

GROWING MENACE OF GOVERNMENT REGULATION TO THE
FUTURE OF AGRICULTURE (OSHA & EPA)

by
Les Barbee

You are assembled here to discuss the problems of planting, fertilizing, irrigating, marketing and disease control on your farms. These are very real and pressing problems; problems we have been free to discuss and handle. The degree in which we were able to solve our own problems and those of the industry gauged the degree of success we could achieve.

Now a new dimension has entered our farms. This is political. This political problem is so grave that it over-rides all others. It has become a battle to determine who is to control our farms.

We all have been warned of the danger our own government poses to us. Most of us listened and said that is right, then went on about our work. We accepted a little more control each year, and we could still stay home, still do our work and get along. We no longer have this privilege. In 1970 the OCCUPATIONAL SAFETY AND HEALTH ACT was passed called OSHA, and as a result in 1973 our state passed the "WISHA", WASHINGTON STATE INDUSTRIAL SAFETY AND HEALTH ACT.

Each are separate. Each must be dealt with separately, but as the law stands either of these organizations have the authority to take over your business or mine. These actions were taken in the name of safety and health, but let's look at the record and see if that is the case.

Every employer does recognize the dollar cost of worker injury when accidents occur. Considered separately from the humanitarian aspect, we have destruction and production loss with almost any accident. We have absolutely no argument with safety. But we must----absolutely MUST be sure we do not give our freedom to manage to bureaucrats-----to bureaucrats whose objective can as well be the power to control as to achieve safe working conditions.

Consider the record in 1973. Apples, grapes, tobacco, citrus, and peaches were the first crops selected. The organophosphorous pesticides were to be the wedge with which to break in the organization OSHA. I have in writing the fact that these were to be the first crops, and the first pesticides. Then the control would have spread to all crops and all pesticides. Each potato grower according to this plan would have been under these regulations in just 1, 2, or 3 years.

The action was stopped by Federal court action. This action cost in excess of \$200,000.00. We won. What would have been the case if the target crop was potatoes? What action are you ready to take now to protect our freedom to work and produce. Have you considered the fact that had we lost this battle it would have cost each farmer in America an absolute minimum of \$1,000.00.... That for most of us it would have been 2, 3, or \$5,000.00 or more depending on the size of our operation and the number of our employees-----the first year.

The census bureau says there are 4,200,000 farms in the U.S. Multiplied by the minimum cost of \$1,000.00 per farm is \$4,200,000,000.00, and this is only a start. If our farm gate price is 25% of the retail price this action alone would have increased the cost of food and fiber in the United States by 16 billion 800 million dollars-----Consider that or any other approximate cost----Consider what this can do to you---To our state-----To our Nation. But most important-----What would it achieve in worker safety?

In this light let's consider the record of the OSHA-WISHA battle. First and very briefly WISHA. John Hillier of the Washington Department of Labor and Industries gave invaluable support in our successful battle against OSHA pesticide standards. However, he cannot stand alone in our

defense-----against Joe Davis and his powerful labor lobby. And everytime WISHA-CRATS get out of line or use false inference to impose regulations we must be on our guard.

We do not have to accept a regulation in the name of safety--if in fact the regulation will not improve safety. We must be sure that the facts used to justify a regulation are pertinent to that regulation and insist that the burden of proof of necessity--and effectiveness--is with the control organization.

For example, the tree fruit industry in Yakima County has been singled out as having the most accidents of any farm group in the state. But no mention is made of the fact that there are more fruit trees in Yakima County than in all the rest of the state combined. That Yakima County is the leading agricultural county in the state and the 10th leading agricultural county in the nation. The record shows that of the 1,101 accidents on all fruit farms in the state in the last fiscal year some 559 occurred in Yakima County. 430 were in Chelan, Douglas, and Okanogan Counties. 112 occurred in the rest of the state. This is almost exactly proportional to the tree fruit plantings in Washington.

But of greater importance is the type of injury. That there were 1,101 accidents on the 5,800 fruit ranches in the state sounds serious until you learn that 410 were sprains, 200 were bone fractures, 128 were bruises, 100 were pairs of broken glasses, that's right, 100 were BROKEN GLASSES, 85 were cuts or open wounds, 36 were superficial scratches and abrasions, 30 were hernias or ruptures, and 80 were unlisted or miscellaneous complaints. None, I repeat NONE were deaths and note that none were listed as pesticide injuries. Question? Who was responsible for these injuries? What was the cause? Ninety percent were caused simply by worker carelessness and had nothing to do with faulty equipment or employer neglect. One percent were actually listed as intentional. Do we not have a right to ask what kind of police state, Gestapo tactics, are being used against the employer to correct or improve this record?

