

August can be a dangerous month for farmers. In this issue, we look at the current statistics around injury and death in the agricultural sector and provide links to useful guidance. We also report on the sentencings of a farmer who breached the Resource Management Act and a meat processing company that was convicted following the death of a worker in Taranaki. In addition, we have articles on another eye watering fine handed down in the UK, the prosecution of a CEO in Australia that should ring alarm bells for officers of New Zealand companies and the latest enforceable undertaking from the Maritime sector.

Meat processing companies ordered to pay \$434,000 after the death of a cleaner

A large meat processing company and its subsidiary have been [fined](#) \$340,000 and ordered to pay 90% of reparations of \$105,000 following the death of a cleaner in the companies' Taranaki plant.

The victim's employer was also charged in relation to the incident and entered a not guilty plea. This matter is still before the Courts.

The 74-year-old victim was cleaning the plant early in the morning in December 2019. He became trapped between a pillar and a bucket after climbing into a bin lifter to clean it. It is thought that he operated the controls from inside the bucket but was then unable to stop the machine.

The cleaners had been told to stand on a platform to clean the area but the investigation found the platform was not at the appropriate level and another cleaner also admitted climbing into the bucket.

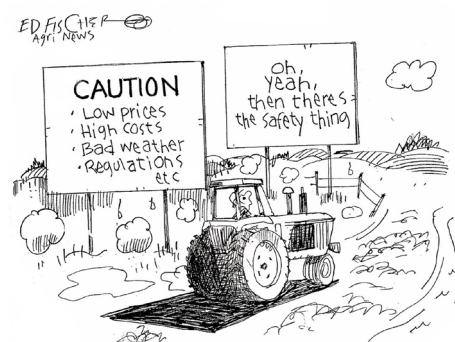
WorkSafe said that there should have been a safe operating procedure in place along with better hazard identification and risk assessment of the cleaning process. It also reminded companies that it is critical to consider contractors who come onto sites after hours in health and safety planning and assess the risks they face – as well as those faced by regular workers onsite during daylight hours.

Staying safe in agriculture during 2022

WorkSafe injury [data](#) shows that August was the most dangerous month for workers in the agricultural sector during 2020 with 255 injuries resulting in more than a week away from work occurring over the month. The agricultural sector also currently has the third highest number of work [fatalities](#) of any sector in New Zealand. In the year till June 2022, there were [seven](#) fatalities in agriculture, with all but one involving vehicles.

Tragically, two people have died in quadbike crashes in the last six months and a VL lawyer working in health and safety recently observed that WorkSafe seems to be paying closer attention to quadbike incidents. The other four vehicle related deaths over the year involved tractors (3) and the roll-over of heavy machinery (1). Notably, all those who died were over 40 years old.

There is a wealth of [guidance](#) from WorkSafe about using vehicles safely on a farm. A crucial step is choosing the [right vehicle](#) for the job.



Enforceable undertaking (EU) in the maritime sector funds training to reduce ship collisions

In January 2020, a 180-metre bulk carrier and a 24-metre fishing vessel collided outside the entrance to Lyttelton Port. The watchkeeper on the fishing vessel had left the bridge unattended and the crew on the bulk carrier did not take appropriate actions when they observed the potential for collision.

Maritime NZ investigated and this month accepted an [EU](#) from the South Island company which operated the fishing vessel and its director. The \$175,000 EU will fund watchkeeping training courses to help reduce the number of collisions at sea.

The company had also paid reparations to crew on the fishing boat, funded additional training for some of its crew and skippers and installed new intercoms and radar on its vessels. In addition, it is providing vessels and crew to take part in Westpac Rescue Helicopter training exercises and will make a donation to Coastguard Sumner for new equipment.

VL's last issue of the Safe Side included a comprehensive article on EUs. You can find a copy of it [here](#).

Home detention and fine for farmer following a sentencing for breaches of RMA

A Waikato farmer has been [sentenced](#) to a term of five months home detention and fined \$100,000 following his conviction on 13 charges of breaching the Resource Management Act. The sentencing followed a trial held last year. It is the fifth prosecution of the same farmer for environmental offending that spans 12 years.

