



FAIR FOOD PROGRAM

2014 ANNUAL REPORT

WORKER-DRIVEN SOCIAL RESPONSIBILITY

Comprehensive, Verifiable and Sustainable Change for U.S. Farmworkers and the Agricultural Industry



ABOUT FFSC

MISSION

The mission of the Fair Food Standards Council (FFSC) is to monitor the development of a sustainable Florida tomato industry that advances the human rights of farmworkers, the long-term interests of growers, and the ethical supply chain concerns of retail food companies through implementation of the Fair Food Program. The work of the FFSC today is producing a replicable, scalable model for expansion of the Fair Food Program in the years ahead. For more information, visit fairfoodstandards.org.

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JUDGE LAURA SAFER ESPINOZA is a recently retired New York State Supreme Court Justice who served in New York and Bronx Counties for twenty years. She was Deputy Supervising Judge for five years. Justice Safer Espinoza helped to design and became the first presiding judge of Bronx Treatment Court, an innovative alternative to incarceration for non-violent offenders.

Justice Safer Espinoza has an extensive history of work with government, human rights and legal organizations in the US and Latin America. She has taught and lectured extensively on judicial transparency in Latin America, working with numerous organizations – including the US Department of State, the Conference of Western Attorney Generals, law schools, universities, governments and non-governmental organizations – to support law reform efforts by training advocates in more transparent legal systems. From 2009 through 2011, she designed and directed trainings for thousands of judges and attorneys in Mexico. Judge Safer Espinoza has also helped to launch and advise treatment courts in Chile and Brazil. She authored the keystone chapter of Chile's first book on alternative courts in 2006.

Justice Safer Espinoza received her BA from Barnard College and her JD cum laude from New York Law School. She is a recipient of the City University of New York's Women in the Law Award.

FAIR FOOD PROGRAM PARTICIPANTS

photo: Forest Woodward

PARTICIPATING BUYERS

Aramark
Bon Appétit Management Co.
Burger King
Chipotle Mexican Grill

Compass Group
McDonald's
Sodexo
Subway

Trader Joe's
Wal-Mart
Whole Foods Market
Yum Brands

PARTICIPATING GROWERS

Ag-Mart Produce
Alderman Farms
Big Red Tomato Packers
Classie Growers/Falkner Farms
Del Monte Fresh Production
DiMare Homestead
Circle D
DiMare Ruskin
HarDee/Diamond D
Triple D
DiMare Immokalee
Farmhouse Tomatoes
Gargiulo
Gulfstream Tomato Packers
Hagan Farms
MED Farms
Harlee Packing
Hunsader Farms

Palmetto Vegetable Company
South Florida Tomato Growers
Kern Carpenter Farms
Lady Moon Farms
Lipman Produce
Michael Borek Farms
Pacific Tomato Growers
Taylor and Fulton Packing
Grainger Farms
Utopia Farms
Tomatoes of Ruskin
Artesian Farms
Diehl and Lee Farms
Frank Diehl Farms
TOR Farms
West Coast Tomato/McClure Farms



Photo: Scott Robertson

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EXECUTIVE SUMMARY

This is the second annual report by the Fair Food Standards Council on the state of the Fair Food Program. It includes an assessment of the implementation of the Fair Food Program in the Florida tomato industry through August 2014. This report contains many important updates to last year's inaugural report, while also providing key contextual information on the origins, objectives and structure of the Program.

For decades, most farmworkers in the US have experienced sub-standard wages and working conditions. Today, this reality is changing for many, thanks to the Fair Food Program (FFP).

The Fair Food Program, which grew out of the Coalition of Immokalee Workers' (CIW) Campaign for Fair Food, brings together workers, consumers, growers and retail food companies in support of fair wages and humane labor standards in the agricultural industry. The FFP is a pathfinding collaboration premised on risk prevention, supply chain transparency, and the verifiable, market-enforced protection of workers' rights, monitored by the Fair Food Standards Council (FFSC).

The Fair Food Program represents a new and growing form of human rights protection known as Worker-driven Social Responsibility (WSR). In the WSR approach, the workers whose rights are at issue play a leading role in the monitoring and protection of those rights, enforcement is at a premium, and retail brands make a binding commitment to support that enforcement with their purchases.

Since 2011, the Fair Food Program has brought about many far-reaching reforms across the 35,000 acres of the \$650 million Florida tomato industry, including:

- Nearly \$15 million in Fair Food Premiums paid by Participating Buyers to improve workers' wages;
- Industry-wide implementation of a 24-hour worker complaint hotline and a rapid, effective complaint investigation and resolution process;
- A worker-to-worker education process conducted by CIW on the farms and on company time to ensure that workers understand their new rights and responsibilities;
- A human rights-based Code of Conduct with enforce-

able zero-tolerance policies for forced labor, child labor, violence, and sexual assault; and

- Industry-wide monitoring by FFSC.

These changes have been implemented through an intensive, multi-faceted process with significant reach throughout the industry. Through the Fair Food Program:

- CIW has educated over 20,000 workers face-to-face, and reached more than 100,000 workers with written and video materials, on their rights within the program;
- Workers have brought forth over 600 complaints, resulting in the resolution of abuses ranging from sexual harassment and verbal abuse to systemic wage violations, demonstrating workers' trust that reported problems will be investigated and corrected; and
- FFSC has interviewed 7,500 workers over the course of 100 comprehensive audits – ranging from two days to two weeks, including field, housing, management and payroll components – in order to assess Participating Growers' implementation of the Fair Food Code of Conduct.

Since the inaugural Fair Food Program Report was issued in November, 2013, the FFP has made significant additional strides towards full compliance among Participating Growers. Areas of improvement include:

- Hiring and registration (particularly as it relates to "vine-ripe" harvest crews);
- Timekeeping; and
- The disappearance of sexual assault cases and the simultaneous acceptance of responsibility by Participating Growers for the prevention of hostile work environments.

Improvement is still needed on some fronts, including the implementation of Health and Safety Committees. These areas are detailed in the report and some will form the basis of the Points of Emphasis for Participating Growers and FFSC in the coming season.

As this report documents, the Fair Food Program is achieving dramatic, concrete change and demonstrating a replicable, scalable model for expansion. Above all, that model rests on a strong commitment to empowering workers, through education and access to a protected complaint mechanism, to operate as the first line of defense against labor abuse and to supplement these efforts with independent audits of Participating Growers' operations.

The success of the Fair Food Program has not gone unnoticed by human rights experts from the White House to the United Nations and national media including the New York Times, Washington Post, and PBS Frontline. President Jimmy Carter has praised the Fair Food Program, stating, "My hope is that this will become a model for social responsibility within the agricultural industry."¹ And more recently, President Bill Clinton and Secretary of State Hillary Clinton honored CIW with the 2014 Clinton Global Citizen Award "for defending the human rights of farmworkers across the United States."² President Clinton later called the Fair Food Program "brilliant," adding, "You've got a success model, and you ought to put the pedal to the metal."³

In January 2014, Walmart, the world's largest retailer, joined the Fair Food Program, marking "a transformational moment in the decades-long struggle for fair treatment of agricultural workers," according to Susan Marquis, dean of the Pardee Rand Graduate School.⁴ Walmart became the first Participating Buyer to join the Fair Food Program not as a result of the Campaign for Fair Food, but rather because of the unprecedented success of the program itself.

Walmart's entry into the FFP immediately consolidated the program within the Florida tomato industry and set the stage for formal expansion beyond that industry beginning in 2015. As Janice Fine, a labor relations professor at Rutgers, told the New York Times in a front-page article just three months later, "This is the best workplace-monitoring program I've seen in the US. [The FFP] can certainly be a model for agriculture across the US. If anybody is going to lead the way and teach people how it's done, it's them."

These developments are not only evidence of the inherent scalability of the program but also of the mutually beneficial collaborations between workers and their employers that can take root as consumer and retail demand for produce harvested under verifiable labor standards continues to grow. And beyond the confines of the US agricultural industry, the FFP's worker-driven, market-enforced model holds many lessons for – and tremendous promise for effective application in – other industries where corporate social responsibility efforts have been either ineffective in bringing about significant human rights progress or absent altogether.



photo: Forest Woodward

INTRODUCTION



A worker scans his time card at a Fair Food Program participating grower. Time clocks are a critical requirement of the Fair Food Code of Conduct.

photo: Smriti Keshari

BACKGROUND

For decades, most farmworkers in the US have experienced sub-standard wages and working conditions. Well-documented challenges in the work environment have included physical and verbal abuse, sexual harassment, discrimination, and high fatal and non-fatal injury rates.⁵ Farmworkers have also faced endemic wage theft, resulting in widespread violation of minimum wage laws.⁶ The US Department of Labor has described farmworkers as “a labor force in significant economic distress,” citing workers’ “low wages, sub-poverty annual earnings, [and] significant periods of un- and underemployment.” The Department of Labor further noted that while “production of fruits and vegetables has increased . . . agricultural worker earnings and working conditions are either stagnant or in decline.”⁷ More recently, the US Department of Agriculture reported that farmworkers “remain among the most economically disadvantaged working groups in the United States,” and that “poverty among farmworkers is more than double that of all wage and salary employees.”⁸

In the extreme, farmworkers have faced situations of

modern-day slavery – according to the definition of forced labor and high standard of proof required under federal law. In these instances, workers have been held against their will, with the threat or actual use of violence, and forced to work for little or no money. Several of these cases have been successfully prosecuted by the US Department of Justice over the past decade. In one example, two men were each sentenced to twelve years in federal prison after they “pleaded guilty to beating, threatening, restraining

and locking workers in trucks to force them to work as agricultural laborers . . . [They] were accused of paying the workers minimal wages and driving them into debt, while simultaneously threatening physical harm if the workers left their employment before their debts had been repaid.”⁹

Today, this reality has dramatically changed for many farmworkers, thanks to the Fair Food Program (FFP). The FFP brings together workers, consumers, growers and retail food companies in support of fair wages and humane labor standards in the agricultural industry. The Program is a pathfinding collaboration premised on risk prevention, supply chain transparency, and the verifiable, market-enforced protection of workers’

The Fair Food Program is the only industry-wide social responsibility program in US agriculture.

rights. After three years of implementation across the Florida tomato industry, the FFP is achieving concrete change and has produced a mature, replicable, and scalable model for expansion.

