
Farm Work Group Notes

Date: October 16, 2014
Time: 9:00 a.m. to 5:00 p.m.
Location: Highline Community College, Bldg. 2, Des Moines, WA 98198

Appointed Members Present: Jon Wyss, Mike Youngquist, Scott Dilley, Teresa Mosqueda, Nina Martínez, Mike Gempler, Andrea Schmitt, Kirk Mayer, Filemon Pineda, and Rosalinda Guillen.

Agency Ex-Officio Members Present: Lisa Heaton (L&I), Uriel Iñiguez (CHA), Ignacio Marquez (WSDA), Alberto Isordia (ESD), Victoria Breckwich-Vazquez (PNASH), Wayne Clifford (DOH).

Presenters: Elizabeth (Liz) Smith, L&I; Joanne Prado, DOH; Michael Yost, UW.

Administrative matters & agenda review

Members reviewed agenda and agreed to focus on administrative solutions for the issues they had selected at the previous meeting. Members were told that following this meeting, agencies would begin working on background information for the final report to the legislature.

New work group member Filemon Pineda introduced himself and shared his perspective as a farm worker with the workgroup and audience. His primary concerns were for workers to receive rest and meal periods without fear of retribution, as well as fair pay for a fair wage, and protection for rights of minor workers.

Clarification was given that housing was an issue of concern to the group, and that some issues related to housing would be incorporated into the labor supply section of the December report.

Kirk Mayer announced his upcoming retirement and updated the group that Washington Growers Clearing House Assn had merged with two other associations to form the Washington State Tree Fruit Association, managed by Jon DeVaney.

Presentation on pesticide issue

Professor Michael Yost, MS PhD, gave a presentation on pesticide spray and drift. He covered how and when people are notified of pesticide application; drift definitions from the EPA and WAC; factors that contribute to when application is to take place; droplet and particle size; measuring drift, and problems associated with broadcast spray method of application.

Growers want to be good neighbors, and Yost said some have expressed an interest in a local, opt-in notification system. The applicator would need to make a decision about the method of notification delivery, and users would need to agree to be notified. Yost agreed to provide a report on individuals who expressed interest in such a system.

Kirk Mayer discussed two previous pesticide application notification system pilots conducted by WSDA and that they had failed due to lack of volunteerism by target groups: nursing homes, day cares, hospitals, etc. Yost reported that a Pesticide Air Quality Monitoring program (PNASH & DOH) had been conducted adjacent to several Eastern Washington orchards during their peak spray application period and the results showed that

federal, state and California air quality standards were not violated. A copy of the PowerPoint presentation is available upon request.

There was a refresher discussion about the memorandum of understanding between WSDA, L&I, and DOH describing each agency's responsibilities in pesticide incident investigation. Members reviewed a study by PNASH that showed solutions focused on technology and communication to avoid drift.

Joanne Prado from DOH gave a presentation about agricultural pesticide drift that included findings from DOH's 25 years of experience investigating illness reports. She detailed different exposure types, compared previous data with preliminary findings from 2014 investigations of agricultural pesticide drift and farmworker illness reports, and provided summaries of several events and investigations. Key contributing factors to drift events include poor communication and awareness, use of broadcast sprayer applicators, use of fumigants by any method, and weather conditions. She reviewed that physicians are required to report cases they think may be caused by pesticides. Most often, reports come to DOH's attention when a physician contacts Washington Poison Center for information. L&I and WSDA also report incidents involving farm workers to DOH. Not all pesticide illness cases are captured by DOH's Pesticide Illness Monitoring and Prevention Program because an individual may not seek health care, a doctor may not report it, or no one may call the Poison Center. A copy of the PowerPoint presentation is available upon request.

Joanne suggested that finding alternatives to use of broadcast spray method of application, as well as improved precautions around use of fumigants by any application method are important. Adherence to the safety and training requirements in the Federal Worker Protection Standard is important. Workers, not just pesticide applicators, should receive pesticide safety training. Workers should feel able to leave a hazardous work situation without being penalized, and employers/farm supervisors need to help communicate safety practices to workers. The safety information needs to come from more places than the agencies.

If contamination occurs, DOH notes the most important thing to do in an emergency situation is to call 911 and help the person to remove clothes and shower, washing their head. It is also important for a health care provider to know what the person was exposed to. It is helpful to an investigation if clothing is saved in a plastic bag and put in the freezer, if possible, but it is not as important as getting immediate help. As a general safety precaution, it's important for farmworkers to wash work clothes separate from other clothes.

