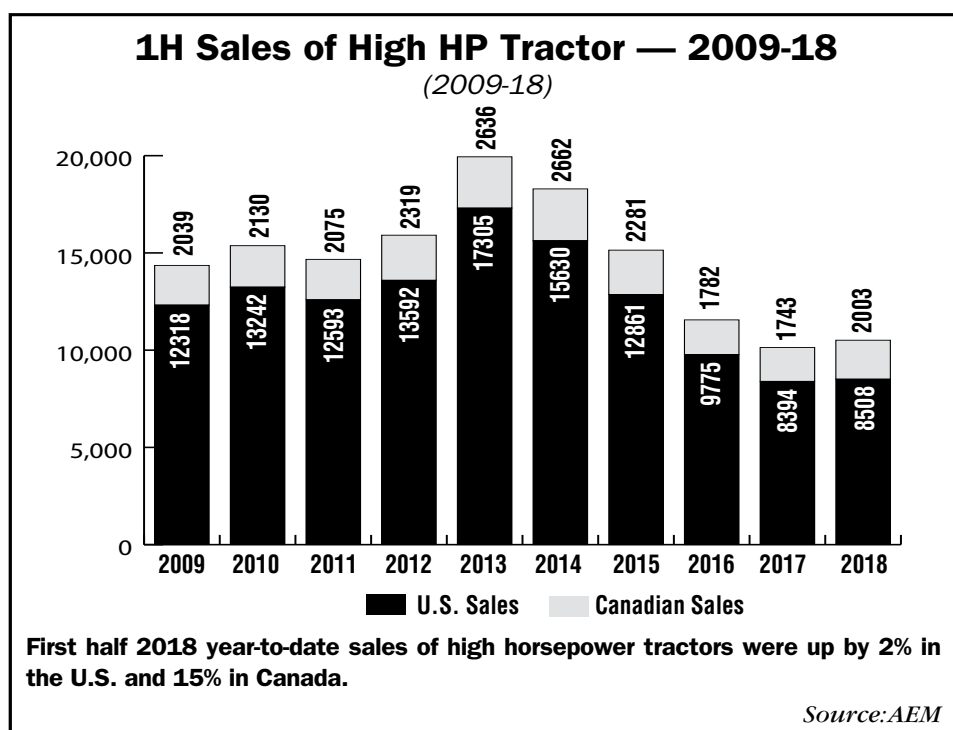
The Goldman Sachs report on precision farming is part of its "Profile in Innovation" series. In it, researchers argue the projected 70% increase in food production over the next 35 years will largely have to come from greater yields driven by new technology in precision farming, as available acreage is only expected to grow by about 4%. Considering the global annual crop production value of \$1.2 trillion in 2015, and factoring in a technology driven yield improvement of 70%, researchers estimate another \$800 billion in production value will be generated by 2050. That's assuming all technologies are fully adopted by then. Based on historical capture rates of 30% for seed producers, the researchers arrive at their estimate of a total addressable market of \$240 billion in precision technologies.

~ Courtesy of  
Agriculture Equipment Intelligence

## Replacement Needs Fuels Solid 1H18 Ag Machinery Sales

So far, so good for North American tractor and combine sales during the first 6 months of 2018. The Assn. of Equipment Manufacturers (AEM) attributes improving tractor and combine sales to both replacement needs and the farmers' expectation that the ag market will improve further down the road. Earlier this month, AEM released its monthly ag tractor and combine sales reports for the U.S. and Canada. Through the first 6 months of 2018, total tractor sales in the U.S. were up 6.5% and up 4.7% in Canada compared to the same period last year.

~ Courtesy of Agriculture Equipment Intelligence



## AGCO to Cease Lely Forage Equipment Brand

The successful rollout of round balers and forage wagons in Fendt and Massey Ferguson colors for European markets has prompted AGCO to give advanced warning that these products will no longer be available under the Lely brand, starting in March 2020. Lely hay equipment dealers around the world have been scouting for new suppliers ever since AGCO announced its March 2017 agreement to acquire the Lely Group's forage equipment division.

Lely dealers yet to find an alternative franchise will no longer have Lely mowers, tedders and hay rakes to sell as production of these machines at the company's factory in Holland stopped in April of this year. The implements are of no interest to AGCO because they duplicate products built in the AGCO's Fella factory in Germany that have kicked off a new full line hay tools strategy for the Fendt and MF brands in Europe.

