HUMAN RISK MANAGEMENT REALITIES AND RESOURCES: THE LATINO LABOR FORCE IN AGRICULTURE
INTRODUCTION

This publication is a compilation of several PowerPoint presentations and other documents distributed at the workshops “Human Risk Management Realities and Resources: The Latino Labor Force in Agriculture” that took place in various locations in Missouri in 2005 and 2006. These workshops were part of a project funded by the North Central Region Risk Management Education Center. We believe this document containing the majority of the information distributed in the workshops could be useful to farmers/employers or potential employers of Latino agricultural workers.

Speakers and presentations at the workshop discussed issues related to the legal aspects of hiring and retaining Latino labor force, issues and challenges that may impact Latino worker’s productivity, labor aspects, housing regulations, safety on the farm for Latino workers, labor regulations, and health aspects. This compilation is the result of all those presentations and handouts distributed at one or more workshops or follow up meetings.

We hope that this collection of information will help you better manage your Latino labor force.

Sincerely

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CONTENTS

Introduction 2
A profile of Migrant Farmworkers 3
Compliance issues for employers 11
H-2 B visa procedures 16
Web resources for wage and hour information 18
Migrant farmworker housing 19
Ergonomics and its effects on farmworkers 24
Pesticide safety for farmworkers 36
Worker Health Issues and standards 49
The definition of “migrant” varies among the multitude of federal government agencies (DOL & HUD) and programs that provide services to migrant and seasonal farm workers and their families (MEP).

In the NAWS (2001-2002), migrants are defined as persons who travel at least 75 miles during a 12-month period to obtain a farm job.

Overall, migrants comprised 42% of crop workers in 2001-2002, a 5% decrease from 1993-1994 when they were 47%.
Demographics

It is estimated that there are 3-5 million migrant and seasonal farmworkers in the U.S.

NAWS, NCFH

78% of the hired crop labor force were born outside the U.S.

75% were born in Mexico.
42% of foreign-born crop workers first came to the U.S. less than 5 years ago.

The average age for both male and female crop workers was 33. Half of all workers were less than age 31.

51% of all farm workers, married or single, were parents.

81% of the workers reported that Spanish was their native language.
On average, the highest grade completed by crop workers was 7th grade.

34% of crop workers had been working for their current employer for one year or less.

The share of workers employed by a farm labor contractor increased by 50% between the periods 1993-1994 and 2001-2002.
The average individual income range from all sources, as well as from farm work only, was $10,000 - $12,499.

Based on the poverty guidelines that are issued each February by the U.S. Department of Health and Human Services, and which are based on family size, 33% of all farm workers had total family incomes that were below the poverty guidelines.

Migrant and Seasonal Agricultural Worker Protection Act (MSAWPA)
COMPLIANCE ISSUES

☐ Verification
  ▪ Effective 11/6/86, employers must complete an I-9 form, verifying that all employees have permission to work.
  ▪ Failure to do so can result in a fine and a cease and desist order. Criminal charges can be brought in cases where the employer has engaged in an active pattern and practice of hiring illegal workers.

☐ Protection for the employer
  ▪ A properly completed I-9 protects the employer even if the employee is found to be an unauthorized worker as long as the employer did not have “actual knowledge” or “constructive knowledge” that the employee was working without permission.
  ▪ A verification system should be in place to assure that all I-9’s are completed properly and timely and that re-verification occurs as necessary. Note: Independent contractors are not covered by this law, unless the employer knows the contractor is not authorized to work.

☐ I-9 Audit
  ▪ Immigration has the right to request an audit (review and inspection) of all I-9 forms upon 3 days notice. All I-9 forms should be reviewed and corrected if possible prior to the audit. Corrections should be dated to reflect the date of the correction.
Discrimination in hiring and discharging employees

- Immigration law protects against unfair discrimination in the hiring, retention, and discharge of employees, based on national origin and citizenship status.
- An employer may not refuse to accept documents listed as acceptable by the I-9 form and may not require different or additional documents.
- Civil fines may be imposed for discrimination.

Social Security “Mismatch” Letter

- The Social Security Administration sends letters to employers advising that an employee’s name and social security number do not match in the Social Security records system.
- There are many reasons why a “mismatch” may occur – name change, hyphenated name, misspelling, clerical error, etc.
- The SSA letter alone is not grounds for discharge because it is not proof that a worker is unauthorized. The employer should notify the employee and verify information.
- If the employee indicates that the name and number are correct, the employer should advise the employee to correct the matter with SSA. If a new number is given, report that number to SSA.
- Immigration issues arise in circumstances where the SSA letter may give the employer “constructive knowledge” that an employee is not authorized to work. An SSA letter may necessitate re-verification of I-9 forms.

Internal Revenue Reporting Requirements

- An employer is required to file W-2 forms and is subject to penalties for providing incorrect information, which would include a social security number. As long as the employer has obtained information from the employee and has submitted the form, the IRS will not penalize an employer.
HIRING FOREIGN WORKERS

- **Employment-based temporary visas**
  - H-1B: Professional worker filling a temporary professional job (up to 6 years). Minimum of a Bachelor’s degree required. Yearly limit on number of visas is 65,000.
  - H-2B: Non-agricultural worker coming to fill a short-term (6-12 months) need of the employer because the employer is unable to find U.S. workers to fill that need. Numerical limit on number of visas available per year.
  - H-2A: Agricultural worker coming to perform agricultural labor or services of a temporary or seasonal nature because the employer is unable to find U.S. workers.
  - TN (North American Free Trade Agreement): Citizens of Mexico and Canada performing a “professional” job as listed on Treaty. Entry for one year, renewable annually.
  - L-1: Transfer of an executive, manager, or employee with specialized knowledge from overseas affiliate of the U.S. company. Stay is 7 years for manager or executive, 5 years for employee with specialized knowledge.
  - F-1: Students with curricular or optional training are authorized to work in his or her field of study. The employer is not required to petition. However, the employer would need to petition for appropriate visa prior to expiration of practical training.
  - J-1: Exchange visitor, student or scholar with practical training is authorized to work in his or her field of study. The employer is not required to petition. However, prior to expiration of practical training, employer would need to petition for appropriate visa. May be subject to 2 year home residency requirement.
  - R-1: A religious worker coming to the U.S. to perform a religious function for a qualifying religious organization.
Employment-based permanent resident visas for professional workers

- Labor certification: Employer establishes that it has advertised but cannot locate a qualified U.S. worker to fill its position.