GROWING RECOGNITION FOR THE FAIR FOOD PROGRAM

In the three years since its industry-wide launch with Florida tomato growers, the success of the Fair Food Program has gained recognition from experts in the field of human rights as well as national media, including the *New York Times*, *Washington Post*, and *PBS Frontline*. The FFP is also featured in the upcoming documentary *Food Chains*, which premiered internationally at the Berlin Film Festival and in the US at the Tribeca Film Festival. *Food Chains'* nationwide theatrical release will occur in November 2014.

In terms of institutional recognition, in 2013, the President's Advisory Council on Faith-Based and Neighborhood Partnerships singled out the Fair Food Program in a major new report as one of the "most successful and innovative programs" in the world today to uncover and prevent modern-day slavery.¹¹

Later that year, the Roosevelt Institute awarded its Freedom from Want Medal to the Coalition of Immokalee Workers (CIW), the farmworker organization that is the principal architect of the Fair Food Program. The Roosevelt Institute described the FFP as "a sustainable blueprint for worker-driven corporate social responsibility."¹² President Jimmy Carter echoed this conclusion in a public letter to CIW, stating, "My hope is that this will become a model for social responsibility within the agricultural industry."¹³

Likewise, in 2013, a delegation from the United Nations Working Group on Business and Human Rights toured the US on a mission to "explore practices, challenges and lessons relating to efforts on implementing the UN Guiding Principles on business and human rights." The delegation visited with several Fair Food Program stakeholders as part of its broader investigation. While the Working Group generally found numerous shortcomings in the response

of US businesses to human rights issues, it praised the FFP for "innovatively address[ing] core worker concerns" and "governance gaps relating to labour issues" through "market incentives for participating growers" and its "independent and robust enforcement mechanism."¹⁴ In the aftermath of Walmart joining the Fair Food Program in January 2014, Alexandra Guáqueta, chair of the Working Group, applauded the FFP's "smart mix of tools" and its potential to "serve as a model elsewhere in the world."¹⁵

The Working Group also invited CIW and the Fair Food Standards Council (FFSC), the program's dedicated monitoring organization, to Geneva for the Second Annual UN Forum on Business and Human Rights in December 2013. At the gathering, which was attended by nearly 1,500 people from more than 100 countries, CIW presented on responsible supply chain management in alignment with the UN Guiding Principles while FFSC addressed the Fair Food Program's effective practice of non-judicial remedies to human rights abuses.

Most recently, on September 21, 2014, President Bill Clinton and Secretary of State Hillary Clinton honored CIW for "defending the human rights of farmworkers

across the United States" with the Clinton Global Initiative's eighth annual Global Citizen Award.¹⁷ At the award ceremony, President Clinton singled out the Fair Food Program as "the most astonishing thing politically in the world we're living in today."

FORGING STRUCTURAL CHANGE

The Coalition of Immokalee Workers (CIW) is a worker-based human rights organization internationally recognized for its achievements in the fields of social responsibility, human trafficking, and gender-based violence at work. Built on a foundation of farmworker community organizing starting in 1993, and reinforced with the creation of a national consumer network since 2000, CIW's work has steadily grown over more than twenty years. The Fair Food Program emerged from CIW's successful Campaign for Fair Food, a campaign to affirm the human rights of tomato workers and improve the conditions under which they labor.

The Fair Food Program has been described as "one of the great human rights success stories of our day" in the *Washington Post* and "one of the best workplace-monitoring programs" in the US in the *New York Times*.¹⁰

The high degree of consolidation in the food industry today means that multi-billion dollar brands on the retail end of the industry are able to leverage their volume purchasing power to demand ever-lower prices, which has resulted in downward pressure on farmworker wages and working conditions.¹⁷ The Fair Food Program reverses that process, enlisting the resources of participating food industry leaders to improve farmworker wages and harnessing their demand to reward growers who respect their workers' rights.

In 2005, Yum Brands (parent of Taco Bell, Pizza Hut, and KFC) became the first corporate buyer to sign a Fair Food Agreement with CIW. This agreement established several crucial precedents for farm labor reform, including:

- The first-ever direct, ongoing payment by a food industry leader on behalf of farmworkers in its supply chain to address sub-standard wages;
- Market incentives for agricultural suppliers willing to respect their workers' human rights, even when those rights are not guaranteed by law; and
- 100% transparency for tomato purchases in Florida.

CIW has since expanded and incorporated these principles, including a worker-driven Code of Conduct, into eleven subsequent Fair Food Agreements with corporate buyers. Today, Participating Buyers, in the order they joined, include: Yum Brands (2005), McDonald's (2007), Burger King (2008), Whole Foods Market (2008), Subway (2008), Bon Appétit Management Company (2009), Compass Group (2009), Aramark (2010), Sodexo (2010), Trader Joe's (2012), Chipotle Mexican Grill (2012), and, most recently, Walmart (2014).

The Fair Food Program provides an opportunity for these corporations to bring their considerable resources to the table – their funds and market influence – to help forge a structural, sustainable solution to a human rights crisis that has persisted on US soil for generations. As just one example, Participating Buyers have paid nearly \$15 million in Fair Food Premiums to improve workers' wages since 2011. In the process, the Fair Food Program helps build the foundation for a stronger agricultural industry that can differentiate its

product in produce aisles and restaurants on the basis of a credible claim to social responsibility and so better weather the challenges of an increasingly competitive marketplace.

From 2009 to 2011, the Fair Food Program operated as a pilot with a total of five Participating Growers in Florida. In November, 2010, CIW and the Florida Tomato Growers Exchange signed a historic agreement to expand the program statewide to nearly all of Florida's \$650 million

tomato industry, to launch as quickly thereafter as possible.¹⁸ With over 35,000 acres under cultivation, Florida produces effectively all of the fresh-market, field-grown tomatoes in the US from October through June, and accounts for 50% of all fresh tomatoes produced domestically year round.¹⁹ According to industry estimates, over 30,000 workers are needed to grow and hand-harvest

the crop. Today, the Fair Food Program is the only industry-wide social responsibility program in US agriculture.

Operationally, the Fair Food Program is rooted in the Fair Food Code of Conduct. The Code itself was born in discussions among farmworkers, shared with consumers in churches and schools across the country, shaped in negotiations with Participating Buyers, and honed into the working document it is today in an intensive loop of implementation, feedback and modification with Participating Growers. After years of development, the Code and Guidance Manual that accompanies it are today the heart of the Fair Food Program and the basis for real – and realistic – agricultural reform.

Under the Fair Food Program, Participating Growers have agreed to:

- A **WAGE INCREASE** supported by the Fair Food Program Premium, or "penny per pound," that Participating Buyers pay for their tomatoes;
- Compliance with the human rights-based **FAIR FOOD CODE OF CONDUCT**, including zero tolerance for forced labor, child labor, violence, and sexual assault;
- Worker-to-worker **EDUCATION SESSIONS** conducted by CIW on the farms and on company time to ensure that workers understand their new rights and responsibilities;

"You've got a success model, and you ought to put the pedal to the metal."

—PRESIDENT
BILL CLINTON

The Fair Food Program has injected nearly \$15 million into farm payrolls since 2011.

- A worker-triggered **COMPLAINT RESOLUTION MECHANISM** leading to investigation, corrective action plans, and, if necessary, suspension of a farm's Participating Grower status, and thereby its ability to sell to Participating Buyers;
- **HEALTH AND SAFETY COMMITTEES** on every farm to give workers a structured voice in shaping a safer, more humane work environment;
- Concrete **CHANGES IN HARVESTING OPERATIONS** to improve workers' wages and working conditions, including an end to the age-old practice of forced overfilling of harvesting buckets (a practice which effectively denied workers pay for up to 10% of the tomatoes harvested), the provision of shade in the fields, and the use of time clocks to record and count all compensable hours accurately; and
- Ongoing **COMPREHENSIVE AUDITS** of Participating Growers' operations by the Fair Food Standards Council to ensure compliance with each element of the program.

The investments made in monitoring and enforcing the Fair Food Code of Conduct are second to none among social responsibility programs. The FFP is administered by the Fair Food Standards Council, a separate non-profit organization whose sole function is oversight of the program. Under the directorship of a former New York State Supreme Court Justice, FFSC's eleven-person staff is responsible for auditing growers' compliance with the Code and enforcing corrective action plans; for answering a 24-hour worker complaint hotline; for investigating and resolving complaints that arise; and for otherwise helping growers and buyers comply with program requirements.

Additionally, FFSC monitors Participating Buyer payments of the Fair Food Premium to Participating Growers, where it is distributed as a line-item bonus on workers' paychecks. FFSC also audits growers' payrolls to ensure that workers are properly compensated and that timekeeping systems are functional and used for minimum wage calculations. Lastly, FFSC reviews supply chain records to ensure that Participating Buyers only source Florida tomatoes from Participating Growers in good standing, thereby upholding the market incentives that drive grower compliance.

One of CIW's primary roles in the Fair Food Program is to educate the workers as to their rights and mechanisms for redress under the Code. This worker-to-worker education is done on company time and property. It also includes written materials and a video developed by CIW that workers receive and view at the point of hire. These educational efforts, coupled with point-of-hire distribution of FFP educational materials and the program's protected complaint process, empower workers themselves to form a round-the-clock first line of defense against labor abuses. CIW also receives and investigates complaints in collaboration with FFSC, negotiates with prospective Participating Buyers, manages relations with existing Participating Buyers, and sets policy with Participating Growers through the Fair Food Program Working Group.

