



Lessons Learned From the Child Agricultural Labor Law Debate

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What happened?

That was the question asked by stunned safety and health professionals after the withdrawal of proposed updates to the federal labor laws (Agricultural Child Labor Hazardous Occupations Orders) pertaining to hired youth under age 16.

After all, weren't these modest and overdue revisions based on years of research indicating that young workers experience a disproportionate number of injuries in a handful of especially hazardous tasks?¹ What about data showing that teenaged agricultural workers are four times as likely to die on the job than teens working in other industries?² Children of US farmers would still have been able to perform any task at any age on their farms, and even the updated rules for hired youth would not have been as protective as they are for non-agricultural occupations.

Open and shut case, right? Post the new rules in the federal register, wait 60 days, then implement.

Not so fast.

Many farmers and ranchers, and groups that represent their interests, along with members of Congress and some agricultural educators, spoke out against the rules, which the US Department of Labor withdrew on April 26, 2012, approximately eight months after introducing them. The dramatic rise and fall of the revised rules was well-documented in the mainstream agricultural media. What began with mundane articles announcing the comment period concluded with stories reflecting polarization into winning and losing sides.

Child safety is a non-partisan issue. So again, what happened?

I posed this question to agricultural communicators in attendance at the Agricultural Media Summit (AMS), August 5–7, 2012, in

Albuquerque, New Mexico. The Summit is the largest annual gathering of crop and livestock publications professionals in the US. It is a joint meeting of the American Agricultural Editors' Association, Livestock Publications Council and the American Business Media Agri Council. Nearly 600 attended.

I interviewed 25 attendees, including 10 editors, five college seniors majoring in agricultural communications, three reporters, two publishers, three public relations professionals, one art director, and one college agricultural communications instructor. They represent mainstream agricultural media. Nearly all grew up living on and/or working on farms and ranches. All had an opinion. None supported passing the rules as written by the Department of Labor. Most characterized the rules as "overreach." About one-third called the proposed rules "well intentioned" but in the words of one respondent, "they tried to use a butcher knife where a scalpel would have been more appropriate."

Although the updated rules were intended for hired youth, such as migrants climbing 15-foot ladders to pick fruit, opposition coalesced around the family farm and traditional rural culture.

The primary concerns of those interviewed:

- The definition of the "parental exemption" that has always allowed children to work with no restrictions on their own farms was open to restrictive interpretation and might not have covered family farms that, although relatively small, had incorporated for tax purposes or other reasons of sustainability.
- Educational programs such as 4-H and FFA could have been significantly restricted as to what types of hands-on

experiences and projects they could offer.

- The federal government is out of touch with farmers and farm life.

Most media professionals interviewed believed that the rules, if enacted, would have caused economic hardship for farms, curtailed education and career opportunities for young people and made it more difficult to pass the tradition of farming to the next generation.

Whereas opponents of the rules tended to speak as one, agricultural safety professionals were at times conflicted. Some safety educators worried about the elimination of traditional training courses for the tractor student learner exemption, as well as potential impacts on FFA and 4-H animal projects. The united front presented by opponents was crucial, according to an editorial in FBNews, the official newspaper of the American Farm Bureau Federation. “. . . All of agriculture used the same playbook. The administration didn’t get conflicting messages from different farm groups or agricultural sectors. Everyone came together behind one rallying cry: the child labor rule had to go!”³

It’s tempting to blame a coordinated effort by big agribusiness, agricultural organizations, politicians and the like. But listen to the agricultural media. Although producer groups and ag businesses did their best to plant seeds of anxiety while they encouraged farmers to weigh in, the feedback was more grassroots than safety and health professionals first cared to admit.

- *“Safety should be taught, not imposed from above.”*
- *“It is really sad that government is getting involved in how we teach our kids to grow up on farms.”*
- *“It’s the unintended consequences. The Environmental Protection Agency’s bovine flatulence and dust control initiatives, and these children’s rules – I lump all three together as overreach. Good ideas at their core, but misguided in their practical application. The children’s rules were like trying to kill a mosquito with a sledgehammer. We are better off with education.”*
- *“At the end of the day we are more than a business. We are about passing a way of*

life on to the next generation. ‘Here let me show you how to do this job and that job.’ You can’t teach that when the kids are in the house.”