- Special provisions for the selection of college or university faculty members when the school has conducted a competitive recruitment process and finds employee to be the most qualified.

- Outstanding researcher and professors: for those who have risen to the top of their field in research or teaching.

- National Interest Waiver: Aliens who have risen to the top of their field and perform work which benefits the U.S.

- Aliens of extraordinary ability in the arts, science, business or athletics.

- Special provisions for nurses and physical therapists due to current shortage of professionals in these occupations.

- Special provisions for doctors who have received medical education or training in the U.S. Physicians are usually required to work in an underserved medical area prior to obtaining permanent resident status.

- Special provisions for multinational managers or executives who have been transferred from an overseas affiliate of a U.S. corporation.

- Special provisions for religious workers performing religious functions for a qualifying religious organization.
FAMILY-BASED IMMIGRATION OPTIONS

- U.S. citizens and lawfully admitted permanent residents may petition for certain relatives to become permanent residents.

- U.S. citizen may sponsor: spouse, unmarried child over 21, unmarried child under 21, married child and family, fiancée, brother, sister, adopted child, or parents. The process for sponsorship and the wait time for a visa depends on the relationship between the U.S. citizen and his or her family member.

- Permanent resident may sponsor: spouse, unmarried child under 21 and unmarried child over 21. The process for sponsorship and the wait time for a visa depends on the relationship between the permanent resident and his or her family member.

- Children born in the U.S. are U.S. citizens at birth. Children born abroad to a U.S. citizen mother or father may be derivative U.S. citizens depending on the date of birth and the residence of the parent and/or grandparent.

MISCELLANEOUS IMMIGRATION OPTIONS

- Diversity lottery: apply to State Dept., limited number of visas, only citizens of certain countries are eligible.

- Temporary Protected Status: temporary relief to those in U.S. who come from countries designated as having current and severe economic or political problems.

- Asylum: those people already in the U.S. who have been persecuted due to political opinion, religious beliefs, or membership in a particular social group.

- Refugee Status: apply at a U.S. embassy abroad and prove persecution based on political opinion, religious beliefs or membership in a particular social group.

- Naturalization: a permanent resident may apply to become a naturalized U.S. citizen after 5 years (3 years if married to a U.S. citizen). Must prove residence in U.S. for at least one-half qualifying period and good moral character. Must pass English language and history test.
PROCEDURES FOR H-2B TEMPORARY LABOR CERTIFICATION IN NONAGRICULTURAL OCCUPATIONS

OVERVIEW
An H-2B temporary nonagricultural worker is an alien who is coming temporarily to the U.S. to perform temporary services or labor if qualified U.S. workers capable of performing such services or labor are not available, and whose employment will not adversely affect the wages and working conditions of similarly employed U.S. workers.

Immigration and Naturalization Service (INS) regulations at 8 CFR 214.2(h)(6) establish requirements for the H-2B visa classification. INS regulations require: (1) that the H-2b petitioner be a U.S. employer, or the authorized representative of a foreign employer having a location in the United States; and (2) that the employer apply for temporary labor certification with the Department of Labor (DOL) prior to filing a petition with the INS to classify an alien as an H-2B worker in all areas of the United States, except the Territory of Guam.

A temporary labor certification is advice from the Secretary of Labor to INS on whether or not U.S. workers capable of performing the temporary services or labor are available and whether or not the alien’s employment will adversely affect the wages and working conditions of similarly employed U.S. workers. The INS is not bound by DOL’s certification or notice that certification cannot be made.

STANDARDS FOR DETERMINING THE TEMPORARY NATURE OF A JOB UNDER H-2B

A job opportunity is temporary under the H-2B classification if the employer’s need for the duties to performed is temporary, whether or not the underlying job is permanent or temporary. As a general rule, the period of the employer’s need must be 1 year or less, although there may be extraordinary circumstances where the need may be for longer than a year. The labor certification application may be filed for up to, but not exceeding 12 months. If there are unforeseen circumstances where the employer’s need exceeds 1 year, a new certification is required for each period beyond 1 year.

Temporary employment should not be confused with part-time employment, which does not qualify for temporary (or permanent) labor certification.

The employer’s need for the services or labor shall be either: (1) one-time occurrence; (2) a seasonal need; (3) a peakload need; or (4) and intermittent need.

**One time occurrence**: The employer must establish: (1) that it has not employed workers to perform the services or labor in the past; and (2) that it will not need workers to perform the services or labor in the future, or that it has an employment situation that is otherwise permanent, but a temporary event of short duration has created the need for a temporary worker.
Seasonal Need: The employer must establish that the service or labor is traditionally tied to a season of the year by an event or pattern and is of a recurring nature. The employer must specify the period(s) of time during each year in which it does not need the services or labor. The employment is not seasonal if the period during which the services or labor is needed is unpredictable, subject to change, or considered a vacation period for the employer’s permanent employees.

Peakload Need: The employer must establish that it regularly employs permanent workers to perform the services or labor at the place of employment and it needs to supplement its permanent staff on a temporary basis due to a seasonal or short-term demand with temporary employees who will not become a part of the regular operation.

Intermittent Need: The employer must establish that it has not employed permanent or full time workers to perform the services or labor, but occasionally or intermittently needs temporary workers for short periods.

