

# OCCUPATIONAL HEALTH POLICY 101: PROTECTIONS FOR FARMWORKERS

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# Agricultural Health and Safety

- ▣ Agricultural work is one of the most dangerous occupations in the US
- ▣ Higher rates of illness, injury and death than all other industries besides mining and construction
- ▣ Risks include:
  - Pesticide exposure
  - Musculoskeletal / repetitive motion injuries
  - Injuries caused by tools, equipment or machinery
  - Heat stress
- ▣ Agricultural workers are excluded from many protections afforded workers in other industries



# Farmworker Health and Related Policy

- ▣ Pesticide Laws
- ▣ Occupational Safety and Health Act
- ▣ Field Sanitation Standard
- ▣ Heat Stress
- ▣ Workers Compensation
- ▣ Migrant and Seasonal Agricultural Worker Protection Act
- ▣ Guestworker Programs



# Pesticide Safety Laws

- ▣ Federal Insecticide, Fungicide and Rodenticide Act (FIFRA)
  - Governs pesticide registration and occupational exposure
- ▣ Food Quality and Protection Act (FQPA)
  - Establishes legal maximums for pesticide residues left on raw or processed food
- ▣ Worker Protection Standard (WPS)



## ▣ FIFRA

- requires registrants to submit animal studies on health effects and environmental fate data to EPA to establish that the pesticide's use will have no "unreasonable adverse effects to humans or the environment."
- Sets forth what information must be included on a pesticide label

## ▣ FQPA

- Only regulates pesticide residues on food, so it doesn't apply to those used on non-food crops like cotton
- EPA assesses the health risks of all pesticides used on food, including occupational risks to field workers and pesticide applicators

# Worker Protection Standard (1992)\*

- ▣ Federal regulation designed to protect employees on farms, forests, nurseries, and greenhouses
- ▣ Establishes basic safe work practices related to pesticide use. Requires employers to provide:
  - pesticide safety training
  - notification of pesticide applications
  - use of personal protective equipment
  - observance of restricted entry intervals following pesticide application
  - decontamination supplies
  - emergency medical assistance

# Occupational Safety & Health Act (1970)

- ❑ Created the Occupational Safety and Health Administration (OSHA)
- ❑ States may administer their own occupational health and safety plans if approved by OSHA
- ❑ BUT state laws may in most cases be pre-empted by federal law if they are not as stringent
- ❑ Family farms with only family member workers are exempt
- ❑ Pesticides are covered under other state and federal laws; EPA alone regulates agricultural use of pesticides
- ❑ As of 1976, farms with fewer than 11 workers are exempt from requirements

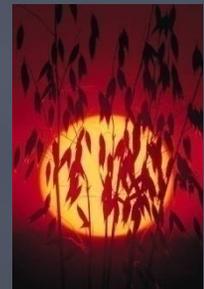
# Field Sanitation Standard\*

- ▣ Added to OSHA in 1987, applies in all states to ag employers with 11 or more employees
- ▣ Some states have additional requirements or apply the standard to farms with fewer workers
- ▣ Requirements:
  - Potable water
  - Toilet facilities
  - Handwashing facilities
  - Reasonable access to above
- ▣ Intent: to reduce intestinal, urinary, heat, skin, and agrichemical-related illnesses



# Heat-related Illness\*

- ▣ Mostly addressed by OSHA Field Sanitation Standard, with some variation by state, e.g.:
  - New York: farms with 5+ hired workers are covered
  - Virginia: farms with 1+ workers are covered
  - Nevada: farms with 5+ male and 3+ female workers must provide separate facilities
  - New Jersey: water must be within 500 ft of workers
- ▣ Two states impose stricter standards:
  - California (2006)
  - Washington State (2008)



# Heat Illness: California Title 8 CCR Section 3395

- ▣ Train all employees and supervisors about prevention
- ▣ Provide 1 quart of fresh water per hour per employee and *encourage* them to drink it
- ▣ Provide access to shade for at least 5 minutes as needed *before* employee feels ill
- ▣ Develop and implement written heat-illness prevention procedures
- ▣ Policies will be enforced when temperatures reach 85 degrees

# Heat Illness: Washington State WAC 296-62-095

- ▣ Train employees and supervisors to recognize heat-related illness and what to do if someone has symptoms.
- ▣ On days when temperatures require preventive measures, increase the volume of water available to employees.
- ▣ Have the ability to appropriately respond to any employee with symptoms of illness.