Mr. Jacobs, Director of WISHA, has stated publically there were 10 fatalities or deaths in agriculture this past year. What he did not say was that 6 of these were actually highway accidents. I ask, how would any on-farm regulation prevent these highway accidents, and even why highway accidents are being included in the farm scoreboard.

Jack Hillier of WISHA has 60 inspectors to start random inspections of our farms now. How many have seen the thick book of regulations we are required to be in compliance with in 1974? They cover everything from motors, belts, and electrical systems to ladders, stairs, and railings. Get a copy and study it. You will be amazed!

Also we are threatened with new tractor regulations. Has anyone considered that 75 percent of the tractors in use on our farms today are over 5 years old? Will the regulations be reasonable enough that we can afford to update this equipment? Is new equipment available that will meet these UNKNOWN safety requirements? Will our workers use the safety equipment if installed? Will the proposed safety equipment actually reduce accidents or will it only add to the cost of production? And where will the money come from to make all the required changes?

Has anyone bothered to find out that 43 percent of all tractor accidents occur to drivers under 14 years of age? That only 10 percent of the accidents occur to drivers 25 to 64 years old? Are the suggested regulations going to be based on fact, use experience, and practicality in avoiding accidents? What is your Association going to do to make certain that we are not made into criminals subject to fines and imprisonment for not obeying "pie in the sky" ideas or that will only hamper efficient operation of our business. Are new more efficient ideas and devices to be outlawed or restricted by regulations in a way as to effectively stop progress on our farms? How will you get experienced workers to change their work habits when they have their way safely for years?

Therefore I propose and urge passage of this resolution: "Now therefore be it resolved that the Washington State Potato Association in session insist that any regulations imposed on

agriculture be based on injury records of accidents, in the area of the regulation and that the regulation demonstrate in what way it will improve the accident record on the job. Let's not imagine accidents and guess about safety devices. Let's demand facts. And, in addition, let us demand that the cost (if any) that may be incurred be included in the regulation to correct the alleged hazard and that this amount be deducted from labor and industry insurance premiums until the cost of the safety device is paid."

I feel such action is justified in the light of the fact it is negligence, worker negligence, not faulty equipment that causes 90 percent of all agricultural accidents. Further it would require responsibility on the part of WISHA to demonstrate that any proposed regulation would actually improve worker safety and not be simply a harrassment or means of control of our farms.

While this is certainly an overly brief explanation of the difficulties that can be anticipated in living under WISHA, the cause of our problems actually lie with the Occupational Safety and Health Act of 1970 and the Occupational Safety and Health Administration (OSHA). It was the Williams-Steiger Act which established OSHA, placed it under the dictates of the Secretary of the U. S. Department of Labor and extended the authority of OSHA over all state regulations. The years 1973 and 1974 may well be remembered as the year when we in agriculture stood up and successfully fought back against unwarranted regulations that were being used to gain control over our businesses, our families, and our lives.

The OSHA act was made law in the last few hours of the 91st Congress in 1970. Its purpose was: "To assure safe and healthful working conditions for working men and women by authorizing enforcement of the standards developed under the act; by assisting and encouraging the states in their efforts to assure safe and healthful working conditions; by providing for research, information, education, and training in the field of occupational safety and health; and for other purposes."

These goals sound great, but in the way the act was written it has created the most arrogant dictatorial bureaucracy our country has ever seen. The OSHA act gives the Director and his assistants Police State authority over every employer and employee in America under the pretext of health and safety. This authority has been so abused that it has caused many businesses to close; many jobs to be lost; and increases in the cost of goods and services. In 1973, OSHA turned its attention on agriculture and thus has become the greatest threat to America that we have seen since World War II.

Like most of you I heard of OSHA, but I didn't pay much attention to it. During the past two years we were warned by some of our national groups and told how dangerous OSHA was. But none of us really got too excited. Not until Dr. Frank Arant of Auburn University in Alabama, who was then chairman of the pesticide subcommittee of the Standards Advisory Committee to OSHA sent out a questionnaire to all land grant Universities did I become seriously concerned.

The grave danger was the proposed OSHA pesticide safety regulations. They were to be published by January 1, 1973 and become effective March 15, 1973. As a result Dr. Ron Tukey alerted me and other members of the industry in Washington. Dr. Louis Madsen, Dean of the College of Agriculture contacted Dr. Arant and arranged for Dr. Tukey and me to be heard at the Iowa City hearing in December of 1972. So started our involvement in the fight with the United States Department of Labor.