FILING INSTRUCTIONS

Every temporary application shall include:

1. An original and one copy of Form ETA 750, Part A, the offer of employment portion of the Application for Alien Employment Certification form signed by the employer. Part B, Statement of the Qualifications of the Alien is not required.
2. Documentation of any efforts to recruit U.S. workers the employer may have made before filing the application.
3. A statement explaining why the job opportunity is temporary and why the employer’s need for the work to be done meets the standard of either a one time occurrence, a seasonal need, a peakload need, or an intermittent need.

To allow for enough recruitment of U.S. workers and enough processing time by State and Regional Offices, the State Employment Security Agency (SESA) shall advise employers to file requests for temporary labor certification at least 60 days before the labor certification is needed in order to receive a timely determination. Applications received more than 120 days before the worker is needed will be returned to the employer.

More than one alien may be requested on an application if they are to do the same type of work on the same terms and conditions, in the same occupation, in the same area(s) of employment during the same period. The number requested may not exceed the actual number of job openings. The number of openings the employer intends to fill must also be specified in the advertisement and the job order required in Section IV of these instructions.
Web resources for wage and hour information on agricultural labor
(compiled by Susan Herren, U.S. Department of Labor)

Wage Hour Web Page:  http://www.dol.gov/esa/whd/

Posters:  
Minimum Wage  
http://www.dol.gov/esa/regs/compliance/posters/flsa.htm  
Minimum Wage in Spanish  
http://www.dol.gov/esa/regs/compliance/posters/flsaspan.htm  
Migrant Seasonal Protection Act in English/Spanish  
Employee Polygraph Protection Act  
http://www.dol.gov/esa/regs/compliance/posters/eppa.htm

Forms:  
Wage Statement WH-501  
Wage Statement WH-501 - Spanish  
http://www.dol.gov/esa/forms/whd/Form_WH-501S.pdf  
Worker information WH-516  
Worker information WH-516 - Spanish  
http://www.dol.gov/esa/forms/whd/WH-516_Spanish.PDF  
Form WH-530: Application for Farm Labor Contractor instructions.  
http://www.dol.gov/esa/forms/whd/fts_wh530.htm

Regulations:  
Agriculture Regs.  
http://www.dol.gov/dol/allcfr/ESA/Title_29/Part_780/toc.htm  
Migrant Regs.  
http://www.dol.gov/dol/allcfr/ESA/Title_29/Part_500/toc.htm  
ETA Housing Regs.  (prior to 4/3/80)  
http://www.dol.gov/dol/allcfr/ETA/Title_20/Part_654/Subpart_E.htm  
OSHA Housing Regs.  (after 4/3/80)  
OSHA Field Sanitation  
Child Labor Regs.  
http://www.dol.gov/dol/allcfr/ESA/Title_29/Part_570/toc.htm

Laws:  
Migrant and Seasonal Agricultural Worker Protection Act  
http://www.dol.gov/esa/regs/statutes/whd/0001.mspa.htm

Fact Sheets:  
Agriculture - fact sheet #12  
MSPA – fact sheet #49  
Joint employment in AG – fact sheet #35  
Transportation under MSPA – fact sheet #50  
Field sanitation – fact sheet #51  
Agriculture child labor – fact sheet #40  
Recordkeeping – fact sheet #21  
Hours worked - fact sheet #22  
Migrant Farm Worker Housing

Do you have to provide housing to your farm workers?

Does any of the following conditions apply to you?

- Do you own or control a facility or real property which is used as housing for any migrant agricultural worker? Control is defined as anyone having the capability to oversee, manage, superintend or administer the housing or real property either personally or through an authorized agent.

Employer Responsibilities

- Each person who fits the aforementioned criteria must ensure that the property complies with all State and Federal Safety and Health Standards.
Employer Responsibilities

- A facility or real property SHALL NOT be occupied by any migrant agricultural worker unless either a State or local health authority or other appropriate agency (including a federal agency), HAS CERTIFIED that the property meets applicable safety and health standards.

Who Certifies Housing????

- Federal Wage and Hour staff;
- The State Monitor Advocate for the Migrant and Seasonal (MSFW) Program;
  - Gale Graves (573) 751-3773
- Any public entity who can attest to the health and applicable occupancy laws in your area.

Housing Regulations

- Housing must be certified every three years. It is the employer responsibility to ensure that the housing remains in compliance during this time.
- The certification must be obtained 45 days prior to the expected occupancy date.
- The housing certification must be posted at the entrance of each housing unit (the original). A copy can be kept in the employer files.
Migrant Housing Requirements

- A determination of when your housing was built must be made.
- Housing built prior to April 1980 should be inspected in accordance with ETA regulations at 20 CFR Part 654.
- Housing built after April 1980 should be inspected in accordance with the regulations at 20 CFR 1910.42.

What is the Difference?

- There are a few differences. You have been given a housing checklist that reflects both laws.
- Any wording in italics are regulations applying to barracks style housing.

Housing Rules At a Glance

- If you could or would live in it...your housing is probably OK.
- Remember, it's adequate space, clean, sanitary and safe.
Number of Migrant Workers Per Housing Unit

- If housing is built prior to 1980, 60 square feet overall cooking, eating and sleeping space.
- After 1980, 100 square feet.
- Measure the OVERALL square feet of the house prior to placing furniture in the sleeping rooms.

SLEEPING SPACE

- Minimum Standards BUNK BEDS
  - 40 SQUARE FEET PER OCCUPANT
- Minimum Standards SINGLE BEDS
  - 50 SQUARE FEET PER OCCUPANT

Common Housing Violations Resulting in FAILURE

- No furniture
- Not Clean
- Rodent or Insect Infestation
- No Fire Extinguisher
- No First Aid Kit
- No screens on windows
- Windows do not open
Common Housing Violations
Resulting in FAILURE #2

- Outside area unsafe or there are drainage problems
- Holes in Porches
- No door handles
- No means of egress from a second story
- HOUSING IS OCCUPIED

WHO TO CALL

Gale Graves
State Monitor Advocate
573-751-3773
Ergonomics and its Effects on Farmworkers

No matter how high tech farming becomes, a significant degree of strenuous labor will always be involved with the bulk of the work requiring stoop labor, repetitive hand manipulation, lifting and carrying.