Walmart's entry into the Fair Food Program marks "a transformational moment in the decades-long struggle for fair treatment of agricultural workers."

photo: Scott Robertson



THE ROAD AHEAD

In January 2014, Walmart, the largest retailer in the world, joined the Fair Food Program, marking “a transformational moment in the decades-long struggle for fair treatment of agricultural workers,” according to Susan Marquis, dean of the Pardee Rand Graduate School.²⁰ Walmart and CIW identified five key objectives underlying their partnerships:

- Expand the Fair Food Program beyond Florida to its tomato purchases from participating Florida-based growers with operations outside the state during the summer harvest season;
- Reward those Florida tomato suppliers whose operations best reflect the principles of the Fair Food Program with longer term purchase commitments;
- Work over time to expand the Fair Food Program to other crops beyond tomatoes in its produce supply chain;
- Work with its Florida tomato suppliers to build the current Fair Food Premium directly into Walmart’s cost for Florida tomatoes, with the growers continuing to pass on the Fair Food bonus to their workers as part of the established, traceable payment system that is monitored by the Fair Food Standards Council;
- Support CIW and its participating Florida tomato suppliers to eventually achieve a higher, more sustainable bucket rate paid to workers for harvesting tomatoes. This change will streamline the financial foundation of the Fair Food Program to focus resources on raising the bar for ethical farm labor conditions beyond the Florida tomato industry.²¹

The FFP, which is designed and enforced by the very workers whose rights are at stake, is a pioneering model of Worker-driven Social Responsibility.

Walmart became the first Participating Buyer to join the Fair Food Program not as a result of the Campaign for Fair Food but rather because of the unprecedented success of the program itself. Walmart’s entry into the FFP immediately consolidated the program within the Florida tomato industry and set the stage for formal expansion beyond the Florida tomato industry beginning in 2015. As Janice Fine, a labor relations professor at Rutgers, told the New York Times in a front-page article just three months

later, “This is the best workplace-monitoring program I’ve seen in the US. [The Fair Food Program] can certainly be a model for agriculture across the US. If anybody is going to lead the way and teach people how it’s done, it’s them.”

Beyond the confines of the US agricultural industry, the FFP’s worker-driven, market-enforced model holds many lessons for – and tremendous promise for effective application in – other industries where corporate social responsibility efforts have been

either ineffective in bringing about significant human rights progress or absent altogether. Accordingly, the FFP’s unique approach has drawn attention from workers facing harsh labor conditions around the world. FFP representatives have consulted on projects involving a wide range of domestic and international industries, from construction workers in Texas to agricultural workers in Morocco. Architects of the Bangladesh Accord on Fire and Building Safety also used the FFP as a template when creating their program. Today, the FFP is modeling a new kind of social responsibility program, one tailored to the Information Age and designed and enforced by the very workers whose rights are at stake. Indeed, this pioneering model of worker-driven social responsibility appears to offer a 21st-century solution to the age-old problem of low-wage labor exploitation and abuse.

PROCESS



An FFSC investigator speaks with a worker during a routine audit of a Fair Food Program farm.

photo: Smriti Keshari

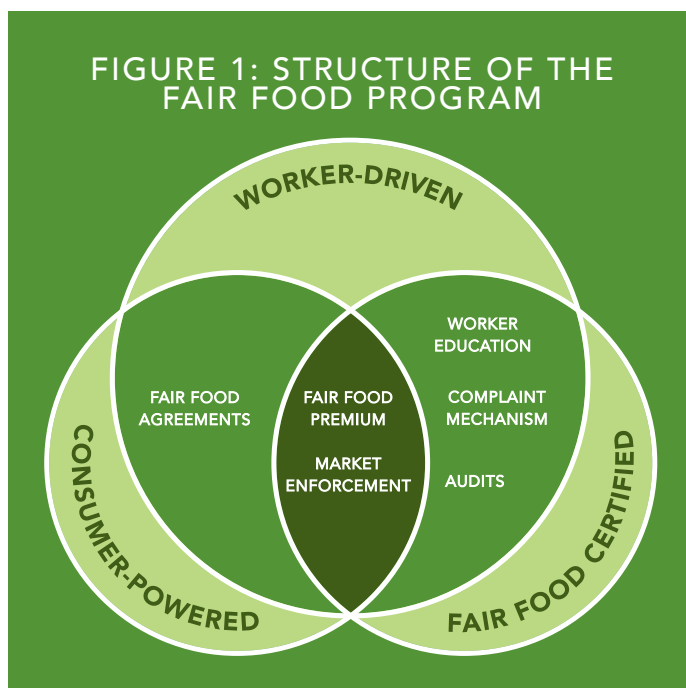
THE FAIR FOOD PROGRAM MODEL

The value of the Fair Food Program stems from both the standards outlined in the Fair Food Code of Conduct, which go well beyond the requirements of law, and the multi-layered approach to monitoring and enforcing compliance with those standards. Prior to the FFP, no governmental or non-governmental entity had sufficient resources to undertake anything but sporadic labor enforcement efforts in agriculture. The Fair Food Program therefore represents a qualitative leap forward. The package of advanced, innovative standards and rigorous enforcement – including the enlistment of the industry’s 30,000 workers as active, front-line human rights defenders through the education and complaint processes – underlies the most comprehensive, verifiable and sustainable social responsibility program in US agriculture.²²

COMPREHENSIVE

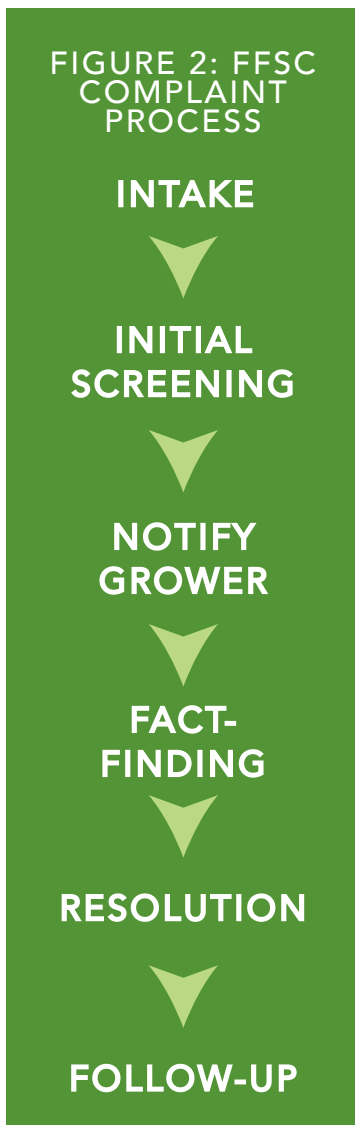
The Fair Food Program combines four essential tools of social responsibility, all of which are necessary and none of which is sufficient on its own, into one holistic program for ensuring the transparency of labor conditions in the fields and compliance with the Fair Food Code of Conduct. This approach to safeguarding human rights goes well beyond the traditional audit-only system of workplace

monitoring that has recently been exposed as not just inadequate, but, in most cases, aimed more at the protection of a brand image than worker rights.²³



- **WORKER-TO-WORKER EDUCATION** – CIW is responsible for a program of worker-to-worker education that takes place on the farm and on the clock, paid at an hourly rate. The curriculum, which is developed and delivered by CIW farm-worker staff, informs workers of their rights

FIGURE 2: FFSC COMPLAINT PROCESS



and responsibilities under the Code as well as mechanisms for redress should a potential Code violation occur.

Additionally, at the point of hire, all workers receive the “Know Your Rights and Responsibilities” booklet and watch the Fair Food Program training video. The booklet was written by CIW and revised with feedback from the FFP Working Group; it is made available in English, Spanish and Haitian Creole. The video, which is in Spanish, was produced by CIW in collaboration with an award-winning documentary film company. To reach low-literate English- and Haitian Creole-speaking workers, CIW also recorded audio versions of the “Know Your Rights and Responsibilities” booklets.

Both the on-site and point-of-hire trainings are essential to providing workers with the knowledge necessary to help identify abusive supervisors and potentially dangerous practices, and allow growers to address those risks before they become entrenched problems with potentially wide-ranging consequences. In other words, the Fair Food Program harnesses the power of 30,000 trained and motivated monitors on the ground every day.

- **COMPLAINT HOTLINE AND COMPLAINT INVESTIGATION AND RESOLUTION** – Open lines of communication between workers in the fields and growers overseeing vast operations from the office are essential to the FFP. When workers encounter a potential Code violation, the FFP provides them protected access – with strict consequences for retaliation – to a fast, effective and proven complaint process. The complaint procedure is essential to managing risks before they

become bigger problems, and the growers who have truly embraced the Fair Food Program understand this benefit.

The toll-free complaint line is answered by a bilingual FFSC investigator, 24 hours a day, 7 days a week. Complaints are investigated and resolved by FFSC, normally in collaboration with Participating Growers. The FFP requires both Participating Growers and FFSC to report all complaints received to each other, within two working days. Whenever possible and appropriate, complaint resolutions include an educational component, consisting of meetings with relevant supervisors and crews, so that workers can see that complaints are heard and addressed without retaliation, and supervisor conduct can be effectively modified. All steps in the complaint process are documented in the FFSC database, resulting in an important compilation of information on the conduct of individuals, as well as company practices.

- **AUDITS** – Because workers may not be aware of every possible problem or, for that matter, may not always be willing to trust the complaint system due to prior experiences outside the FFP, in-depth audits are a necessary complement to the complaint process. With access to company records at the farm office level and access to the fields to observe harvesting operations and talk to workers first-hand, FFSC auditors are able to achieve still greater transparency into Participating Growers’ farms to ensure that they have the systems in place to make compliance possible.

The FFSC audit process includes interviews conducted with a very large percentage of workers – normally over half a company’s workforce – far exceeding traditional auditing sample sizes. These interviews take place in the field and off-site, at worker housing, on the buses that transport workers, and at morning pick-up spots. Additionally, FFSC interviews all levels of management, from senior officers to field supervisors, and reviews company policies and logs to assess implementation of the Code. Auditing also includes on-site review of the company’s payroll records to ensure that workers are properly compensated, that timekeeping systems are functional and used for minimum wage calculations, and that the Fair Food Premium is accurately distributed as a line-item bonus on workers’ paychecks.

Following the conclusion of an audit, FFSC generates a report and drafts a corrective action plan, which serves as a detailed roadmap to full compliance

and the launch point for the next audit cycle. At the request of some growers, FFSC has assisted in drafting model company policies and training company supervisors on program-related policies.

- **ENFORCEMENT THROUGH MARKET**

CONSEQUENCES – The Fair Food Program is an enforcement-focused approach to social accountability, and enforcement needs teeth to work. Growers who fail to comply with the Code lose business. Those market consequences – built into the program through CIW’s Fair Food Agreements with Participating Buyers – are the heart of the program. Towards that end, FFSC reviews monthly supply chain records to ensure that Participating Buyers only source Florida tomatoes from Participating Growers in good standing, thereby upholding the market incentives that drive grower compliance.