# Workers Compensation\*

- ▣ A system of private employer-provided insurance
- ▣ Provides medical benefits, replacement wages, long-term disability benefits, and death benefits to workers who suffer job-related injuries or illnesses
- ▣ Varies by state
- ▣ Most benefits available without regard to immigration status
- ▣ Could provide additional third party payer for health centers

# Workers Compensation\*

- ▣ Many states don't require agricultural employers to provide workers' compensation coverage for migrant and seasonal farmworkers: states are almost evenly split between those that provide all or most farmworkers with workers' compensation coverage and those that require little or no coverage for this workforce.
- ▣ Under federal law, employers of temporary foreign agricultural ("H-2A") workers must provide workers compensation or equivalent coverage.

## State Workers' Compensation Coverage for Agricultural Workers

State	Are farm employers REQUIRED to provide workers' compensation, or is it OPTIONAL?	Limitations, if any	State Workers' Compensation Web Site	State Workers' Compensation Forms
<b>Alabama</b>	Optional	Undocumented workers are not eligible for workers' compensation benefits.	<a href="http://dir.alabama.gov/wc">http://dir.alabama.gov/wc</a>	<a href="http://dir.alabama.gov/docs/dept_type.aspx?id=3">http://dir.alabama.gov/docs/dept_type.aspx?id=3</a>
<b>Alaska</b>	Required (limited)	Employers do not have to provide workers' compensation for workers hired for the harvest or for workers who are part-time or transient help.	<a href="http://labor.state.ak.us/wc/home.htm">http://labor.state.ak.us/wc/home.htm</a>	<a href="http://labor.state.ak.us/wc/pdf_list.htm">http://labor.state.ak.us/wc/pdf_list.htm</a>
<b>Arizona</b>	Required		<a href="http://www.ica.state.az.us/workersCompensation/index.html">http://www.ica.state.az.us/workersCompensation/index.html</a>	<a href="http://www.ica.state.az.us/forms/workersComp/index.html">http://www.ica.state.az.us/forms/workersComp/index.html</a>
<b>Arkansas</b>	Optional		<a href="http://www.awcc.state.ar.us/">http://www.awcc.state.ar.us/</a>	<a href="http://www.awcc.state.ar.us/forms.html">http://www.awcc.state.ar.us/forms.html</a>
<b>California</b>	Required		<a href="http://www.dir.ca.gov/dwc/dwc_home_page.htm">http://www.dir.ca.gov/dwc/dwc_home_page.htm</a>	<a href="http://www.dir.ca.gov/dwc/forms.html">http://www.dir.ca.gov/dwc/forms.html</a>
<b>Colorado</b>	Required		<a href="http://www.coworkforce.com/dwc/">http://www.coworkforce.com/dwc/</a>	<a href="http://www.coworkforce.com/dwc/FormsDeskAids/MainForms.asp">http://www.coworkforce.com/dwc/FormsDeskAids/MainForms.asp</a>

# Migrant and Seasonal Agricultural Workers Protection Act (1983)

- ❑ Establishes the rights of farmworkers and the guidelines labor contractors must follow to respect those rights.
- ❑ Mainly addresses workplace conditions, e.g., wage, hours, contracts
- ❑ Covers housing, transportation
  - If provided, housing must be inspected and meet minimum standards
  - Transportation must be safe and appropriately licensed



# Guestworker Programs: H-2A

- ▣ Agricultural employers who anticipate a shortage of workers may hire temporary foreign workers under special visas
- ▣ H-2A employers must provide housing and workers compensation, in addition to meeting basic work and wage conditions
- ▣ However, these rights can be difficult to enforce, leading to significant abuse and exploitation
- ▣ AgJOBS: proposed guestworker program that would expand rights of workers under H-2A

# How You Can Help

- ▣ Document workers who come to MHCs with occupationally-related injuries or illnesses
- ▣ Assist patients with accessing workers compensation whenever appropriate
- ▣ Educate farmworker patients about their right to a healthy workplace
- ▣ Learn about the existing laws and encourage compliance and enforcement
- ▣ Be an advocate for improvements in farmworker living and working conditions



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