~ Courtesy of Agriculture Equipment Intelligence

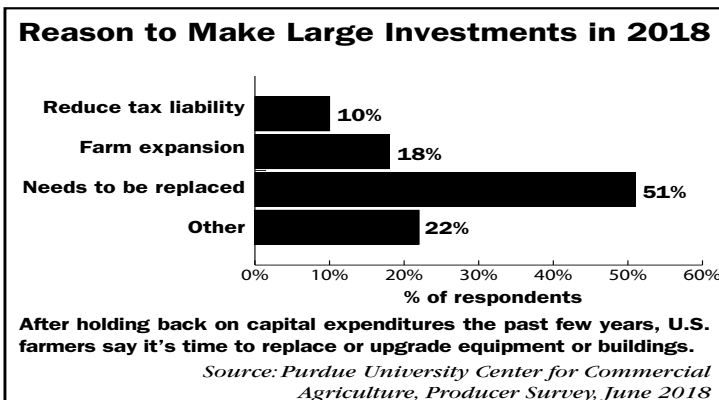
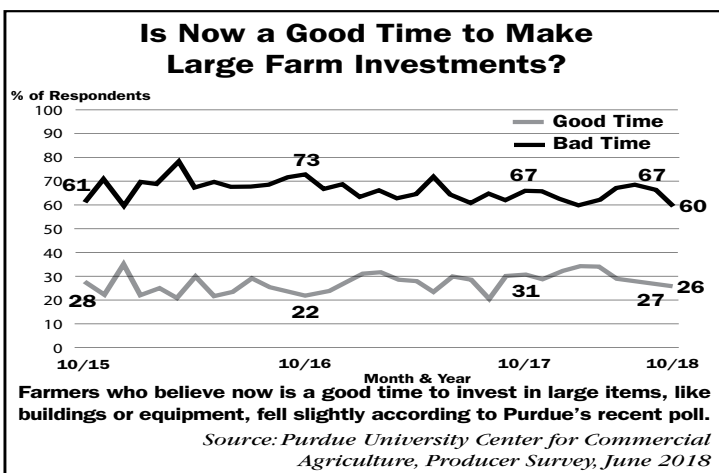
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## Farmers Grow Acreage, Face Investment Decisions

More farmers increased their crop acreage in 2018, according to Purdue University/CME Group Ag Economy Barometer's June 2018 report. This is perhaps unsurprising, given ongoing trends of farm consolidation seen in the U.S., but also serves as a reminder to dealers that as farms grow in size, the total number of customers tend to decline. Change in Crop Acres? More than three-quarters of farmers said they did not change their crop acreage in 2018 from last year, according to the Purdue report. Even so, 14% of those surveyed said they increased the size of their farms vs. 9% who said they decreased their acreage. In other words, there were roughly 56% more agricultural producers who reported they increased their crop acreage than those who said they decreased their crop acreage in 2018.

Of those surveyed, 13% indicated they actually plan to make a large purchase on their farm in 2018. More than half of those respondents said they were making the investment because a building or piece of equipment needs to be replaced, while 18% said it was due to farm expansions and 10% said it was to reduce tax liability. The remaining 22% indicated other reasons.


~ Courtesy of Agriculture Equipment Intelligence



## Big Ag Sales Sees Double Digit Growth

North American large ag equipment sales maintained a healthy high-teens growth in June, according to the Assn. of Equipment Manufacturers' latest report. "Large Ag equipment retail sales rose 18% year-over-year in June, maintaining positive momentum after breaking out of a choppy range last month," said RW Baird analyst Mircea (Mig) Dobre in a note. He added that the June performance follows a 17% year-over-year gain recorded in May. Current retail sales growth is positive even as grain prices remain well off their late May highs, with corn prices down 12% and soybean prices down 17%, he said.

~ Courtesy of Agriculture Equipment Intelligence



**JUNE U.S. UNIT RETAIL SALES**

Equipment	June 2018	June 2017	Percent Change	YTD 2018	YTD 2017	Percent Change	Beginning Inventory June 2018
Farm Wheel Tractors-2WD							
Under 40 HP	18,558	16,095	15.3	84,399	77,961	8.3	84,543
40-100 HP	6,278	6,046	3.8	29,327	28,403	3.3	34,532
100 HP Plus	1,540	1,331	15.7	8,508	8,374	1.6	8,409
Total-2WD	26,376	23,472	12.4	122,234	114,738	6.5	127,484
Total-4WD	197	160	23.1	1,082	1,029	5.2	729
Total Tractors	26,573	23,632	12.4	123,316	115,767	6.5	128,213
SP Combines	461	444	3.8	2,011	1,669	20.5	960

## Share Your News With Us

NEDA is interested in news about members involved in their communities, supporting charities or otherwise doing good deeds. Have you celebrated a business or personal anniversary, facility expansion, or a prestigious award from one of your suppliers, a special community event you participated in or any other way your business has been recognized that you would like to share with other members and have published in our monthly newsletter?