Fair Food Premium, Participating Buyers contribute to the alleviation of the extreme poverty faced by farmworkers for decades.

- **GROWERS** – The FFP draws on Participating Growers’ interest in risk management, as well as their interest in keeping pace with an ever more competitive marketplace, to motivate growers to allocate management and financial resources to compliance with the Fair Food Code of Conduct.
- **WORKERS** – The FFP draws on workers’ knowledge of the day-to-day reality in the fields, as well as their desire for a more modern, more humane workplace, to encourage workers to play their role as front line defenders in the monitoring and enforcement of the Code.
- **CONSUMERS** – The FFP draws on consumers’ growing demand for the highest ethical standards and employs that demand as the engine that ultimately drives the entire program.

VERIFIABLE

The clearest reflection of the FFP’s investment of time and resources in monitoring compliance with the Code is the development of the Fair Food Standards Council. FFSC is the only indigenous, dedicated monitoring organization of its kind in US agriculture, its sole task being to oversee compliance with the Fair Food Program. FFSC has developed a specialized and continuously deepening information base concerning relevant industry actors and practices. Gathered through audits and the complaint process, this empowers investigators with the information they need to do their job effectively. FFSC currently fields a team of eleven auditors and financial investigators and is under directorship of Judge Laura Safer Espinoza, a former New York State Supreme Court Justice.

SUSTAINABLE

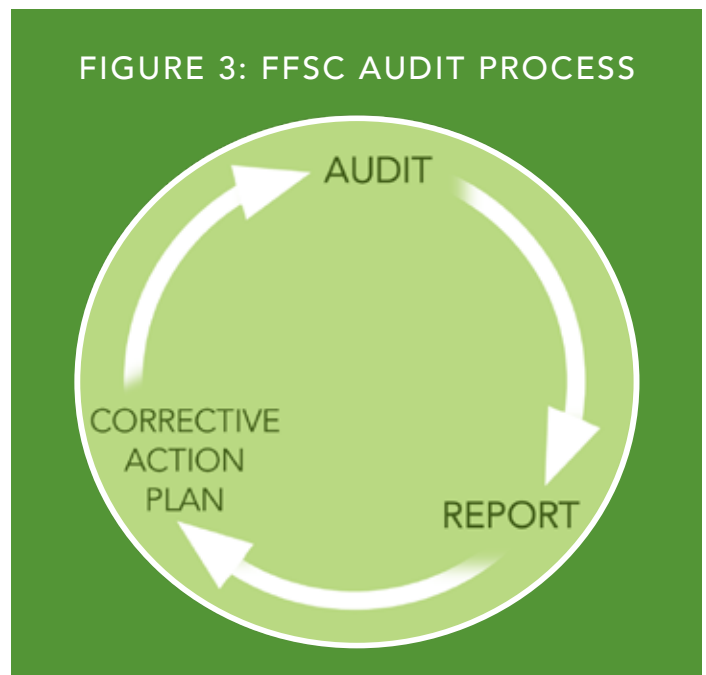
The Fair Food Program is based on the fundamental principle that social responsibility – if it is to be truly sustainable – cannot simply be kicked down the supply chain, but rather must be shared, from retailers at the top to workers at the bottom. As such, the FFP is built to draw on the unique strengths and resources of every level of the supply chain without creating an unreasonable burden on any single level.

- **RETAILERS** – The FFP draws on Participating Buyers’ volume purchasing power to create real and compelling incentives for compliance by Participating Growers. Additionally, through the small but powerful

IMPLEMENTATION TIMETABLE

The timeline below summarizes the stages of implementation of the Fair Food Program in the Florida tomato industry.

- **PILOT (2009-2011)** – A total of five growers participated at some point in the pilot phase. Rudimentary audits and financial monitoring were conducted by



Verite, a non-governmental organization that promotes and monitors fair labor practices across the globe. During this time, Verite also offered guidance to FFSC staff in workplace auditing methodologies. The complaint process was also launched, and one grower was suspended from the program for failure to cooperate with the investigation of a sexual harassment complaint against one of the farm's longtime crewleaders.

- **SEASON ONE (2011-2012)** – In November 2011, the FFP expanded to cover the Florida tomato industry statewide – from south of Miami to the Florida-Georgia border – and the Fair Food Standards Council assumed responsibility for monitoring the program. FFSC conducted baseline assessments – including company questionnaires and announced audits – to measure growers' initial level of implementation. Corrective action plans were subsequently drafted to help establish management systems that would facilitate Code compliance. The complaint process was also expanded statewide during this period.
- **SEASON TWO (2012-2013)** – Building on the knowledge base from its inaugural season, FFSC conducted announced and unannounced audits to measure compliance with the previous season's corrective action plans. Compliance with corrective action plans varied, sometimes widely. As a result, some Participating Growers were placed on probation for failure to pass remedial audits, and one grower was suspended from the program. This season also saw the beginning of voluntary program expansion, initiated by Participating Growers, through engagement with FFSC in complaint resolution for their operations outside of Florida, as well as FFSC's first out-of-state audit.
- **SEASON THREE (2013-2014)** – FFSC continued to monitor Participating Growers' implementation of corrective action plans through announced and unannounced audits. In some instances, where non-compliance was found, FFSC re-visited Participating Growers' operations multiple times to verify corrective actions. FFSC also conducted a number of on-site training sessions for field-level supervisors with the presence and support of upper management. While most growers made significant and concrete progress, three Participating Growers were suspended for failure to pass their remedial audits. Additionally, FFSC conducted baseline audits for two new Participating Growers; implementation of their corrective action plans will be verified in the coming season. Lastly, voluntary program expansion continued during Season Three as well. Following the precedent of the 2012 summer, FFSC resolved several worker complaints from Participating Growers' out-of-state operations and conducted its second audit beyond Florida's borders.



OUTCOMES



Vine-ripe harvest crews clock in at a Fair Food Program farm during the 2013-2014 season.

photo: FFSC

Since its inception, the Fair Food Program has brought about many far-reaching reforms across the Florida tomato industry. In the span of just three years:

- CIW has educated over 20,000 workers face-to-face, and reached more than 100,000 workers with written and video materials, on their rights under the Program;
- Workers have brought forth over 600 complaints, resulting in the resolution of abuses ranging from sexual harassment and verbal abuse to systemic wage violations, demonstrating workers' trust that reported problems will be investigated and corrected;
- FFSC has interviewed 7,500 workers over the course of 100 comprehensive audits – ranging from two days to two weeks, including field, housing, management and payroll components – in order to assess Participating Growers' implementation of the Fair Food Code of Conduct; and
- Participating Buyers have paid nearly \$15 million in Fair Food Premiums to improve workers' wages.

But beyond the numbers, an even more remarkable story is unfolding.

CREATING A CULTURE OF RISK PREVENTION

Ten years ago, in the aftermath of several major federal prosecutions of Florida farm labor slavery operations, a Justice Department official labeled Florida “ground zero for modern slavery.”²⁴ Remarkably, however, in four seasons under the FFP, there have been no cases of slavery at Participating Growers' operations. This absence of slavery cases has held despite the fact that the FFP has provided investigators significantly more access to workers – and workers significantly more access to information on their rights and to an effective complaint mechanism – than during the two decades preceding the FFP's implementation that generated the “ground zero” label. As CIW noted in its acceptance of the 2014 Clinton Global Citizen Award, “In four years, we've traveled the road from prosecution to prevention.”

This sea change has been noted by academic observers, as well. Susan Marquis, dean of the Pardee RAND Graduate School, says, “When I first visited Immokalee, I heard appalling stories of abuse and modern slavery. But now the tomato fields in Immokalee are probably the best working environment in American agriculture. In the past three years, they've gone from being the worst to the best.”²⁵ The Fair Food Program is setting the gold standard for prevention of forced labor in high-risk industries.

Additionally, the Fair Food Program has made significant strides in addressing endemic sexual harassment and eliminating sexual violence in the fields.²⁶ These topics are a major point of emphasis in worker-to-worker education and interviews during the audit process. Moreover, Participating Growers' supervisory staff have largely accepted responsibility to prevent hostile environments and to respond effectively to complaints of sexual harassment. In 2012 and 2013, three long-time supervisors were terminated for sexual harassment as a result of FFSC investigations, and notification of their two-season ineligibility for reemployment within the FFP was sent to all Participating Growers.

Season Three then saw the elimination of reported cases of sexual assault at Fair Food Program farms.

Moreover, FFSC and CIW are now collaborating with several stakeholders – including Pacific Tomato Growers, Futures Without Violence, and VIDA Legal Assistance – to develop culturally and linguistically appropriate training materials and curricula for workers and supervisors to address the workplace impacts of domestic and sexual violence. Participants anticipate that this project will set the national standard for addressing these forms of violence in the agricultural sector.

These developments too have not gone unnoticed. In 2013,

“Now the tomato fields in Immokalee are probably the best working environment in American agriculture. In the past three years, they’ve gone from being the worst to the best.”

**—SUSAN MARQUIS,
Dean of the Pardee
RAND Graduate School**

after a year-long investigation of sexual assault in the fields from California to Florida, a PBS *Frontline* producer declared the Fair Food Program to be the single most effective prevention program in the US agricultural industry.²⁷

Lastly, there is evidence that many Participating Growers have begun to view FFSC as a useful partner in capacity building and risk prevention. Most Participating Growers have adopted a cooperative attitude towards jointly resolving worker complaints with FFSC. In the last year alone, FFSC has helped draft company policies and provided on-site supervisor training for several Participating Growers on issues ranging from

sexual harassment to progressive discipline. Over the past two summers, FFSC audited one Participating Grower's out-of-state tomato farms for compliance with the Code and helped resolve eleven out-of-state complaints for three Participating Growers. Clearly, many growers are embracing the opportunities and benefits of the Fair Food Program.

CODE REQUIREMENTS

In order to assess the progress made thus far, and the gaps that remain, this section offers definitions of key Code provisions, and then assesses their level of implementation, highlighting illustrations of impact and best practices.