Who is affected? Our farmworkers who do hand labor tasks such as weeding, planting, cultivating, and harvesting.
Ergonomics and its Effects on Farmworkers

A third of the injuries that cause farmworkers to miss work are sprains and strains, and a quarter are back injuries.

The technical terms for these sprains and strains is "work-related musculoskeletal disorders" (WMSDs).

WMSDs hurt:
- the farmworkers' bodies,
- the farmworkers' earning, and
- the growers' profits.

What is Ergonomics?

Greek origin: “Ergonomics”

Ergon = work
Nomos = laws
“the laws of work”
**What is Ergonomics?**

- The science of fitting jobs to people.
- Ergonomics uses knowledge of physical abilities, limitations & human characteristics that apply to job design.

**Why Ergonomics?**

- Improve Worker Efficiency
- Increase Production Capability
- Reduce Workplace Injuries
- Lower Workers’ Comp Costs
- Reduce Absenteeism
- Improve GROWER’S PROFIT!
**Work-Related Musculoskeletal Disorders**

Are injuries to soft body tissue primarily caused by risk factors, such as sustained and repeated exertions or awkward postures and tool or material handling.

**Work-Related Musculoskeletal Disorders**

- Disorders of the muscles, nerves, tendons, ligaments, joints, cartilage and spinal disks.
- Generally develop gradually over a period of time, and do not typically result from a single instantaneous event.
- Do not include injuries caused by slip, trips, falls, or other similar accidents.

**Work-Related Musculoskeletal Disorders**

WMSDs are:

- The leading cause of disability for people in their working years.
- Caused by chronic exposure to physical stresses.
WMSDs are caused by

- Bending
- Climbing
- Crawling
- Reaching
- Twisting
- Lifting
- Repetitive Exposure
- Forceful Gripping
- Kneeling
- Squatting
- Vibrating Equipment

MSD Signs

Signs of Muscular-Skeletal Disorders are objective physical findings. Signs include:
- Decreased range of motion
- Decreased grip strength
- Loss of function
- Deformity
- Swelling
- Cramping
- Redness/loss of color

MSD Symptoms

Are physical indications that a problem may be developing. They can differ in severity from mild periodic symptoms to severe conditions. Usually symptoms become more severe as exposure continues. Examples include:
- Numbness
- Burning
- Pain
- Tingling
- Aching
- Stiffness
Risk Factors

- Risk Factors are the elements of workstation design or employee action that can result in WSMDs. Two types of risk factors:
  - Environmental Factors
  - Activity Factors (physical labor)

Environmental Risk Factors

- Heat or cold
- Lighting
- Vibration
- Tool design
- Noise

Activity Risk Factors

- Static or awkward postures
- Improper gripping
- Improper lifting
- Repetitive Motion
Posture

- Prolonged standing – **problem:** Varicose veins, back stress, pooling of blood in legs
- Sitting without back support – **problem:** Low back stress
- Seat too high – **problem:** Decreased circulation, (legs dangling over end) bruises

Posture

- Shoulders rounded – **problem:** Upper/lower back stress, respiratory distress
- Leaning forward – **problem:** Lower back stress
- Arms extended or over-reaching – **problem:** Stress to arm muscles, upper back stress

Posture

- Elbows "winged" – **problem:** Joint stress at shoulder, poor use of bicep muscles
- Stepping backwards – **problem:** Loss of balance, displaced gravity, muscle stress
- Locking knees – **problem:** Stress to back of knee, poor blood circulation
- Bent Wrist – **problem:** Excessive force when gripping
**Gripping**
- Factors that increase gripping hazards
  - Bent wrist
  - Surface area
  - Surface friction
  - Vibration
  - Type of grip

**Lifting**
- Factors that increase lifting hazards
  - Weight
  - Size
  - Repetition
  - Twisting
  - Bending
  - Reaching
  - Method

**Repetition**
- Frequent and prolonged repetition of the same movements cause muscle fatigue and stress
- Factors that increase repetition hazards
  - Number of cycles per minute
  - Force required
  - Posture
Simple Solutions

Cost-effective ergonomic strategies can be implemented to maximize productivity without increasing injuries to the farmworker.

LIFTING:
- Teach farmworkers proper lifting techniques.
- Lifting by keeping the back straight, tighten the grip with both hands, and straighten the legs, letting the leg muscles do the lifting.
- While lifting the load, spread feet comfortably apart with one foot slightly ahead of the other for better balance.
- Encourage farmworkers not to lift above shoulder level.
- Farmworkers should be encouraged to ask for assistance while lifting heavy loads.

Check your footing... make certain the floor and the path traveling are free of tripping and slipping hazards. Utility Vehicles/Outdoor Mobility Aids (UV/OMA) can be used to transport heavy objects thereby reducing stress on hands, wrists, shoulders, hips, knees, and backs.
- Hand carts, caster wagons, or dollies.
- A skid loader equipped with a bale prong can be used for stacking large bales of hay and/or placing them in feeding areas.
- Pallets and bulk containers handled by mechanical equipment can eliminate or reduce lifting heavy bags.
- Small power vehicles (e.g., John Deere Gators or Kawasaki Mules), golf carts, power scooters, or even a riding lawn mower with the blade removed.
Simple Solutions

CLIMBING:
- Reduce the number of times climbing up and the down ladder.
- Use labor saving tips and techniques.
- Avoid jumping on and off equipment.

Simple Solutions

WALKING:
- Walk with good posture.
  - Keep your chin tucked in.
  - Keep your shoulders back.
  - Tighten your stomach muscles.
  - Toes straight ahead.
- Wear comfortable shoes.
  - Anti-vibration and shock absorbing materials, such as Sorbothane, can reduce secondary injuries to joints.