Member stories and photos, will be showcased on NEDA's media sites, in NEDA's monthly newsletter or Weekly E-bytes. Please contact Dave Close or Art Smith, Editor of the monthly newsletter: Dave at 800-932-0607 – davec@ne-equip.com or Art Smith at arts@pa.net.

# How to Communicate Effectively During the Sales Process

In theory, sales is pretty simple: communicate the right way with the right people, and you'll make sales. It's in practice that most people complicate the issue. So how do you keep it simple?

Assuming you're selling something where someone has to deal with you for any length of time, in other words, you're not selling batteries at Wal-Mart, **you need to get several points across, one: you care, two: you're trustworthy, three: you understand their problem, and four: you're competent and can solve their problem.**

That said, effective communication begins with mindset. First, you must be completely sold on and have confidence in your product, your company, and you. Next, you have to have empathy for the people you're selling to and you must put them first, before your company, your product, the sale, and even before you. If you enter the sales conversation with confidence, caring, and compassion, putting the other person's needs first, you're off to a good start.

Next is preparation. You need to know your product, the competition, how to identify the needs, wants, and desires of the prospect, how to present your product solutions, answers to objections, and you must be able to close.

Once you have the proper mindset and are prepared to sell, here are the other communication rules to follow:

Rule 1: **Be honest and authentic.**

Rule 2: **Agree with people. Never argue or debate.** Rarely will you get anywhere by beginning a conversation by disagreeing with someone. When you push back, most people dig their heels in even further. Start by agreeing, let them be right, build some rapport, and then start to shift the conversation.

Rule 3: **Listen well.** The better you listen, the more people will like you because most of us are not listened to during the day. While we are speaking, the other person is thinking about what they're going to say. Especially on initial calls, you want to be listening far more than you speak, about 70 to 80% of the time. Take notes if necessary and make sure you actually hear what is being said. Read between the lines and wait five seconds after someone is done talking before you speak.

Rule 4: **The most important part of communication is the mindset of the audience.** What is going through their brain? What are they thinking? If they think it's green and you think it's red, you'd better figure out why they think it's green and how you may be able to educate them as to why it's actually red. If you're going to connect and communicate effectively, you need to be able to see things from their viewpoint.

Rule 5: **People listen via their favorite radio station:** WIIFM (what's in it for me). Focus on the other person and what they are interested in. Why should they be listening to you? Why should they care about what you're saying? Use "you" versus "I" language and ask good questions to find out what's important to them.

Rule 6: **Always speak in benefits.** Never give a feature without the resulting benefit. Again, what does the feature

mean to them? How does it save them time, money, effort, energy, headaches, or make their life better?

Rule 7: **Be extremely responsive** and answer client/prospect communications as quickly as possible. Also answer calls and e-mails at night and on the weekends.

Rule 8: **Do what you say you'll do** when you say you'll do it. Then go one more step and go above and beyond, doing more than you promise.

Rule 9: **Everything affects your communication** and how people hear you. You will be judged what you wear, how you speak, the car you drive, the pen you use, and everything else that the senses can pick up.

Rule 10: Make sure your **body language, facial expressions, eye movements, tone of voice, and words match the point you're trying to get across.** Most of communication is non-verbal.

Rule 11: **Don't use industry-speak,** jargon, acronyms, or words the other person is not familiar with.

Rule 12: **Speak intelligently about your product or service.** If you don't know the answer to a question, be honest, and then follow up with an answer as quickly as possible.

Rule 13: **Deliver important communication in person** and don't delegate it.

Rule 14: **Document communication** when necessary.

Rule 15: **Be scripted and know exactly what to say** in each and every prospect and client situation. Role play and practice your scripts constantly with others and yourself.

Rule 16: In most cases **too much communication is better than not enough.**

Rule 17: **Don't wait to communicate.** When there is a potential issue, the more time passes, the worse the situation usually gets.

Rule 18: **Always follow an e-mail with a phone call or text message** (whichever medium the person prefers) and sometimes a physical mailing. You can't assume they saw your e-mail.

Rule 19: **Communicate based upon facts, not assumptions.** Clear up assumptions by asking questions. An e-mail in all capital letters may mean it's easier to proof-read e-mails before they go out, not that the person is mad at you.

Rule 20: **Communicate based upon facts, not opinions.** "It's cold in the room", is an opinion. The first question to ask is, "Is that a fact or an opinion?"

Rule 21: **No negative talk.** Keep prospect and customer interactions positive and upbeat. People like to do business with positive people.

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