In this discussion I won't take time to document all the statements I'll make, but be assured I can prove every word by tape recording, letter, or witness.

At the Iowa City meeting Dr. Tukey and I were astonished at the proposals seriously made. Proposals that would require people to be moved from their homes for 14 days after sprays were applied, that would prevent people from even driving to and from work through treated areas, that workers would have to wear masks and rubber clothing if they were to enter sprayed fields, that signs were to be posted in 2 or more languages, that shower facilities were to be installed, that

clothing was to be provided for all workers, and a system of fines and imprisonment imposed, or essential work stopped if these and other regulations were not obeyed.

We presented our position which briefly was: There is no emergency. There is no grave danger. These regulations will not improve worker health or safety, and that the proposed regulations would add tremendously to the cost of food as well as reducing job opportunity.

We were impressed by the reasonableness and competency of this Standards Advisory Committee on Agriculture and we were gratified that the committee agreed with our position. The committee passed resolutions to the effect: There is no emergency; there is not sufficient evidence of worker hazard in field re-entry to justify restrictive standards (except possibly in California where adequate state laws are in force), and that if regulations were in fact needed they would have to be of a regional or state nature and could not be applied evenly across the country.

We thought the Standards Advisory Committee had things reasonably well in hand, and even though we did not feel the need for additional regulation of our industry, we felt that, if indeed regulations were to be imposed, they would be reasonable. Time went on and we heard little that alarmed us until March 1973 when we attended the Standards Advisory Committee meeting in Denver. At this meeting we saw how determined the OSHA people were to impose severe restrictive regulations. Dr. John O'Neill, Chief of Health Standards for OSHA, told the committee that if in his opinion their recommendations were not adequate he would impose his own regulations. Dr. John O'Neill told Dr. Tukey of Washington State University in effect that he (O'Neill) knew these pesticides were dangerous and he was not interested in the use experience or technical data from Washington. Dr. John O'Neill told me and the others there that we would abide by his regulations or get out of the business.

We knew we were in trouble. Dr. O'Neill was not interested in safety. He would not be swayed by fact. He was determined to regulate pesticide use. We were scared and justifiably so. The first Emergency Temporary Standard was published in the Federal Register on May 1, 1973. I as a grower and our Washington State Horticultural Society joined with some 33 other groups and individuals in filing suit against OSHA to bring this matter to the U. S. Circuit Court of Appeal. But before we could be heard and before we could force OSHA to justify their regulations, OSHA withdrew the order. No sooner was the suit dropped than OSHA issued another Standard. Although more moderate we again went back to court.

When OSHA finally held public hearings on these regulations 100 strong chartered a plane in Yakima to fly to Boise to support our industry position. Many also testified at the EPA hearing held in Seattle. Some were in Seattle and heard John H. Stender, Assistant Secretary of Labor for OSHA, tell us not to waste our time arguing with his standards, but go home and figure out how to live with them. You also heard him say that he was not concerned where people had to live or even whether the regulations put people out of work.

Most of you know the allegations used by OSHA cannot be backed by fact. Most of you have read the proposed regulations and understand the threat to our businesses and our way of life. Some of you may have seen the proposed new pesticide mixing and application standards, new ladder regulations, tractor and equipment regulations, and inspection and enforcement plans that lay in wait for us. I am sure each of us are close enough to these multitude of facts that we realize OSHA is not a paper tiger that will simply go away. OSHA IS THE GREATEST THREAT TO FREE PEOPLE ANYWHERE THAT WE HAVE EVER HAD TO FACE.

These are strong words, but not near strong enough to explain the depth of concern I have. My friends, I have watched these OSHA people. I have met with OSHA people and talked with them. I have spent much of my time this last year trying to defend myself and our industry against their unrelenting desire to control us--and control us they will--because they have the law on their side, UNLESS--UNLESS we can repeal this OSHA law.

I wondered, as you must, how such a thing could happen here. The law was passed in the last few hours of the last session of the 91st Congress. In it's (Congress) haste for adjournment and under terrific pressure from labor bosses, normal safeguards against excessive use of authority were not included. This has allowed the OSHA act to be perverted and used in a manner which even the authors of the bill abhor. (Steiger)

Consider some seemingly unrelated facts. John H. Stender is assistant Secretary of Labor for Occupational Safety and Health. In his qualification statement I quote: "For more than 30 years Mr. Stender has been a member of the International Brotherhood of Boilermakers, AFL-CIO. Until resigning the office to take his OSHA position, he was an International Vice-President of the Union for 16 years, and for the 12 years prior to that, he served his local union as business manager." These are his qualifications. But under OSHA he has the authority to issue any regulations he desires, and say for safety reasons.