WORKERS SPEAK

“Women could not lean forward in a certain way if people were standing behind them in the fields... Sexual harassment and abuse were common. Violence against women, pre-CIW, was ‘our daily bread.’ ... ‘[Now] when we arrive home at the end of the day, we can hug our children happily, knowing that we didn’t have to sell our dignity in the fields. We brought it home with us.’” – Lupe Gonzalo, April 2014²⁸

**“I came here to work and I’m going to work... But now the fear is gone.”²⁹
– Julia de la Cruz, August 2014.”**

FFSC AUDITING

All Participating Growers have agreed to auditing by the Fair Food Standards Council. The commitment to transparency is a fundamental requirement of the Fair Food Program, and failure to cooperate with auditing procedures, including intimidation or coaching of workers, is grounds for probation or suspension from the program.

Assessment of Implementation

During the 2013-2014 season, FFSC conducted comprehensive audits of all Participating Growers, including the operations of two companies that joined the program in 2014.

The FFP's third season was marked by strong support for successful implementation from grower management. At companies where obstacles to full transparency and cooperation had been encountered in previous seasons, FFSC led training sessions for field-level supervisors and workers. Representatives of upper management participated in those trainings and publicly affirmed their commitment to the FFP and its audit process.

The impact of support from upper management clearly resulted in increased cooperation from field-level supervisors. In the handful of incidents where coaching or intimidation of workers was found this season, the crewleaders or other field-level supervisors involved were consistently disciplined, suspended, or terminated.

In the few instances where lack of cooperation from upper management continued to cause lack of compliance with auditing procedures in the field, those companies were placed on probation or suspended from the FFP.

Best Practice

Full cooperation and transparency with audits, including scheduling dates, assistance with logistics, and unimpeded access to records, management personnel and workers. No interference, intimidation or coaching of workers' or supervisors' responses.

Upper management trains supervisors on the company's policy of commitment to the FFP, including cooperation with FFSC audits. Violations are subject to disciplinary action pursuant to the company's disciplinary policy.

Illustration of Impact

- At the conclusion of an audit, a farm manager asked whether he could contact FFSC for assistance in difficult situations – sexual harassment with physical contact, for example. The auditor explained that FFSC often provides growers with assistance in complaint investigations and resolutions and would be happy to help in any way possible. The farm manager then added that many crewleaders are frightened of FFSC, but he tells them that as long as they are following the rules consistently, they have nothing to worry about during audits. He said that since the program is here to stay, he sees no sense in fighting it. He added, "And really there have been a lot of abuses in the past. So it's good things have changed. We're better off for it." (March 2014)
- A worker told auditors, "Everywhere CIW and FFSC have a presence, things are better." (April 2014)
- Throughout the 2013-2014 season, FFSC worked closely with the compli-

Illustration of Impact

ance staff of a Participating Grower that had been placed on probation. Together, FFSC and grower staff designed model policies and procedures, which workers later verified that the company consistently implemented. Upon receiving notice that the company had been reinstated to good standing, the company owner wrote: “Thanks to you and your staff for helping us get where we needed to be. We will continue to improve.” (July 2014)

- An older worker spoke to auditors about his work experience in tomatoes before and after the arrival of the FFP: “You used to feel alone before - so alone - but now you go to work with a good feeling.” (August 2014)

DIRECT HIRING

Another fundamental provision of the Code requires Qualifying Workers* to be hired and paid directly by Participating Growers. Historically, growers have paid farm labor contractors (crewleaders) who were the direct employers of farmworkers. Under those circumstances, forced labor, wage theft, transportation in dangerous vehicles and other abuses often went undetected or unaddressed. By contrast, under the Fair Food Program, ensuring that workers are employees of Participating Growers means that growers undertake the important responsibility of guaranteeing proper compensation and working conditions for farmworkers who labor on their property.

Assessment of Implementation

REGISTRATION OF VINE-RIPE WORKERS

Last year’s FFP Report described an area of risk represented by “pinhooker” or “vine-ripe” crews that harvest the 5-10% of tomatoes that ripen ahead of, or after, the rest of the crop and which are marketed as vine-ripe tomatoes.

This highly informal, undercapitalized segment of the tomato industry has historically operated on a foundation of unlicensed contractors, dangerous and illegal transportation practices, and cash payment arrangements. As a result, it has been a sector of farm labor responsible for gross human rights abuses, including forced labor and wage theft, at a rate disproportionate to its size.

Before the start of the 2013-2014 season, the Working Group established direct hiring of vine-ripe crews as a point of emphasis, informing all Participating Growers of the requirement to hire these workers as company employees, and to treat them as Qualifying Workers under the FFP. Additionally, companies must now ensure that vine-ripe crewleaders involved in recruitment and transportation have obtained state and federal Farm Labor Contractor licenses, and are utilizing vehicles that are properly insured and inspected.

By the beginning of the season, several growers had developed procedures to register, train, and place vine-ripe crews directly on company payroll. Within the span of a single season, 100% of Participating Growers adopted the practice of placing vine-ripe workers on company payroll.

Over 75% of those growers reached full-compliance regarding vine-ripe workers by the end of the 2013-2014 season. This signified a dramatic change for workers who had borne the risks of working in this previously unmonitored sector.

* According to the Fair Food Code of Conduct: “Qualifying Workers are non-supervisory workers performing the following tasks related to growing tomatoes for a Participating Grower: harvesting, irrigation, planting, laying plastic, staking, tying and miscellaneous work of a similar nature that does not involve the operation of vehicles or machinery. Field walkers and dumpers are not Qualifying Workers.”

Assessment of Implementation

On FFP farms, they are now covered by workers' compensation insurance, and receive the same training and rights as all other Qualifying Workers, including the Fair Food Premium. The challenge for the remaining Participating Growers is to complete the process of fully integrating vine-ripe workers into registration and payroll procedures, as required in their corrective action plans for the 2014-15 season.

STANDARDIZED WORKER REGISTRATION

Throughout the 2013-2014 season, at approximately 95% of all Participating Growers, no instances of unregistered workers were found on regular crews. FFSC did confirm instances of unregistered workers at two farms, however, affecting a total of six workers. Both companies were placed on probation and must demonstrate full compliance at the beginning of the 2014-2015 season in order to avoid suspension.

The FFP requires not only that workers be placed on company payroll, but that all registration and training take place prior to starting work, thereby eliminating the risk that some workers could work for several days and leave without company knowledge of their presence.

In response to this requirement, Participating Growers continue to tighten the timeframe for completion of registration. Over 55% of all growers have fully implemented standardized procedures that ensure all Qualifying Workers, including vine-ripe workers, are registered and provided with ID and/or time cards before starting to work in the fields.

The remaining growers (with the exception of the two farms cited above) had a high degree of success in placing nearly all workers on payroll prior to starting work. The remaining challenge for those growers is to eliminate all instances where work is performed for 1 to 3 days prior to fully completing the registration process.

Best Practice

Workers complete registration paperwork and receive company photo ID cards – necessary for attendance and timekeeping – before beginning work in the fields.

Illustration of Impact

A worker who was brought to a Participating Grower's field by a sub-contractor working with the company's crewleader – but not registered on the company's payroll as required by the Code – called FFSC when he was not compensated for his labor. He had received the "Know Your Rights and Responsibilities" booklet containing the FFSC hotline number during a CIW worker-to-worker education session that took place during the days that he was working for this grower. The company initially denied that this worker had ever been present in their fields, but the FFSC located his signature on required company training logs. Full compensation was obtained for this worker, who was invited to the company office to receive a paycheck in his name. He stated to FFSC investigators "more important than the money, which I need, was the feeling of dignity when my labor – the buckets I harvested – was recognized." Corrective actions for this grower required disciplinary action for any crewleaders who violate the requirement to register all Qualifying Workers, and suspension from the program for any future findings of unregistered workers. (March 2012)



photo: Scott Robertson

photo: Scott Robertson

ZERO TOLERANCE FOR FORCED LABOR, CHILD LABOR, VIOLENCE AND SEXUAL ASSAULT

The Code requires termination of supervisors found to have violated the Code’s zero-tolerance provisions. Any such offenders are ineligible for employment at Fair Food Program farms for two seasons to five years, depending on the offense. Re-training acceptable to FFSC must be completed before employment eligibility at Participating Growers can be reinstated. A second offense results in a lifetime ban. Failure by a Participating Grower to impose these sanctions results in suspension from the program.

All participants in the FFP have committed themselves to the eradication of these violations, which represent the worst offenses suffered by thousands of farmworkers over many decades.

Assessment of Implementation

The actions taken by Participating Growers, as a result of worker complaints and audit findings, to rid the industry of its worst actors and publicly affirm the Code’s zero tolerance provisions have produced dramatic results.

During the 2013-2014 season, the FFP received no valid complaints and no reports during audits pertaining to forced labor, child labor, sexual assault, or physical violence by supervisory employees against workers. As detailed in the Worker Complaints section of this report, although one complaint was received from a worker concerning a threat of violence by low-level field supervisor, that complaint was found to be without merit.

Best Practice

Upon notification of complaints alleging violations of zero-tolerance provisions, growers facilitate FFSC investigation by providing access to witnesses, upon request, and helping to create an atmosphere for interviews that is free of intimidation or fear of retaliation. Interviews conducted by the grower are prompt and carried out under circumstances that protect confidentiality. Investigations are cooperative, not adversarial. If complaints are found to be valid, corrective actions required by the Code are carried out promptly.

Illustration of Impact

Isabel, a 30 year-old farmworker in Florida, told an investigative reporter: “Before, we would hear about a contractor or supervisor who would take women to a private place, to the edge of the field, and we understood that sexual assault was what was happening,” she said. “Now, we aren’t hearing these stories in the same way we used to.”³⁰ (April 2014)

SEXUAL HARASSMENT AND DISCRIMINATION IN THE WORKPLACE

In addition to zero-tolerance provisions against violence and sexual assault, Participating Growers must provide all employees with training on the prevention of sexual harassment and discrimination, including sexually charged language and other conduct that creates a hostile environment. At the time of hire, workers receive training on these issues through the FFP orientation video and “Know Your Rights and Responsibilities” booklet. Companies are also required to provide training for workers on how to make confidential complaints to supervisors and company complaint mechanisms. Supervisors must be trained on their responsibilities to properly handle sensitive complaints and actively discourage hostile work environments.