There are three areas to focus on: prevention, education, and policies and procedures.

Wage complaints

Liz Smith, Assistant Director for L&I Fraud Prevention and Labor Standards, shared her knowledge about wage complaints and addressed the type of complaints received.

She walked members through the steps of a response when someone reports wage theft. State law says that no employer shall retaliate to workers for filing a complaint for wages. However, unlike most L&I investigations which result in a citation, the punishment is a misdemeanor, which is a difficult and time consuming court action. Due to the resources required to pursue retaliation cases criminally, L&I does not usually investigate. The present response upon receipt of a wage-related retaliation complaint is to send a letter to an employer telling them that it is against the law. It's a scary letter, but there are no further actions L&I can take without extensive effort.

L&I has a \$400,000 request before the legislature to support the hiring of more investigators who would be focused on developing criminal cases for multiple labor laws, including wage-related retaliation complaints.

Generally, the Wage Payment Act is working fairly well for the population of workers who report wage theft. It establishes the administrative process that works to resolve disputes. In a majority of cases, employers pay immediately.

The US Department of Labor enforces federal law against retaliation. A person can file a complaint under those laws. Some members proposed developing an MOU with the federal government that would engage them to pursue wage-related retaliation cases in Washington State but not everyone agreed.

Discussion among the work group members continued, along with questions to Liz Smith. Teresa Mosqueda suggested that L&I create a workers' rights video and other materials that educate workers on the law, how to file a complaint, and the critical importance of keeping their own records.

Administrative solutions discussions

Members stated their goals:

Everyone is safe and everyone is educated to: avoid drift exposure; take protective measures; know what do when exposed, and act and/or report incidents.

Brainstorming of ideas from work group members:

A single phone number for triage: Pesticide, wages, housing for farm workers. In California, there is a federal program staffed by volunteers to do triage.

Study options for a pesticide application notification system (with names of pesticides being applied). Strong communication between neighbors (farms) when spraying; emphasizing employer role.

Crews within 100 feet of an orchard border put up a flag.

Add DOH pesticide investigators to increase the in-person interviews.

Increase the preservation of evidence.

Increase fines for pesticide application violations.

Notify medical clinics and hospitals of pesticides applied in an area, so they are aware of common pesticides they might encounter. Update when new pesticides are introduced. Include first responders in ongoing training of medical staff.

Best practice is for employers to provide workers/medical professionals with a fact sheet, providing chemical information and treatment instructions (Material Safety Data Sheet).

Reporting pesticide use to the state. Regular reporting with a database in the area that would be accessible to academics/research/medical professionals.

Improve signage – add the name of pesticides being applied to every sign and include when the reentry interval ends. Take down old signs. Most growers already informally communicate with each other when they are spraying. Details can change with weather though, so specificity is difficult. It was reported that the EPA is

currently reviewing the use of signs with date/time information about restrictions related to pesticide application. Symbols appear to be more effective than words, and they need to be nationally recognized not state-specific.

Notify registrants when a human illness case is confirmed with their product.

Model employer policy to tell workers to stop working and inform supervisor when someone is exposed to a pesticide. Retaliation already covered by WPS.

Outreach campaign; interagency coordination for communication; include employers and community as audience and include bilingual messaging.

Enhance and expand WSDA training.

Employers should support the education; support the employees taking action, and avoid taking unsafe actions if an individual is exposed.

Employers should disseminate when and how to report exposure. Notices would depend on the locale or the growers / neighbors.

In the audience

Tomas Madrigal, Santa Barbara University; Paulino; Filemon Pineda; Lázaro Matamoros; Ramon Torres, Familias Unidas; Trudes Tango, House OPR; Mac Nicholson, Senate Committee Services; Margaret Tucker, WSDA; Tisa Soeteber, L&I; Maggie Leland, L&I; Lacey Harper, Governor's Office; Sandra Aguilar; Sarah Leyer, CLS; Heather Hansen, WFFF; Veronica Shakotko, Senate Majority Coalition Caucus Staff..

Going forward

Members agreed to populate an administrative solutions matrix, and agencies agreed to give feedback to identify what they can or cannot do in response.