

OCCUPATIONAL HEALTH AND SAFETY IN AGRICULTURE

BY GORDON MOORE, CONTRIBUTING EDITOR

PANIC. I EXPERIENCED THAT SENSATION FIRST-HAND IN THE SPRING OF 2003. I was teaching CPR/First Aid to a class of employees and received a phone call from my supervisor, which truly threw me into a state of panic. He was informing me that a federal OSHA inspector was sitting in his office making inquiries about our organization. My first reaction was to say I had a family emergency and flee to the safety of my home! However, the thought was only a fleeting one.

On that day in 2003 I had been the safety director of an agricultural company for only three very short years. All kinds of thoughts ran through my mind as I began preparing for a face-to-face confrontation with a green, three-eyed monster carrying large volumes of laws and a citation booklet for the issuing of fines that surpassed any moving violation I had ever deserved. As I neared my supervisor's office, I envisioned my relatively new career to be short-lived.

Although the incident brought stress and unforeseen challenges, it turned out to be an informative and educational experience that allowed the use of the few tools and training I had gained in my internship as a safety professional. The honing of strategies and the building of defense weaponries had just begun. After all, this was OSHA and we are agriculture. Exemptions of all kinds were ours to take ... or not!

While agriculture's history spans thousands of years, the relative newness of the Occupational Safety and Health Administration (OSHA) has had a great impact on the industry. The OSH Act of 1970, section 5(a)(1) – the General Duty Clause – clearly states that an employer shall furnish a safe workplace; while section 5(b)(2) specifies that employees shall comply with the standards of the Act. Clarity is further given in 1975.4(b)(2), which provides the defini-

tion for an agricultural employer as: Any person engaged in an agricultural activity employing one or more employees comes within the definition of an employer under the Act, and therefore, is covered by its provisions. However, members of the immediate family of the farm employer are not regarded as employees for the purposes of this definition.

OSHA was established to regulate the OSH Act of 1970 and has the enormous task of enforcing the compliance standards in the Act's Code of Federal Regulations (CFR). Standards of CFR 1928, General Industry 1910, and Construction 1926 have all extended their influence into areas of agriculture.

As previously mentioned, my experience in agricultural safety dates back to the year 2000; therefore, the statistics presented will date back only that far. In the last 10 years, only 98 OSHA inspections have been conducted on feedyards. Fifty-one were planned inspections (17 due to accidents, 16 due to complaints and the remainder for referrals, follow-ups, etc.). During that same period, 108 hog facilities were inspected with 45 being planned (12 due to accidents, 35 due to complaints and the remainder for referrals, follow-ups, etc.).

In those same 10 years (2000 to present), feedlots were cited for a total of \$398,000 in fines while pork facilities were cited for \$626,400. During 2007 and 2008, 20 of the feedyard citations dealt with mill concerns (four for machine guard infractions, two for forklift safety). The hog operations were cited for six violations of 5(A)(1) and one machine guarding issue.

Based on statistics during 2007 and 2008, the most common citations at the feedyards were for grain handling standards, machine guarding and forklift procedures. The hog operations suffered fines based on violations for the General Duty Clause (5. Duties (a) Each employer – 29 USC 654. (1) shall furnish to each of his employees employment and a place of employment which are free from recognized hazards that are causing or are likely to cause death or serious physical harm to his employees;) and machine guarding standards.

Aspects of OSHA's enforcement inspections not well-known in the agricultural industry are the terminology and the recordkeeping requirements mandated by the OSH Act. Recordkeeping, site specific targeting (SST), days away, restricted days and transfer rates (DART rates), along with Bureau of Labor Statistic (BLS) surveys are all crucial terms to agriculture; for that reason, an explanation of each is warranted.

OSHA recordkeeping is, by law, a requirement for anyone who employs more than 10 people through a year. The criteria and specifics are found in CFR 1904. The Code deals with three government forms (OSHA 300s, 301s and 300As), with each playing an important part of a business's recordkeeping and protection from unwanted fines. The recordkeeping is simple and can be completed with minimal effort as long as information is kept current – details and requirements are available on the OSHA Web site at www.osha.gov.

The term site specific targeting, though negative in connotation, is well recognized in the safety world. The Bureau of Labor Statistics sends out random requests for the OSHA 300A to a random selection of 80,000 companies. From the data collected, any company that has a high DART rate (based on the national average for injury and illness rates) is notified in writing of the situation. This whole process of surveying is mandatory by law and, unfortunately, once a company receives a letter indicating a high rate, the business can expect to be surveyed until the DART rate decreases and a lower rate is maintained for at least two years. →



Some agricultural companies have received the survey each year for more than 10 years running. The questions, "Are the same 80,000 worksites being surveyed every year? If so, how would statistics change? And, how many companies never receive a survey request?" could be asked.

A company's DART rate should be the benchmark for that organization. Low rates keep supervisors happy and OSHA at bay. High DART rates draw the attention of OSHA and invite investigations. While DART-rate recordkeeping is an important tool in helping recognize problematic areas of hazards, other indicators or warning signs should be considered – insurance claims, employee attitudes and employee turnover. Observing these warning signs can serve as proactive prevention.

Inspection procedures used by OSHA are available at the OSHA Web site. A company needs to understand the importance of training its employees to deal with inquiries from OSHA and other regulatory agencies. OSHA may visit a facility for

one or more of four possible reasons: 1) The death of an employee or hospitalization of three or more in one accident. 2) Complaint by an employee – allegation of neglect on the employer's part. 3) A planned inspection based on high DART rates from survey results. 4) A follow-up inspection to review compliance matters.

OSHA inspections can bring citations as well as possible fines and abatements. Also, they can be intimidating and cause stress. Yet, only one of two options generally emerges during an OSHA inspection; proactivity or reactivity. Proactivity is a positive approach that can help to develop a strong relationship with OSHA as well as a strong safety backbone for the company. The negative effects of reactivity toward an OSHA inspection will find no favor with the inspector and, most important, indicate a lack of respect for human life.

Through personal experience, observation and research, a three-point truth has become very evident: 1) OSHA is an ever-growing influence in the agricultural industry. Although limited

exemptions exist for the ag industry in the Code of Federal Regulations, companies cannot expect a "get-out-of-jail-free" card. The precedents set involving inspections and citations of feedlots and pork operations contradict the myth that agriculture is exempt from OSHA's authority. 2) Based on statistics from the National Safety Council and others (BLS, etc.), agriculture ranks among the top industries for deaths and accidents. Evidently, there is a need for scrutiny of potentially hazardous work environments. 3) For businesses, economics are the driving force behind most decisions. As individuals, our nature is to weigh the risks involved in a situation. People's lives are held in the balance through influence of both decision-making methods.

As the agriculture industry changes more and more from individual ownership to corporate control, evolution of a new way of life brings new challenges. Bottom line? OSHA is here to stay. Progression in agriculture forces us to recognize OSHA's presence – all aspects, whatever they are. ☐

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