Simple Solutions

KNEELING/SQUATTING:
- Sit on a low stool or chair
- Stand up and stretch every 20 minutes
- Use labor saving equipment:
  - Conveyor belts
Resources

- Simple Solutions: Ergonomics For Farm Workers
  http://www.cdc.gov/niosh/01-111pd.html
- OSHA Effective Ergonomics, Strategy for Success
  http://www.osha.gov/SLTC/ergonomics/
- ABLEDATA
  http://www.abledata.com/

Why Ergonomics

- Improve Worker Efficiency
- Increase Production Capability
- Reduce Workplace Injuries
- Lower Workers’ Comp Costs
- Reduce Absenteeism and
- Improve GROWER’S PROFIT!

Questions

Thanks is extended to:
  Mike Milam – photos
  Joe Tillman – photos
  National Center For Farmworker Health (NCFH)
  University of Missouri Extension
  Missouri Arthritis Rehabilitation Research and Training Center (MARRTC)
  Missouri migrant and seasonal farmworkers
Federal Insecticide, Fungicide and Rodenticide Act

Aka FIFRA, was the legislation first enacted in the 1947 to administer and regulate pesticides and their use.

FIFRA Provisions

- EPA regulates pesticides/uses
- EPA classifies Restricted Use Pesticides
- Allows each state to govern pesticides/uses with their own laws – may be more strict than federal program, but not less
The Worker Protection Standard (WPS) is a law that targets protecting workers from exposure to agricultural pesticides.

Who is affected? 1. Agricultural workers. These are people who do hand labor tasks such as weeding, planting, cultivation and harvesting, or other related tasks in the production of agricultural commodities.
Who is affected? 2. Pesticide handlers. These are people who mix, load, apply pesticides or do tasks that bring them into contact with pesticides.

WPS components: 1. Safety display information. Show the name, number and address of the nearest medical facility and a listing of pesticides that were recently applied to all sites. It must be displayed in a visible location such as the farm shop.

WPS components: 2. Pesticide safety training. Workers and handlers must go through safety training. There are a wide range of materials to use that will cover this need. Certifying as a private applicator will also meet the WPS requirement.
WPS components: 3. Emergency transportation. Employers are responsible for making transportation available to an appropriate medical facility for workers or handlers who are injured or poisoned by pesticides.

WPS components: 4. Decontamination site. Employers are responsible for making available water, soap, single-use towels and a clean coverall within ¼ mile for workers and handlers.

For complete, detailed information on the WPS, ask for the EPA How to Comply manual at your local University Outreach and Extension Center.
In an emergency, check the pesticide label first and follow those instructions.

Symptoms of Pesticide Poisoning

- Headache, nausea, vomiting, blurred vision, excessive sweating, chest or abdominal pain, breathing difficulty
- Symptoms may be confused with heart attack, stroke, heat, or other problems requiring medical attention

For more information and a reference to keep on file, ask for MU Guide G1915 at your UOE center.
If skin exposure has occurred, first remove the victim’s contaminated clothing.

If a shower is not immediately available, rinse outside with plenty of water.

Have the victim shower with soap and water, if conscious.
If pesticides get into the eyes, wash quickly for at least 15 minutes with clean, cool water.

If pesticides have been inhaled, first move the victim to fresh air, loosen clothing and apply artificial respiration if needed.

If a pesticide has been swallowed, some labels will recommend drinking large quantities of milk or water and induce vomiting. Vomiting should not be induced if the pesticide contains petroleum-based solvents.
Always take the label to the emergency medical facility when transporting a victim.

Types of Clothing

- Chemical resistant
  - Rubber, neoprene
  - Plastic
  - Non-woven fabric (coated with plastic)
- Non-chemical resistant
  - Cotton
  - Leather
  - Canvas

Pesticide labeling will instruct you on the personal protective equipment that you need to wear when mixing, handling and applying the product.
Length of Exposure

- Not all materials are created equal
  - Some will keep the pesticide out for a fairly long time
  - Others will allow the pesticide to go through rapidly
- Example: neoprene is resistant to acetone for 30 minutes or less and to diesel fuel for more than 4 hours

MU Guide G1917 contains information on chemical resistance categories for many personal protective materials.

Because pesticide exposures most commonly occur through dermal entry, it is especially important to protect the hands and forearms. Dermal exposure has been shown to be reduced by 99% when wearing the proper gloves.
Some pesticide labels will state that long-sleeved shirt and pants must be worn. With some pesticides, these will provide sufficient protection.

Splashing of concentrated solutions can be a problem with mixing operations. Since the genital region of the human body readily absorbs pesticides, it is a good idea to wear an apron.

An acute effect is a high-level, one-time exposure.
When wearing protective gloves and boots, be sure to keep the cuffs over the top when conducting over-head spraying/mixing operations.

This keeps the pesticide from running down into the gloves and boots where your skin will be exposed.

For head and/or neck protection, there are several types of headwear available ranging from hard hats to chemical hoods.

When the label calls for protective eyewear, choose safety glasses, goggles or a faceshield. Regular eyeglasses are not protective eyewear!
Protecting Your Respiratory Tract

- The lungs are much more absorbent than the skin.
- Even if the label does not specifically state to wear a respirator, you may consider so if:
  - You are in an enclosed area.
  - You will be exposed for a long time to pesticides that are in your breathing zone.

When Selecting a Respirator:

- Be certain that it is NIOSH/MSHA-approved.
- Be sure to perform a fit test so that it seals tightly against the face.

Always shower at the end of the day following pesticide handling activities.
Always wash pesticide-tainted work clothes separately from the family laundry.

If possible, line-dry clothing that is used in pesticide applications. Sunlight helps to break down any pesticide residues that may remain in clothing.

For more detailed information on laundering pesticide-contaminated clothing, ask for MU Guide G1914 at your local UOE Center.
For Additional Information

• Contact the Dunklin County University Extension Center at 573-888-4722

• We are located in the Courthouse Annex in Kennett
What is the public health problem?