- *“For anyone the loss of life or limb is unacceptable . . . So how do we find middle ground? I think you start by understanding the culture of farming and ranching and work from the middle ground.”*
- *“The problem was, Department of Labor got some tilted advice from those who wanted these regulations to go through. If the intention was to make sure 5-year-old migrant kids are not picking berries, OK, then say that and be clear about it.”*
- *“To a farmer or rancher it seems as if everyone is trying to put him out of business. It’s easy to get into a bunker mentality and say, ‘They are out to get me,’ and I suspect that factored into this situation.”*

While rural America spoke from the heart during the pivotal eight months from September 2011 to April 2012, safety professionals led with numbers. Cold hard facts about preventable injuries among hired youth were no match for the scary unknown of how the parental exemption would be interpreted. Safety people were answering questions that the farm community was not asking. They wanted to know how this would affect their way of life.

The Department of Labor announced on February 1, 2012, that it would re-propose and clarify the parental exemption section of the rules. But it was too little, too late. Polarization had set in. Once an idea is rooted, said one of the journalists interviewed at the Agricultural Media Summit, it is very difficult to dig out. This is especially true, she said, if a belief is based on what someone hears or reads from a trusted source rather than on that person’s own research and reasoning.

FBNews compared the withdrawal to winning a basketball game. “So, what should we set our sights on next, and how can farmers and ranchers apply the lessons learned to win more victories? Game on!”³ That’s a great question if you’re a marketing professional. But if we judge winners and losers by injuries and fatalities, a broader approach is needed.

It starts with lessons learned.

- Unity matters. Safety and health professionals must write their own “playbook” and identify what they agree on, speaking as one.
- Facts are essential, but facts alone are not the best tools in a debate. For every fact you have, someone has created a counter fact.⁴ Bring stories and the passion you have for your life’s work.
- The unknown is scary. Farmers and ranchers were concerned about unintended consequences of the proposed rules; how the language would be “interpreted” in terms of enforcement.
- The “bunker” mentality is real for many farmers. The proposed rules were seen as the latest intrusion into their lives by people who don’t understand them (e.g., animal-rights activists sneaking video cameras into livestock facilities).

We also learned that suspicion of government can prevent the Department of Labor from enacting rules in the manner it does for non-agricultural industries. In a news release withdrawing its proposed rules, the department suggested a national safety education program,⁵ and mentioned working with organizations such as the American Farm Bureau Federation, National Farmers Union, FFA, and 4-H. To that list please add Agricultural Safety and Health Council of America, a producer-driven organization that addresses ongoing and emerging occupational safety and health issues affecting US agriculture.

Given evidence that education alone does not work,⁶ it will be up to the agricultural industry and its producer organizations to set a higher safety bar for protecting hired, working children.

The game is on. No one with an interest in childhood agricultural safety and health can afford to be on the sidelines.

Scott Heiberger

REFERENCES

1. Miller ME. Historical background of the child labor regulations: strengths and limitations of the agricultural hazardous occupations orders. *J Agromedicine*. 2012;17(2):163–85.
2. Hard DL, Myers JR. Fatal work-related injuries in the agriculture production sector among youth in the United States, 1992–2002. *J Agromedicine*. 2006;11(2): 57–65.
3. Finnerty L. What went right on youth labor proposal. *FBNews*. 2012 May 28; pp 2–3.
4. US Farmers & Ranchers Alliance. Building Trust in Agriculture: Research Roadmap. 2012. Chesterfield, MO: US Farmers & Ranchers Alliance; p 7.
5. United States Department of Labor. Labor Department statement on withdrawal of proposed rule dealing with children who work in agricultural vocations. News release. 2012 Apr 26. Available at: <http://www.dol.gov/opa/media/press/whd/WHD20120826.htm>. Accessed August 23, 2012.
6. Effectiveness of interventions in preventing injuries in agriculture – a systematic review and meta-analysis. Lehtola MM, Rautiainen RH, Day LM, Schonstein E, Suutarinen J, Salminen S, Verbeek JH. *Scand J Work Environ Health*. 2008;34(5):327–336.