The convictions related to nine charges of discharging contaminants into the environment, three of breaching court orders that were imposed in previous prosecutions, and one charge of excavating a stream. All the offending occurred on a farm near Morrinsville.

The week-long trial established that, in May 2018, in excess

of 1,500 tonnes of dairy factory liquid waste was received at the farm. The waste was then spread onto the land in a way that it flowed into a tributary stream of the Piako River, causing "gross" pollution.

The farmer's partner was also convicted and discharged on two related charges for her role in the offending. She had earlier entered guilty pleas.

The Judge said that the gravity of the offending and the culpability of the farmer was high. The Judge also made further orders against the farmer and his partner to ban any further 'waste' being brought onto their property.

UK Carlsberg Brewery fined £3m after ammonia leak kills a contractor

A father of two was killed and a second man seriously injured following an ammonia leak at a Carlsberg Brewery site in Northampton, UK. Carlsberg had failed to put in place appropriate isolation controls before work started to remove a compressor from a refrigeration system. While the compressor was being removed, there was a large, uncontrolled release of ammonia. Twenty people needed hospital checks after showing symptoms of ammonia exposure. It was several days before the leak was contained and gas levels dropped to a safe level.

The victims were working as contractors to the principal contractor to Carlsberg. The UK regulator, HSE, also brought a case against the principal contractor but the company was placed into compulsory administration by creditors.

Carlsberg was [fined](#) £3 million with costs of £90,000.

The HSE commented after the sentencing that: "Projects involving multiple contractors require effective management arrangements, so it's clear who is responsible for every part of the work and that safety checks are

carried out before allowing work to start." It also said that both Carlsberg and the principal contractor should have worked together to ensure that the risk was adequately managed and the plant should have been safely isolated before work began.

Anhydrous ammonia is a toxic and corrosive substance that is supplied in cylinders as a liquefied gas and is often used in industrial refrigeration systems. On release to the atmosphere, one litre of liquid expands to 850 litres of gas. Exposure to ammonia gas has the potential to cause death, severe permanent disability or life shortening illnesses. In 2018, WorkSafe advised that over the previous year, approximately 20 ammonia releases were notified to Work Safe. Some workers were taken to hospital, some treated at the scene, and others were at risk but unharmed.

More guidance on safety with [ammonia refrigeration](#) is available from WorkSafe. The HSE has a wealth of [information](#) on isolation and permit to work systems to facilitate coordination and [safety of contractors](#) when carrying out high risk work.

CEO of Queensland company convicted of failure to exercise due diligence

Following the death of a worker, the CEO of a fertiliser company in Queensland has been [convicted](#) of failing to exercise due diligence to ensure the company complied with its primary health and safety duty, thereby exposing workers to the risk of death or serious injury. The CEO entered a guilty plea and was fined \$60,000.

Queensland's health and safety [legislation](#) has very similar duties to the Health and Safety at Work Act (HASWA), and the conviction suggests that officers in New Zealand companies could be prosecuted if they fail to take reasonable steps to ensure their company keeps workers and others safe.

The company the CEO worked for produced bags of fertiliser at its factory. The bags were moved along a conveyor belt and sections of the conveyor belt did not have sufficient guarding in place. Workers were required to inspect the bags on the conveyor belt, but no risk

assessment or safe operating procedures had been developed for the work that was done in proximity to the moving conveyor. Neither were exclusion zones identified and implemented. Over a 13-month period, the CEO failed to exercise due diligence to ensure the company took reasonably practicable steps to address the risk.

On 10 March 2020, a worker became trapped in a part of the machinery designed to flatten bags while working near a dangerous section of the conveyor. He died of his injuries.

VL's [Statutory Liability](#) policies will generally indemnify officers of the Insured if the officer is investigated for a breach of due diligence duties under HASWA. However, given that the business itself is also likely to be investigated at the same time, the limit of indemnity of the policy may need to be sufficient to cover separate legal representation for both the PCBU and the officer/s.

This newsletter is published as part of Vero Liability's commitment to supporting better work health and safety outcomes for all New Zealanders. We want everyone to go home safe. For more information on VL's specialist liability insurance products, including our statutory liability cover for non-deliberate health and safety breaches, visit our [website](#).