- Agriculture is recognized as being one of the most hazardous industries in the United States, ranking second only to the mining industry in yearly fatality rates.
- Eighty-five percent of hired agricultural crop workers in the United States are foreign-born, and of that population, 90% are from Latin America.
- Of the estimated three to five million migrant and seasonal farm workers who work in the United States each year, approximately 7% are adolescents.
PROTECTING THE SAFETY AND HEALTH OF IMMIGRANT WORKERS

WHAT IS THE PUBLIC HEALTH PROBLEM?
- Foreign-born workers are more likely to be employed in the higher-risk and lower-wage sectors of the workforce, such as agriculture, construction, and service industries.
- There are approximately 16.5 million foreign-born workers in the United States.
- Latin America is the region of birth for over half of foreign-born workers.
- Between 1999 and 2000, while the number of occupational fatalities in the country decreased, there was a 5% increase in the number of fatalities among foreign-born workers, and a 12% increase in the number of Hispanic worker deaths (even though the Hispanic/Latino workforce grew by only 6%).

Youth Workers in Agriculture
- Agriculture ranks among the most hazardous industries. Farmers are at very high risk for fatal and nonfatal injuries. Farming is one of the few industries in which the families (who often share the work and live on the premises) are also at risk for fatal and nonfatal injuries.
- Approximately 1,859,000 full-time workers were employed in production agriculture in the U.S. in 2003.
- An estimated 1.08 million children and adolescents under 20 years of age resided on farms in 2001, with about 393,000 of these youth performing work on the farms. In addition to the youth who live on farms, over 400,000 children and adolescents were hired to work on U.S. farms in 2001.
- On average, 103 children are killed annually working on farms (1990-1996).
- In 2001, an estimated 22,600 children and adolescents were injured on farms; 8,400 of these injuries were due to farm work.
- In an average year, 110 American farm workers are crushed to death by tractor rollovers (1992-2000).
- Every day, about 228 agricultural workers suffer lost-work-time injuries, and about 5% of these result in permanent impairment.

OSHA Services And Programs
OSHA’s Mission
Section 2.(B) Of The OSH Act Of 1970

“...to assure so far as possible, every working man and woman in the Nation, safe and healthful working conditions and to preserve our human resources.”

OSHA’s Vision

Every employer and employee in the nation recognizes that occupational safety and health add value to American businesses, workplaces, and workers’ lives.
History of Making a Difference

Since 1971:
• Workplace fatalities have decreased 62%
• Occupational injuries and illnesses have declined 42%

OSHA’s Triple Bottom Line

Reduce injuries, illnesses, and fatalities

OSHA 5-Year Plan (2003-2008)

• Reduce fatality rates by 15%
• Reduce injury/illness rates by 20%
OSHA Strategies and Leadership

1. Strong, fair and effective enforcement
2. Outreach, education and compliance assistance
3. Partnerships and cooperative programs

Strong, Fair and Effective Enforcement

- Programmed Inspections
- National Emphasis Programs
- Local Emphasis Programs
- Site Specific Targeting
- Enhanced Enforcement Program
- Un-programmed inspections
- Fatalities
- Referrals
- Employee Complaints

Employee Complaints

- Formal Complaints
  - Current employee or employee representative
  - Results in on-site Inspection
- Complaint Investigations
  - Phone and FAX
  - Call employer and discuss complaint allegations
  - Request self-investigation
  - Notify OSHA of findings through objective documentation
  - OSHA determines if response is adequate
  - Notify complainant of results
  - May perform inspection if either OSHA or the complainant are not satisfied with employer response
How to Contact OSHA

- TO REPORT ACCIDENTS, UNSAFE WORKING CONDITIONS, OR SAFETY & HEALTH VIOLATIONS:
  - Contact the OSHA Office nearest you (816-483-9542), or contact our toll free number:
  - 1-800-321-OSHA (6742)
  - Spanish speaking operators are on duty

OSHA Poster

- The OSHA Poster (OSHA-3165)
  - Must be posted
  - Notifies employees of their rights:
    - File a complaint with OSHA
    - Employer Cannot discriminate against employees for bringing S&H issues to the employer's attention
  - Available in both English and Spanish Versions at www.OSHA.gov

Limitations To The Use of The Enforcement Tool

- OSHA Appropriations Act
- Jurisdictional Issues
OSHA Appropriations Exemptions

- Annual Appropriations Act “Riders” (32 CFR 2.563)
- Key Terms: Definitions pertinent to this Directive are the following:

  A "farming operation" means any operation involved in the growing or harvesting of crops, the raising of livestock or poultry, or related activities conducted by a farmer on sites such as farms, ranches, orchards, dairy farms or similar farming operations. These are employers engaged in businesses that have a two digit Standard Industrial Classification (SIC) of 01 (Agricultural Production - Crops), 02 (Agricultural Production - Livestock and Animal Specialties), and four digit SIC 0711 (Soil Preparation Services), 0721 (Crop and Tree Planting, Cultivating, and Protecting), 0722 (Crop Harvesting), 0731 (Farms Labor Contractors and Crew Leaders), and 0762 (Farm Management Services).

  A "temporary labor camp" means farm housing directly related to the seasonal or temporary employment of farm workers.

  "Housing" includes both permanent and temporary structures located on or off the property of any employer who meets the above definition.

Current Appropriations Act

- Enforcement Guidance for Small Farming Operations: The Appropriations Act exempts small farming operations from enforcement of rules, regulations, standards or orders issued under the Occupational Safety and Health Act.

- A "farming operation" is exempt from all OSHA activities if:
  - It employs 10 or fewer employees currently and at all times during the last 12 months; and
  - It has not had an active temporary labor camp during the proceeding 12 months.

