

# Meeting Minutes: Governor's Committee on the Safety, Health, and Wellbeing of Agricultural and Food Processing Workers

**DATE: 05/27/2021**

**MINUTES PREPARED BY: MIKE ZASTOUPIL**

## Attendance

### Present

- **Andrea Vaubel**, Deputy Commissioner, Minnesota Department of Agriculture
- **Rena Wong**, Director of Organizing, United Food and Commercial Workers (UFCW) Local 663
- **Jennifer Christensen**, President, United Food and Commercial Workers (UFCW) Local 1189
- **Colin Laffey**, Staff Attorney, Agricultural Worker Project, Southern Minnesota Regional Legal Services (SMRLS)
- **Emilia Gonzalez Avalos**, Executive Director, Unidos MN
- **Rodolfo Gutierrez**, Executive Director, HACER
- **Susan Bishop**, Supervisor, Minnesota Department of Health, and Migrant Agricultural Worker Response Lead, ICS
- **Nicole Blissenbach**, Deputy Commissioner, Minnesota Department of Labor and Industry
- **Tamara Nelsen**, Executive Director, Minnesota AgriGrowth Council
- **Kiza Olson**, CHS Administrator, Meeker-McLeod-Sibley Community Health Services
- **Kevin Paap**, President, Minnesota Farm Bureau
- **Maureen Ramirez**, Director of the Office of Economic Opportunity, Minnesota Department of Employment and Economic Development
- **Carrie Rigdon**, Operations and Planning Section Manager, Minnesota Department of Agriculture
- **Kristi Halvarson**, Executive Director, Community Health Service, Inc.
- **Lorrie Janatopoulos**, CareerForce Director, Minnesota Department of Employment and Economic Development
- **Mike Zastoupil**, Food Access Associate, Minnesota Department of Health

## Absent

- **Hamse Warfa**, Deputy Commissioner, Minnesota Department of Employment and Economic Development
- **Gary Wertish**, President, Minnesota Farmers Union
- **Sarah Berry**, Public Health Director, Waseca County | CHS Administrator, Le Sueur – Waseca Community Health Board

## Agenda

- 1:00 PM **Welcome**
- 1:05 PM **Challenges from Survey** – Mike Zastoupil (MDH)
- 1:15 PM **Opportunities from Survey** – Carrie Rigdon (MDA)
- 1:25 PM **Small Group Discussion**
- 2:05 PM **Large Group Discussion**
- 2:40 PM **Next Steps: Visioning and Meeting Schedule**
- 3:00 PM **Adjourn**

## Meeting notes

### Small Group Discussion

#### Group #1

Major concern is still lack of data. But it's really hard, because there are many ways to employ people without transparency or documentation.

- Concerns about different types of workers, such as from South Africa, and H1-B, that MN isn't currently keeping track of.
- Surprised that there isn't some clearinghouse where data on employees are collected as they're brought into the state (surprised that state agencies are doing more).

Department of Labor should have data on South African H2-A programs. There are recruiters that connect employers with workers, but the employers must submit applications to the DLI, and DLI has to certify those applications.

- Yes, but undocumented workers are just traveling here seasonally from Texas and California. South African workers said they were told they can't complain about certain issues on the farm, because they're not under the H-2A or other protections that they should be.

- Some employers are even paying for the airplane or salaries in advance. Then at the end of the season, workers are getting 30% less pay than they expected.

Big question – how do people get here undocumented? This will affect the committee’s work, even if there is nothing we can do about it.

The federal government keeps a list of employers for seasonal-agricultural workers. The Migrant and Seasonal Agricultural Worker Protection Act (MSPA) requires employers to obtain federal certification prior to performing any farm labor contracting activities. However, the list only has 38 employers from Minnesota, which means most employers are not registering: <https://www.dol.gov/agencies/whd/agriculture/mspa/farm-labor-contractors>

- Some states are registering way more employers, we could investigate why.

Need for general empowering of workers. They lack a lot of information and resources, not just public health. Also empowering workers with stronger enforcement, such as making sure penalties have teeth. And once more workers are empowered, there will be a positive feedback loop of issue awareness and resolution.

- Tamara shared that even as a Stanford graduate, who is not new to the country, she didn’t know about her rights working in this field until well into her 40s. Example of how difficult it is for anyone to know about their rights and act on them.
- Repeated theme is it is difficult to get to workers. Dairy employers, for example, don’t allow anyone on the premise except veterinarians and workers. Need to empower advocates. Understand that you don’t want folks disrupting the workday. But when workers are at housing, advocates should be able to connect with them.
- Is one of the solutions of this committee, to stand up a permanent way to keep people connected and working on the issue? Or at least find a way to lift the population, since they won’t come forward on their own.

During the testimony on H.F 800, folks were referencing Hormel plant, talked about a worker safety coordinator. Are employers required to do any safety training for employees, or have a staff dedicated to it? This person could coordinate information and outreach, maybe someone in HR.

- There are sometimes bilingual floor leads, but not necessarily information coordinators.
- At Colin’s Ag Worker Project, they don’t cover meat processing workers. Farms wouldn’t have that type of program, only large companies, typically in food processing.

Advocates don’t want to be brought onsite by employers to talk with workers, because then they might confuse advocates with employers (and not speak up).

## Group #2

What stood out for me was how close to each other the responses were.

We knew there were gaps and complicated structures, and that was reinforced by the survey results. We've learned a lot in COVID response about who does what and how we can better connect.