Assessment of Implementation

90% of all Participating Growers have implemented company-led trainings on the prevention of sexual harassment and discrimination for both workers and

SEXUAL HARASSMENT AND DISCRIMINATION IN THE WORKPLACE, contd.

Assessment of Implementation

supervisors. These growers continue to work towards or maintain best practices, including ensuring that all field-level supervisors understand their roles in responding to and preventing violations of these policies.

During the 2013-2014 season, FFSC received no worker reports of sexual harassment or discrimination at over 70% of all Participating Growers. Required corrective actions for next season include mandatory discipline or suspension for any supervisor found to have engaged in, or neglected to address, any incidents of sexual harassment or discrimination.

In 2014, the Fair Food Program will be the host site for an innovative curriculum on sexual harassment prevention, specifically designed to address abuses suffered by workers in agriculture.

Best Practice

The company provides all workers and supervisors with training on the prevention of sexual harassment and discrimination. Workers are provided with clear instructions on how to make confidential complaints. Supervisors are trained on their responsibility to ensure a respectful work environment and immediately report any complaints pertaining to sexual harassment or discrimination. The company's complaint intake staff is appropriately trained and responds effectively to worker complaints.

Illustration of Impact

- An auditor spoke with a male worker who observed that at so many farms women risk losing their jobs if they speak out against harassment or reject the advances of a supervisor. He remarked how different the environment is at FFP farms. He added that, as a man, he believes that this more comfortable and respectful work environment benefits him as well, and he is very relieved to work in a place where women are not treated poorly. (November 2013)
- At one farm during the 2012-2013 season, FFSC received multiple reports of sexual harassment and discrimination towards Haitian workers by a bus driver. Although the company's corrective action plan only required disciplinary action and retraining, the company informed FFSC that the supervisor had been terminated. The company was also required to host farm-wide trainings led by FFSC on the prevention of sexual harassment and discrimination. In separate training sessions with Haitian workers and Spanish-speaking female workers at the farm, both groups confirmed that the company had already conducted trainings on discrimination and sexual harassment and that the work environment had greatly improved since the previous season. Workers stated that they now understood how to report confidential complaints, and would feel comfortable approaching farm staff with sensitive complaints. (April 2014)
- During an FFSC audit, several workers, including a Health and Safety Committee member, complained about a field truck driver who made lewd gestures and used discriminatory language towards Haitian women. Auditors were present as this driver made a sexually charged joke in the presence of a company representative, who immediately suspended the driver's employment. The company's human resources staff conducted a prompt investigation, speaking with FFSC about reports received in the field, and

Illustration of Impact

confirming those reports with multiple workers. The offending supervisor was terminated in less than 24 hours from the time the company became aware of his behavior. (May 2014)

- During an FFSC audit, a Participating Grower spoke to auditors about the company's expectations that supervisors will take preventive measures to maintain a safe and dignified work environment. Company management told FFSC, "If crewleaders don't assist in prevention, then they are part of the problem." (March 2014)

WORKER-TO-WORKER EDUCATION SESSIONS

For the first time, workers hear their rights explained by a committee of men and women who have spent their lives working in the fields and have a deep understanding of the issues important to their audiences. This education takes place on company property, paid at an hourly rate. Company management is present to demonstrate support and commitment to the FFP. Workers can ask questions about their rights and responsibilities under the program and receive answers in terms that make sense to them, based on shared experience.

Assessment of Implementation

During the 2013-2014 season, 100% of Participating Growers scheduled and hosted CIW worker-to-worker education sessions. Both newly hired and returning workers were informed of their rights under the FFP by farmworkers through interactive peer-to-peer discussions.

Best Practice

Participating Growers contact CIW's Worker Education Committee during each harvest cycle to ensure that all crews participate in an education session. If large groups of workers are hired after the first session, another session is scheduled. Representatives of management are present to introduce the session and convey the company's support of the FFP. The company has a separate training payroll code, under which education sessions and other trainings are properly tracked for hourly compensation. Attendance is kept to 100 workers or less, so that constructive dialogue can take place.

Illustration of Impact

- A worker called FFSC hotline because he wanted to thank CIW members who recently had been at the farm facilitating an education session. In previous years, this worker had harvested blueberries in central Florida and stated that, "CIW needs to go out there and do the same thing." He was appreciative that the education session was inclusive and allowed for all workers to participate. (May 2014)
- CIW facilitated an education session that included a significant number of Haitian workers. The session took twice as long as normal, due to explanations in Creole as well as Spanish, but was very well received. Workers applauded after each right was explained, with the most excited applause after CIW detailed the right to report abuse without fear. (June 2014)

EDUCATION AT THE POINT OF HIRE

Upon hire, all workers must receive a copy of the “Know Your Rights and Responsibilities” booklet in English, Spanish, or Haitian Creole. The booklet describes the basic protections established by the Code, as well as workers’ rights to register complaints concerning violations of the Code. Workers also view the CIW-produced FFP training video. In the video, workers see their rights and responsibilities demonstrated in realistic scenarios, portrayed by farmworker actors.

In addition to FFP training, Participating Growers are required to provide workers with training on company policies, which must be in compliance with the Code of Conduct.

Assessment of Implementation

All Participating Growers who have been in the FFP for three seasons have fully incorporated the “Know Your Rights and Responsibilities” booklet and the FFP video into trainings for new and returning workers.

Additionally, over 60% of Participating Growers have fully implemented standardized procedures that ensure that all workers receive effective training on company policies prior to starting work in the fields. Most of these procedures reflect best practices, including successfully incorporating FFP provisions directly into company policies, ensuring that all training sessions include verbal review by a bilingual trainer, and providing a question and answer session for workers.

Best Practices

Worker training, including FFP materials, consistently takes place prior to starting work in the fields. Training is led by a bilingual trainer. The curriculum goes beyond the screening of videos. Policies are explained, with an opportunity for questions and answers. FFP requirements are incorporated into written company policies.

Illustration of Impact

After workers and supervisors received their first training on the FFP at a farm that entered the program this season, auditors received comments from workers who noted a significant change in workplace atmosphere. One worker told auditors that previously workers were often yelled at and felt pressured by supervisors throughout the workday, but the work environment had immediately become more positive after workers and supervisors received FFP training. (April 2014)

COMPLAINT LINE

Publicizing the right of workers to make complaints, free from fear of retaliation, and providing access to a toll-free number, answered by bilingual complaint intake staff, are examples of Participating Growers’ commitment to the program’s collaborative problem-solving approach. Channels for informing workers about the complaint process include pay slips, postings at central farm locations and on buses, as well as written materials distributed to workers during orientation and training.

Commitment to the complaint process is also motivated by recognition on the part of Participating Growers that workers are often best positioned to provide valuable risk prevention information regarding conditions in the fields. Several growers have opted to use FFSC’s complaint line, which is always answered by a bilingual FFSC investigator, while others have opted for in-house or outsourced hotlines in addition to the FFSC hotline. The efficacy of growers’ complaint lines is reviewed through the FFSC audit process.



Workers at an Immokalee area farm review the Fair Food Program rights booklet during a 2011 worker-to-worker education session.

photo: Laura Emiko Soltis

COMPLAINT LINE, contd.

Assessment of Implementation

All Participating Growers continue to either contract with a toll-free complaint line or direct workers to the FFSC hotline. Workers are provided with complaint line numbers on their check stubs, in KYRR booklets, and on wallet-size cards distributed during FFSC audits.

Retaliation for bringing complaints, once a prevalent reaction by supervisors to workers bringing forth legitimate grievances, has become increasingly rare. On 70% of FFP farms, workers have brought forth complaints with no adverse consequences. All Participating Growers have responded promptly and appropriately to address instances of retaliation by supervisors, with the exception of three farms that were subsequently placed on probation or suspension during the 2013-2014 season.

During the 2013-2014 season, 90% of Participating Growers demonstrated prompt and effective cooperation with FFSC complaint investigations and the FFP's complaint resolution process.

Although Participating Growers continue to improve their internal procedures for receiving, investigating and resolving complaints, workers at 90% of companies still report being unclear about, or uncomfortable with, using the companies' internal complaint mechanisms.

Best Practice

Clear explanations concerning access to the complaint line and other complaint procedures are provided during worker training at the time of hire by a bilingual trainer. The company's policy against retaliation for making complaints is clearly stated. Company complaint procedures include the regular active participation of human resources staff - who are known and trusted by workers - in the fields.

Illustration of Impact

- During an audit visit to a Participating Grower, FFSC investigators spoke with a worker who had made a complaint during the 2012-2013 season about unsafe spray practices and a crewleader's practice of punishing workers who attempted to take days off to rest. He described how conditions had changed at the farm, stating the farm no longer sprays anywhere near workers and workers are aware that they have the right to take a day off from work to rest. He thanked FFSC for helping workers to enforce their rights and change abusive practices. (October 2013)
- During an audit, an FFSC investigator spoke with a worker about a recent hotline complaint regarding missing wages on his paycheck. When the worker realized that the same person who had helped resolve his case was standing in the field with him, he exclaimed: "Wow! You found me. You are like detectives!" The worker embraced the investigator and expressed how happy he was to see FFSC in the field. That same week, the worker called the hotline to let FFSC know that the company's senior compliance officer had arrived to the field to personally deliver the check with his missing wages. (June 2014)
- A complaint line call was received from a worker who hung up when the FFSC investigator responded. When the investigator called back, the caller explained that he had just been trying to save the hotline number in his phone because he knew it was an important contact for workers to have. (September 2013)

TIMEKEEPING SYSTEMS

Manipulation of the manual records of workers' compensable hours has long been a source of minimum wage violations in US agriculture. Implementation of required timekeeping systems, in which workers control their time registration device, makes workers aware of when they are clocked in and out and generates verifiable records. These new systems, coupled with the Code's requirement of clocking workers in upon arrival to the grower's property, and clocking workers out only after all post-field tasks are completed, ensure that all workers' compensable hours are recorded.