- OSHA, however, retains inspection responsibility for those camps of employees engaged in eggs or poultry production (SIC 025) or red meat production (SIC 021) or engaged in the post-harvest processing of agricultural or horticultural commodities. Generally, post-harvest processing can be thought of as changing the character of the product (canning, making cider or sauces, etc.) or a higher degree of packaging (washing, bundling and bagging carrots versus field sorting in a shed for size).
OSHA Jurisdictional Limitations

- Migrant Labor Camps
- Wage and Hour Jurisdiction
- Pesticides
  - Covered by EPA (40CFR, Part 170)
- Self-employed “Independent Contractors”

The “Independent Contractor”

- A growing trend in the use of immigrant labor is to try to sever a direct employee-employer relationship by the use of “independent contractors”.
- Sole proprietors do not meet the definition of “employee” under the OSH Act of 1970
- OSHA uses the common law tests for employer-employee relationships know as the “20 elements of control”
- Based upon IRS case Law

Establishing Employer-Employee Relationships

- 20 RULE TEST
  1. An employee is required to comply with instructions about when, where, and how to work. The employer's right to instruct is the key. Instructions may be oral or in written procedures or manuals.
  2. An employee is usually trained by one of the institution's experienced employees. Training indicates that the employer wants the services performed in a certain manner.
  3. An employee's services are usually integrated into business operations, generally showing that direction and control are being exercised. Integration of services into the business operation occurs when the success or continuation of a business depends on an appreciable degree on the performance of services that are difficult to separate from the business operation.
  4. An independent contractor's services can usually stand alone and are not integrated into business operations.
Establishing Employer-Employee Relationships

1. An employee usually is furnished by the employer with any tools and materials needed, which is indicative of employer control over the worker. An employee typically does his or her work on the employer’s premises which implies employer control, especially if the work could be performed elsewhere. So someone who works in the employer’s place of business is at least physically within the employer’s direction and control, especially if the work could be performed elsewhere. Some employees customarily use their own tools, which are provided by employees as a common practice in their trade.

2. An employee is usually paid for work by the hour, week, or month. The guarantee of a minimum salary or the granting of a drawing account at stated intervals with no requirement for repayment of the balance is indicative of employer control. Here, too, the right to set the sequence, not the exercise of that right, is the key.

3. An employee has little control over the hiring, supervising, and payment of assistants. An independent contractor usually does work that can be completed on or off the employer’s premises, which indicates that the employer is not in a position to control the worker. In some jobs employees customarily use their own tools, which are provided by employees as a common practice in their trade.

4. An employee submits or provides regular written or oral reports that indicate employer control. Supervision, however, performance of work off-site does not, of itself, mean that no such control exists. Such a condition bars the worker from allocating time to other work, which is a right of an independent contractor.

5. An employee usually devotes full-time to the business of the employer. Full-time does not necessarily mean an eight-hour day or fifty-two-week, in-means required to the extent of that right, is the key. An employee is hired to render services personally. If the employer is interested in the results of services performed, it indicates that the employer is in a position to control the worker. In some jobs employees customarily use their own tools, which are provided by employees as a common practice in their trade.

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7. An employee has little control over the hiring, supervising, and payment of assistants. An independent contractor normally is free to perform services in any manner that produces the desired results. An employee usually is furnished by the employer with any tools and materials needed, which is indicative of employer control over the worker. An employee typically does his or her work on the employer’s premises which implies employer control, especially if the work could be performed elsewhere. So someone who works in the employer’s place of business is at least physically within the employer’s direction and control, especially if the work could be performed elsewhere. Some employees customarily use their own tools, which are provided by employees as a common practice in their trade.

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Establishing Employer-Employee Relationships

16. An employee usually does not realize a profit or suffer a loss as a result of the service provided.

17. An independent contractor is in a position to realize a profit or suffer a loss as a result of services provided.

18. An employee usually does not make services available to the general public.

19. An independent contractor normally works for more than one employer at the same time.

20. An employee has the right to end the employment relationship at any time without incurring liability.

21. An independent contractor usually agrees to complete a specific job and is responsible for its satisfactory completion or is legally obligated to make good for failure to complete the job.

Compliance Assistance and Partnerships

- Target groups
  - Youth
  - Immigrant workers
  - Small business

- Special issues
  - Ergonomics
  - Motor vehicle accidents
  - Workplace violence
  - Lead
  - Silica

Safety and Health Program Major Elements

An effective occupational safety and health program will include the following four elements

- Management commitment and employee involvement
- Worksite analysis
- Hazard prevention and control
- Safety and health training
What’s Being Done?

- To better understand issues faced by immigrant agricultural workers, CDC is collaborating with the Department of Labor to collect data on hired crop farm workers, most of whom are foreign born, through the National Agricultural Workers Survey (NAWS). NAWS is the only national study that has documented the living and working conditions of immigrant workers.
- In 2000, 23% of fatal occupational injuries to foreign-born workers occurred to workers in construction trades. CDC is studying drywall work, the construction occupation that has the highest percentage of Hispanic/Latino workers, and has developed a Spanish-language survey and educational materials for preventing silicosis, a fatal disease affecting construction workers.
- In 2000, 24% of fatal occupational injuries to foreign-born workers were due to homicides. CDC is evaluating the effectiveness of violence prevention strategies, such as panic buttons in taxi cabs, as well as various state-based approaches. CDC also is supporting studies on prevention of nonfatal injuries to immigrant workers such as home health care aides and poultry workers.

Compliance Assistance: Hispanic Employers and Workers

- OSHA’s Hispanic Employers and Workers Web page
    - Spanish-Language Compliance Assistance Resources
    - Hispanic/English-As-Second-Language Coordinators
    - Employer and Employee Rights and Responsibilities
    - OSHA Cooperative Programs
    - Success Stories

Agricultural Hazards
### What are health and safety hazards on farms?