Surprised, because I didn't think a lot of people were paying attention. Hearing others acknowledge some dysfunction, where there's laws but no one put as enforcement or implementation.

So many workers who aren't in a union. Enforcement is really a problem. I've seen agencies trying to do what they could inside the scope of duties. There are really injuries happening in these industries, repetitive stress injuries are substantial and there is a lack of reporting because of language and because of immigration status. So having enforcement as a role of government agencies would be so helpful. Enforcement with capacity. Not just letting the employer decide who can go in or can deny access, but enforcement where the state can go in.

DLI has 43 OSHA inspectors for all of MN. And a statutory obligation to respond to complaints. We must devote our resources to complaints. And if vulnerable employees aren't complaining, we can't go there. Employers can turn OSHA away. Then OSHA goes to get a warrant and that takes time, lawyers, courts. And that took a high number of complaints to get that warrant and not all workers were willing to go on the record, even though it was confidential. We talked to about 3 workers for every 1 who was willing to file a complaint.

Speaks to training, that a lot of people don't know. In statute, each employer is supposed to have a health and safety committee. But how are those working? Why isn't there an obligation that health and safety trainings be offered by someone other than the employer. It can feel like employers get to run everything, but they are the ones who create the conditions.

There's legislation introduced by Wolmagett and the House for more training/enforcement (unsure?). Based on another state where they have a workers' rights coordinator. We are looking for one person to be in place. Still tracking that legislation. Maybe similar to Nebraska?

MN OSHA has a great reputation, but other states have more resources. Oregon and Washington (large agricultural presence) have more than double the inspectors that we have. Some states devote a lot more money to staff OSHA. DLI asked for increase in OSHA operating funds to add 9 new inspectors. Feds only require a match of funds, but that's not enough in MN to cover the state.

Wisconsin has a migrant law, one of the first states to issue an EO for protection of farm workers (<https://dwd.wisconsin.gov/jobservice/msfw/pdf/emergency-rule-2109-english.pdf>), but have also had a protection law for migrant workers, with some consequences that hold employers accountable. Michigan is huge, with large numbers of workers, and their laws might be helpful.

## Large Group Discussion

The first group summarized their discussion. The highlights were the lack of data, issues regarding undocumented workers, and need for empowerment of both workers and advocates.

Susan shared the link to the federal Department of Labor's list of registered farm laborer contractors in each state.

- FYI: MSPA is enforced by DOL's district office, Wage & Hour, which is located in Minneapolis. Migrant Housing falls under that enforcement.

Highlighted the difficulty in reaching migrant and seasonal ag workers and letting them know about their rights and other health/safety resources. Having a statute that allows advocates to reach workers at their housing. That would go a long way in empowering workers, by first letting them know what their rights are.

The second group summarized their discussion. A lot of the conversation was about enforcement and enforcement gaps. For example, at DLI, the OSHA team is fairly small given the number of employers and employees in the state. Also talked about employers and employees lack of knowledge of regulations around health and safety.

DC Blissenbach is naturally very concerned about enforcement. There are elements "baked into the laws" that make them more difficult to enforce. So, this committee could work on empowering DLI through better laws. DLI is similarly short-staffed for employer audits/inspections, so talked about resources. There are other states who have double the number of inspectors than MN.

- For DLI inspectors, how are they funded?
  - DLI is required to match federal grant. Other states go greatly above and beyond the match, like Washington and Oregon, enabling them to have double the number of inspectors.

Tamara noticed that insurers collect quite a bit of information. Wondering if insurers have data on # of workers per employer, salaries, citizenship, etc., that would be useful and potentially accessible by this committee.

- Perhaps Dept. of Commerce has some of that access, with oversight of insurance companies.
- Or maybe the ratings agencies, like A.M. Best, get that information from insurers. Would be worth exploring.
- Many employers are not providing housing for their workers, workers must pay for their own housing, so may not have data to report to insurers.

What are some natural subcommittees, coming out of the survey results and the discussions today?

- Data
- Employer support
- Housing
- Enforcement

We could bring in some other voices/experts in future meetings to provide information and help this committee develop a plan of action.

One “carrot” for employers for providing us with data would be to provide them with input on the policy solutions that come out of this committee.

## Next Steps: Visioning and Meeting Schedule

Carrie shared the final survey results. Topics included: 1) Sources of data that currently exist, 2) Other information that could help the committee, 3) Visions of success and Committee end points.

It would be helpful to have a draft or framework of what the EO is seeking, to guide the committee members. Then given the results of the survey, come up with solutions within that framework.

If we could lay out a couple of the priority areas from the survey and match it up with the tasks in the EO, we could prioritize 2-3 areas and divide up into subcommittees. Then in 1-2 meetings, we could report back (E.g., Vaccine Safety Subcommittee, MDH and other folks could be on). Then that gives folks one clear task to focus on.

Once committee members have that assigned task, they could really get to work.

Meeting update: From now on, this committee will meet every other Monday 1-3pm, starting on June 7<sup>th</sup>.

## Action items

- DC Vaubel will send out invite to standing meeting for the summer via Teams.
- Mike will update contact information on the committee webpage.
- Planning group will work on putting a framework together and suggesting 2-3 subcommittees.

## Next Meeting

Date: June 7th, 2021

Time: 1:00 – 3:00 PM

Location: Microsoft Teams