No one can deny he is George Meany's boy, and it is on public record that George Meany is supporting Chavez's efforts to unionize farm labor. It is also on public record that George Meany, President of AFL-CIO, made a deal with Frank Fitzsimmons, President of the Teamsters Union, to hand over all Teamster Union farm labor contracts to Chavez's United Farm Workers Organization Committee (UFWOC). Does it not logically follow that THE OSHA ACT is a tool by which Meany can control agriculture? I contend that Meany wishes to control your farm and mine. But even if this contention is not true, WHAT PROTECTION DO WE HAVE UNDER THIS ACT? WHERE, WHEN, HOW, DOES OUR SIDE GET HEARD?

Does anyone deny that American farms are the most productive in the world? Does anyone deny that food costs are 2, 3, or even 4 times higher in countries where their government controls agriculture? Is it not a fact that pesticide use in American agriculture is so unbelievably safe that Stender had to use a damned lie, had to claim over 800 die from pesticides each year, to justify imposing any of his proposed regulations? Does anyone deny that these regulations are not a move to control agriculture? Can anyone really deny that the TUSSIC MOTH RAVEGED forests here in the Northwest is not the most COLOSSAL MONUMENT TO BUREAUCRATIC STUPIDITY OUR COUNTRY HAS EVER SEEN AND THAT STENDER IS ACTUALLY TRYING TO EXPAND THIS TYPE OF BLUNDER TO AGRICULTURE AND THE FOOD SUPPLY OF OUR NATION? As we go along in this struggle, and study the facts, can we come to any conclusion but that the OSHA ACT MUST BE REPEALED?

I suggest we, agriculture nationally, are the only ones who have been able to stop OSHA in any way, and therefore we must be the ones to lead in its (OSHA) repeal. This is a grass-roots people movement for our survival, and it must be led by those of us who actually do the work to produce our nation's supply of food. We are the ones that understand the meaning of cold, wind, frost, heat, rain, hail, insects, diseases, weeds, mechanical breakdowns, labor, water management, markets, cost, and crop failures. We are the people who must take care of rising taxes, insurance premiums, social security, medical benefits, supplies, equipment, and bank interest. We must not allow ourselves to be saddled with volume after volume of additional regulations for no good reason. We must not be required to hire lawyers to interpret them, or secretaries and bookkeepers to keep unnecessary records and file forms to satisfy the government's unsatiable desire for additional red tape under penalty of fines or jail.

We, farmers everywhere, must become involved. Even if there is no one who can drive our tractors, or spray our crops, or prune or thin or irrigate as well as we, we must, if we are to survive, take a part of our time to guide the bureaucrats, lawmakers, and others who wish to regulate or control our lives.

Idaho's representative, Steve Symms, has introduced a bill in Congress to repeal the (OSHA) act. Steve is doing a great job for Americans everywhere, but he must be sure of our support. He must have the support of the rest of the Idaho Delegation, and he must have support from more than 50 percent of the Congressmen and Senators from the rest of the country. We, agriculture nationally, can give that kind of support.

I firmly believe we can repeal OSHA. First I propose this second resolution for your passage: "We the Washington State Horticultural Association, respectfully express our total opposition to the unjustifiable regulatory powers given to the United States Department of Labor under the Occupational Safety and Health Act (Williams-Steiger Act) and request this matter be brought again to the consideration of Congress and urge its repeal."

This is similar to a resolution passed by the Washington State Cattlemen's Association, and one passed by the Idaho State Horticultural Society. It is also being considered by many groups around the country. This will give support to Representative Steve Symms of Idaho and the other 99 Congressmen who are working for OSHA repeal.

This petition should be taken to every industry group, church, business, chamber of commerce, and service club; and they be urged to pass the same resolution and this be sent to our representatives. This must be a personal matter. District-wide, State-wide, and Nationally.

Finally, your NO-OSHA group needs your support. We have 20,000 signers of our petition, and we need many more. We need some money. We need your help. The cause is just. We have won every round so far, but the threat is still there and very real till the law is repealed.

We work very hard to make our living and pay our bills. We must be willing to work just as hard for our freedom, or we will lose our freedom to work.