- Chemicals/Pesticides
- Cold
- Dust
- Electricity
- Falls
- Grain bins
- Hand tools
- Highway traffic
- Lifting
- Livestock handling
- Machinery/Equipment
- Manure pits
- Mud
- Noise
- Ponds
- Silos
- Slips/Trips
- Sun/Heat
- Toxic gases
- Tractors
- Wells

### What factors are associated with a higher risk of injury and illness on the farm?

- **Age** – Injury rates are highest among children age 15 and under and adults over 65.
- **Equipment and Machinery** – Most farm accidents and fatalities involve machinery. Proper machine guarding and equipment maintenance according to manufacturers' recommendations can help prevent accidents.
- **Protective Equipment** – Using protective equipment, such as seat belts on tractors, and personal protective equipment (such as safety goggles, coveralls, boots, hats, aprons, gogles, face shields) could significantly reduce farming injuries.
- **Medical Care** – Hospitals and emergency medical care are typically not readily accessible in rural areas near farms.

### In addition to its unique processes, agriculture is also unlike general industry socially, economically, psychologically, and geographically. Examples of major differences include:

- The workplace and the residence are co-located. Thus, the hours of work are as long as necessary, and many of the hazards that affect the producer also affect the family including the children.
- As self-employees or very small businesses, there is little or no distinction between management and labor, fees, legal or pre-employment barriers to entry such as age, sex or even ability (versus desire), and no employee benefits such as sick leave, medical insurance, or workers compensation.
- The emotionally “nasty” nature of agriculture as a business coupled with the inability of the farmer to change prices to reflect costs provides limited incentive to purchase, install, or maintain preventive safety and health controls.
- Agriculture is a geographically dispersed industry with many small “factories” spread over a broad region, inhibiting epidemiologic surveillance or recognition of hazards and the provision of prevention and rehabilitation services.
- The psychological image of farming as an independent lifestyle rather than a business further inhibits acceptance of outside preventive services.
- Coupled with these characteristics is the recently rapid rate with which farmers and traditionally farming families are leaving the industry.
Agricultural Hazards

- Accidental death rates in U.S. agriculture have been consistently near 50 per 100,000 workers for several decades; temporarily disabling accident rates are estimated at over 15%, and the overall injury and illness rate is near 13%.
- Ergonomic agents create an array of common chronic musculoskeletal injuries among agricultural workers, in addition to some specific injuries such as "Milker’s Knee" among dairy farm workers and osteoarthritis of the hip among tractor drivers.
- Noise is a common hazardous agent with perhaps a third of farmers experiencing time weighted average (TWA) noise above 80 dBA. Noise induced hearing loss is very common among farmers.
- The elevated incidence of heat stroke is well known.
- The elevated incidence of heat stroke is well known.

Agricultural Illnesses

- Psychological stress in agriculture manifests itself in suicide at a greater frequency, more frequent mental disability, and decreased intra-family functionality.
- The effects of stress with seasonal work cycles, adverse weather conditions, and machinery breakdowns, interacts with the rate and independent nature of failure making them resilient to such professionals.
- Disarray of the skin are very common in agriculture, may become disabling, but are usually life threatening.
- A wide range of morbidity and mortality findings suggests that respiratory diseases from many Biological and Chemical Agents may represent the greatest health hazard to farmers.
- Respiratory hazards range from acute to chronic contaminants. The settings include poultry barns, swine barns, hydrogen sulfide from manure pits, and carbon dioxide and nitrogen dioxide in silo gas. Agricultural aerosols can present both chronic hazards from crystalline silica (quartz) and silicate components of inorganic dusts, as well as an acute hazard from enzootic or endotoxin, and irritant causes like endotoxin and allergens. Inorganic dust is a complex mixture associated with many respiratory diseases as acute asthma, occupational asthma, and silicosis, as well as the most agriculturally specific disease called Farmer's Lung and Organic Dust Toxic Syndrome (ODTS). Control of respiratory might include the enclosure and ventilation of tractors, applying moisture to flammable materials, and respirators.

Agricultural Hazards (Continued)

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Agricultural Illnesses (Continued)

- Veterinary chemicals include biologicals and antibiotics. Biologicals are made from living products such as viruses or bacteria processed to enhance the immunity of an animal to a specific infectious disease or diseases. The main risk groups are those involved in livestock production and related veterinary care who administer these products to animals, including farmers, veterinarians, and their assistants. Hazards associated with biologicals include accidental inoculation, splashing the product into the eyes or mucous membrane, and contamination of the broken skin. The result may be an infection, inflammation, or an allergic reaction. The primary products that have been associated with occupational illnesses include Brucellosis strain 19, E. coli, Brucella suis, Brucella abortus, Brucella melitensis, and Salmonella typhimurium. Exposure can occur to livestock producers, veterinarians, and feed manufacturers and formulators by direct contact with antibiotic-containing feeds or via aerosol exposure within livestock buildings, feed preparation areas on the farm, or feed manufacturing plants.

- Antibiotics are products derived from (or synthesized) from living organisms, mainly mold species of the genus streptomyces, and include penicillin, tetracycline, sulfamethazine, erythromycin, and virginiamycin. Exposure can occur to livestock producers, veterinarians, and feed manufacturers and formulators by direct contact with antibiotic-containing feeds or via aerosol exposure within livestock buildings, feed preparation areas on the farm, or feed manufacturing plants.

Agricultural Illnesses (Continued)

- Zoonoses are infectious diseases common to animals and humans. At least 24 of the over 150 such diseases known worldwide, are occupational hazards for agricultural workers in North America. The agricultural worker's risk of acquiring a zoonotic disease varies with the type and species of animal and the geographic location. Control of these infections in the production phase depends largely on an awareness of the specific hazards, and good preventive veterinary care, hazard communication, and medical back-up, especially in cases where serological monitoring of animals or people may be indicated.

- There are a few innovative control intervention programs across the U.S. being tried in communities scattered around the country, but there needs to be greater activity. The dearth of preventive services is probably related to the dual nature of agriculture as a workplace and a lifestyle. This duality frustrates the development of both a clear governmental policy at the top and the expression of local interest at the bottom.

Questions?

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