Enforcement of the provision against uncompensated wait time has had a dramatic impact on workers' quality of life. Many growers have changed the practice of transporting workers to the field hours before work can begin. Since the Code requires that this wait time be on the clock, to be calculated against minimum wage requirements, many growers have re-calibrated arrival times to more closely approximate work times. This allows mothers and fathers to let their children get a full night's rest and even take them to school, instead of rousing them before dawn to be left with a neighbor, often for a daily fee, while they board a bus to the fields.

Assessment of Implementation

All Participating Growers have now purchased, installed, and begun using time-keeping systems as required by the Code.

FFSC auditing confirmed that 90% of all growers in their third season of FFP participation are properly utilizing Code-required timekeeping systems to generate payroll as opposed to reliance on crewleaders' manual records. Participating Growers have also continued to improve clock-in and clock-out procedures to ensure that workers' hours are consistently tracked from arrival at farm property until all work-related tasks are complete. Workers at over 80% of FFP farms reported no systemic wait time or other failure to properly record compensable hours.

Failure to comply with these fundamental requirements resulted in suspension for three third-season Participating Growers and in probation for one new Participating Grower.



photo: Laura Emiko Soltis

TIMEKEEPING SYSTEMS, contd.

Best Practice

All Qualifying Workers are clocked in consistently upon arrival to Participating Grower's property and clocked out only when all post-field administrative tasks are completed. Workers control their time registration devices. Records generated by timekeeping systems that comply with the Code are used to calculate payroll and, in case of discrepancies, are prioritized over manual records. No qualifying work is performed unless workers have been clocked in.

Illustration of Impact

- At one Participating Grower, FFSC identified ongoing issues with lengthy unrecorded morning wait times on farm property, caused by crewleader buses not clocking in upon arrival, as required, but rather waiting until the announced call time. Working with FFSC, the Participating Grower replaced its practice of providing morning "start times" to crewleaders, with morning "departure times" announced to all crews. Crewleaders and workers now know what time they must depart from pick-up locations, and that crews will be clocked in immediately upon arrival to farm property. Through the implementation of this new practice, workers reported that unrecorded morning wait time has been virtually eliminated. (February 2014)

- From an article originally published in the Ft. Myers *News-Press* on February 16, 2014:

"For 24-year-old Immokalee single mom Mely Perez [...] the extra cash to feed her two young sons is helpful, but what really feels historic to her is being able to make them breakfast in the morning before walking them to school from her tiny house, for which she pays \$700 a month.

In the days before the agreement, she'd slip out in the pre-dawn dark while the boys were sleeping to catch a bus for the fields, leaving them with a friend until she returned that night, aching and exhausted.

The FFP prohibits the longtime practice of hauling workers to the fields early, then making them wait to work until the dew dries. Now that unpaid time is a thing of the past, the Mexican-born Perez can spend her extra hours with her little boys."³¹

BUCKET-FILLING STANDARD

In addition to the Fair Food Premium, the Code has achieved further wage increases through the elimination of "cupping." Cupping refers to the traditional practice of requiring workers to over-fill their 32-pound buckets by heaping additional tomatoes on top. Workers were not paid for those extra few pounds of tomatoes in each bucket, a practice enforced by various methods, from withholding pay for un-cupped buckets to firing workers who refused to comply. This meant that, in practice, for roughly every ten buckets picked and cupped, workers were picking, but not paid for, an eleventh bucket. For many workers, the new visual standard for filling buckets (pictured opposite page) has meant an additional wage increase of up to 10%.

Assessment of Implementation

All Participating Growers have effectively trained supervisors and workers on the Code's bucket filling standard. This includes companies' expectation that field-level supervisors will enforce the visual standard. As a result, the 2013-2014 season saw a marked reduction in demands for cupping, resulting in the near elimination of this once common practice. Approximately 70% of Participating Growers have fully implemented the visual bucket-filling standard and, at the remaining farms, cupping is an infrequent demand rather than a regular requirement.



Best Practice

Farm supervisors take an active role in enforcing the visual bucket-filling standard. Workers are instructed that the company does not want either over or under-filled buckets. Dumpers and crewleaders are subject to disciplinary procedures for ongoing demands to over-fill buckets.

Illustration of Impact

- During an audit, a worker spoke about how, throughout all of the years before the FFP, crewleaders used to demand cupping and said, "Imagine how much money they haven't paid us." (October 2014)
- FFSC received a complaint about a dumper who was demanding cupping and threw an empty bucket at a worker. Once informed about the complaint, the company disciplined the dumper and had a meeting with all supervisors and workers on the crew to reinforce the visual standard as well as the need to hand buckets to workers instead of throwing them. The worker reported his satisfaction with this immediate response and informed FFSC that the dumper's behavior had changed dramatically. (March 2014)



photo: Scott Robertson

FAIR FOOD PREMIUM

Historic change in farmworkers' traditionally sub-standard pay has been achieved through the payment of nearly \$15 million in Fair Food Premiums to improve workers' wages since 2011. Workers throughout the Florida tomato industry have learned about and are receiving the premium payments, which are clearly marked as a separate line item on their paychecks. In an industry where, in real value, the piece-rate has declined rapidly over the last 30 years, this is extremely significant. As a high-end example, some workers saw increases of up to \$120 in premiums in just one paycheck. These payments are ongoing, and as more buyers join the Fair Food Program, the bonuses workers receive will grow commensurately.

Assessment of Implementation

Qualifying Workers continue to receive accurate and timely Fair Food Premium distributions through Participating Growers. Over 75% of Participating Growers have worked successfully with FFSC to ensure that all distributions are made consistently at the intervals required, distributions are made only to Qualifying Workers and reports of distribution are made promptly to FFSC.

Best Practice

Fair Food Premium is consistently distributed on required dates, reporting is made monthly to FFSC, and the company regularly updates its list of field-level supervisors who are not eligible to receive the premium.

| Date | Type | Hours | Pieces | Rate | Deductions | Earnings | |
|------------|--|-------|--------|-------|------------|----------|--------|
| 04/24/2011 | Subway's FFP | | 1 | 28.50 | | 28.50 | |
| 04/24/2011 | McDonald's FFP | | 1 | 44.41 | | 44.41 | |
| 04/24/2011 | Fair Food Payt. | | 1 | 8.81 | | 8.81 | |
| 04/25/2011 | Payroll - Harvest Labor - Picking Piece Work | | 15 | .60 | | 9.00 | |
| 04/25/2011 | Payroll - Harvest Labor - Picking Hourly | 11.25 | | 7.25 | | 81.56 | |
| 04/26/2011 | Payroll - Harvest Labor - Picking Piece Work | | 11 | .60 | | 6.60 | |
| 04/26/2011 | Payroll - Harvest Labor - Picking Hourly | 11.50 | | 7.25 | | 83.38 | |
| 04/27/2011 | Payroll - Harvest Labor - Picking Piece Work | | 12 | .60 | | 7.20 | |
| 04/27/2011 | Payroll - Harvest Labor - Picking Hourly | 12.00 | | 7.25 | | 87.00 | |
| 04/28/2011 | Payroll - Harvest Labor - Picking Piece Work | | 14 | .60 | | 8.40 | |
| 04/28/2011 | Payroll - Harvest Labor - Picking Hourly | 12.25 | | 7.25 | | 88.81 | |
| 04/29/2011 | Payroll - Harvest Labor - Picking Piece Work | | 13 | .60 | | 7.80 | |
| 04/29/2011 | Payroll - Harvest Labor - Picking Hourly | 9.75 | | 7.25 | | 70.69 | |
| 04/30/2011 | Payroll - Field Clean Up Piece Work | 6.25 | 68.49 | 1.20 | | 82.19 | |
| Totals: | | | | | | .00 | 614.35 |

A worker's pay stub lists the Fair Food Program Premium bonuses as a separate line item.

Illustration of Impact

- A worker who was informed about the source of the Fair Food Premium and Participating Buyers' role in enforcement of the Code, told auditors that he was excited to learn that some of the very same restaurants he eats at from time to time are also supporting the workers that harvest their produce. (November 2013)
- In a 2014 article published in the Ft. Myers News-Press, CIW member Wilson Perez described the Premium's impact in his life. "Now, when there's work in the fields, Perez says his extra \$60-\$80 a week goes for food for his wife and 8-month-old son, his \$1,000 monthly rent and, most importantly, to send to his little brothers and sisters in Guatemala for their schooling."³² (February 2014)

HEALTH AND SAFETY COMMITTEES

The Fair Food Program is also improving worker health and safety on the job. Under the Code, growers must assist workers in the formation of farm-based Health and Safety Committees. These worker committees represent a channel of communication between the field-level workforce and management relating to a broad range of health and safety issues, from sexual harassment to heat exhaustion to unsanitary conditions. At monthly meetings, members representing each crew present on the farm have an opportunity to present their concerns and to find resolutions in a constructive dialogue with management.

Assessment of Implementation

The number of Participating Growers who have implemented Health and Safety Committees in compliance with the Code steadily increased during the 2013-2014 season.

25% of Participating Growers now have Health and Safety Committees that are in full compliance with the Code, including convening monthly meetings with workers representing each crew and agendas that encourage workers to share their concerns with management. Minutes from these meetings reflect increasingly productive exchanges of information. During the 2013-2014 season, one Participating Grower also began implementation of Health and Safety Committees at their farms outside of Florida, which will be a requirement for all growers included in FFP expansion beginning in June 2015.

Another 45% of Participating Growers have started to implement Health and Safety Committees, and are working toward full compliance with Code requirements. Approximately 30% of Participating Growers have not yet implemented Health and Safety Committees, a decrease from the 50% reported last season.

Companies that have incorporated best practices – including emphasizing management’s belief in the importance of the committee, identifying committee members to fellow workers with t-shirts or hats and compensating members at an hourly rate that exceeds minimum wage – have created a mix of incentives that results in more active committees.

Best Practices

Health and Safety Committees consisting of at least five members, with a representative from each crew, meet monthly. Committee members are identified to all workers on their crews, and adequate notice of meetings is provided so that other workers can provide input or attend, if they wish. Feedback is provided to all crews, concerning topics discussed and resolutions reached. During harvest, committee attendance is incentivized by compensating committee members at an hourly rate that exceeds minimum wage.

Illustration of Impact

- Management from one Participating Grower told auditors that last season a complaint surfaced through the Health and Safety Committee when workers reported a lack of ice in the field. As a result, management installed an ice machine at the farm. (January 2014)
- A Health and Safety Committee member approached auditors to discuss issues of discrimination and sexual harassment on his crew. This member described knowing from committee meetings that the behavior was wrong and feeling empowered to bring the issue to light. (May 2014)

SHADE IN THE FIELDS

The Code requires provision of shade for workers in the fields at all times and locations that field work is performed. In Florida, the heat index is regularly in the upper 90s and may exceed 100 degrees, as workers bend over, pick tomatoes, briskly haul 32-pound buckets, throw those buckets up to a dumper on a flatbed truck, and race back to start the cycle anew. Heat injury and illness is a leading cause of death for farmworkers at a rate nearly twenty times greater than for non-farmworkers.³³ The provision of a safe, shaded area and the ability to access it during needed rest breaks is therefore critical to workers' health and well-being.

Assessment of Implementation

All Participating Growers who have been in the program for three seasons have now purchased and distributed shade structures, and FFSC investigators observed significant increases in the quality, availability, and accessibility of shade units.

Over 50% of all growers – twice as many as reported in 2013 – are fully compliant with the Code's requirement to ensure that shade is consistently available and accessible to workers throughout the entire workday. At the remaining farms found to be partially compliant with this requirement, the challenge for the 2014-15 season includes improving accessibility and availability of shade structures for all workers, including vine-ripe crews.

Best Practice

Durable, mobile shade structures, able to accommodate multiple workers at a time, are provided and made easily accessible to workers. Responsibility for provision of shade is clearly designated to supervisors. Structures include a bench for workers to rest and eat. Workers report easy accessibility and satisfaction with use of the shade unit.



Assessment of Implementation

CIW frequently uses theater as a tool for education and dialogue about problems faced by farmworkers, and many workers are familiar with CIW skits. During one CIW education session, workers shared: "We have water, clean bathrooms... On this [participating] farm, they treat us the same as in the theater piece," referring to a CIW skit that depicted workers taking a break under a shade structure, drinking water. (May 2014)

PROGRESSIVE DISCIPLINE POLICIES

In a dramatic change, the concept of progressive discipline has been adopted by many Participating Growers. Traditionally, any worker whose production or conduct displeased a supervisor, for any reason, was simply not allowed to board the labor bus the next day, often amounting to arbitrary and summary dismissal. Under these circumstances, complaining about working conditions was virtually impossible. Many Participating Growers now require the involvement of upper management in any decision to terminate workers. Most growers have implemented escalating disciplinary policies that require multiple warnings, verbal and written, with opportunities for re-training, prior to termination. Under the FFP, several workers had their employment reinstated as part of complaint resolutions.

Assessment of Implementation

The number of Participating Growers that have established and effectively implemented progressive discipline policies increased to over 65% during the 2013-2014 season. Of the remaining growers, half have created written disciplinary policies, although supervisors lack training on implementation, or the policies are not consistently practiced.

Pursuant to CAP Measures for the 2013-2014 season, most supervisory employees at Participating Growers have been informed that supervisors are also subject to escalating discipline for failure to implement FFP standards.

Best Practices

Disciplinary policies include verbal and written warnings, with opportunities for re-training prior to termination. Terminations require involvement of upper management, rather than being left to crewleaders' discretion. Additionally, violation of FFP policies have been incorporated into disciplinary policies and supervisors are subject to discipline for violation of those policies. Supervisor training clarifies that disciplinary measures are not to be imposed on workers for exercising their rights to complain about working conditions.

Illustration of Impact

- FFSC received repeated complaints about a crewleader who punished and threatened to terminate workers for taking days off to rest. As part of complaint resolution, this crewleader was suspended for one month. Upon his return, the company and FFSC will address the crew, emphasizing the company's policies on workers' ability to take reasonable days off, progressive discipline procedures and retaliation. The crewleader will apologize to workers for his past conduct and state his commitment to company and FFP policies. A final disciplinary warning will be provided to the crewleader. (June 2014)
- A worker employed at a Participating Grower informed CIW and FFSC that she had been terminated by a supervisor without reason or prior warning. When FFSC contacted the company, human resources staff conducted a prompt investigation into this worker's termination, and found that, although the company had issues with the employee's behavior and performance, proper escalating discipline procedures had not been followed. The company contacted the worker to invite her to return to work, and the offending supervisor received immediate re-training on the company's discipline procedures, including verbal and written warnings prior to termination. (February 2014)
- When speaking with an auditor about a farm's work environment, a worker told the FFSC investigator: "Everything changed when the Coalition arrived. Before, when the Coalition wasn't here, things were much harsher and supervisors were never disciplined." (May 2014)

BY THE NUMBERS

In order to assess the progress made thus far, and the gaps that remain, this section offers definitions of key Code provisions, and then assesses their level of implementation, highlighting illustrations of impact and best practices.

AUDITS

TABLE 1. GROWER AUDITS

| | Pilot 2009-2011 | Season One 2011-2012 | Season Two 2012-2013 | Season Three 2013-2014 | TOTAL |
|--|----------------------------|---------------------------------|---------------------------------|-----------------------------------|--------------|
| Management Audits | 5 | 31 | 25 | 25 | 86 |
| Payroll and Fair Food Premium Audits* | 10 | 29 | 31 | 38 | 108 |
| Operations Audits | 8 | 26 | 25 | 46 | 105 |
| Worker Interviews | 577 | 1,158 | 2,810 | 3,026 | 7,571 |
| Crewleader Interviews | 28 | 63 | 95 | 114 | 300 |
| Farm Locations Visited | 13 | 37 | 45 | 43 | - |
| Company Housing Locations Visited | 7 | 18 | 27 | 18 | - |
| Corrective Action Plans | 5 | 30 | 29 | 27 | 91 |

As noted earlier, Verite was responsible for monitoring compliance with program requirements during the pilot phase. Beginning in November 2011, as the FFP expanded statewide, the Fair Food Standards Council assumed responsibility for all monitoring. Since then, FFSC auditors, logging thousands of miles on Florida’s highways and back roads, have:

- Issued almost 100 comprehensive audit reports and corrective action plans, integrating on-site management, financial, and operations reviews;
- Interviewed 7,500 workers, on- and off-site, and conducted nearly 300 on-site crewleader interviews to

assess knowledge of Code requirements and compliance at the field level; and

- Visited 50 separate farm locations and nearly 30 company-provided housing locations.

The exact number of audits necessary fluctuates each season as growers join, withdraw or are suspended from the Fair Food Program. Additionally, growers with compliance issues are visited more than once, and all farm locations of each grower have now been audited at least once. The figures for the 2012-2013 and 2013-2014 seasons each include one voluntary, out-of-state audit requested by a Participating Grower.

*These figures include Fair Food Premium audits performed at packinghouses that pass the funds through to Participating Growers.

TABLE 2. GROWER SUSPENSIONS AND PROBATIONS

| | Pilot 2009-2011 | Season One 2011-2012 | Season Two 2012-2013 | Season Three 2013-2014 | TOTAL |
|---------------------------|---------------------------|--------------------------------|--------------------------------|----------------------------------|--------------|
| Grower Probations | 0 | 0 | 5 | 4 | 9 |
| Grower Suspensions | 1 | 2 | 1 | 3 | 7 |

To date, seven growers have been suspended, for varying lengths of time, from the Fair Food Program. Nine others have faced probation. In keeping with the program's incremental implementation timeline detailed earlier in this report, suspensions have been imposed only in those instances in which fundamental Code violations were confirmed by auditors, and Participating Growers did not

respond to or begin implementation of proposed corrective action measures. Probation has been imposed where numerous serious deficiencies in Code implementation have been confirmed. Probation policies provide a time frame for those Participating Growers to agree upon and implement expedited corrective action.

WORKER COMPLAINTS

TABLE 3. WORKER COMPLAINTS BY OUTCOME

| | Season One 2011-2012 | Season Two 2012-2013 | Season Three 2013-2014 | TOTAL |
|---|--------------------------------|--------------------------------|----------------------------------|--------------|
| Valid, Resolution Reached | 39 | 85 | 102 | 226 |
| No Violation of Code of Conduct But Resolution Reached | 8 | 18 | 56 | 82 |
| No Violation of Code of Conduct Alleged or Not Valid After Investigation | 24 | 41 | 48 | 113 |
| Informational Only | 0 | 7 | 13 | 20 |
| Could Not Investigate | 8 | 8 | 17 | 33 |
| Participating Grower Previously Withdrew or Suspended from FFP | 5 | 4 | 1 | 10 |
| Non-Participating Grower or Other Employer Outside the FFP | 21 | 36 | 37 | 94 |
| Total | 105 | 199 | 274 | 578 |



TABLE 4. WORKER COMPLAINTS FROM PARTICIPATING GROWERS BY SOURCE

| | Season One 2011-2012 | Season Two 2012-2013 | Season Three 2013-2014 | TOTAL |
|----------------|-------------------------|-------------------------|---------------------------|------------|
| FFSC | 57 | 96 | 147 | 300 |
| CIW | 25 | 63 | 82 | 170 |
| Growers | 2 | 4 | 8 | 14 |
| Total | 84 | 163 | 237 | 484 |

The Fair Food Program handled 237 complaints this season. Consistent with FFSC’s practice over the first two seasons, complaints were addressed with Participating Growers in a collaborative fact-finding and resolution process. Through this cooperation, the vast majority of complaints were resolved within two weeks. FFSC investigators remained in continuous contact with worker complainants until their cases were resolved. It is clear that workers are increasingly aware of their role as monitors of the rights guaranteed by the Code of Conduct, as well as the availability of an effective complaint mechanism with strict protections against retaliation.

Several Participating Growers have adopted complaint investigation techniques recommended by FFSC, which has led to improved fact finding and communication between supervisors and workers. In several cases, meetings have been held on the growers’ initiative with impacted crews, to reaffirm company policies and encourage access to the program’s complaint resolution mechanism.

In a trend that has continued from last season, complaint resolutions are also taking place outside of Florida, as Participating Growers increasingly apply the Code of

Conduct to their multi-state operations.

Of the complaints received by the FFP during the 2013-2014 season:

- 102 were found to be valid under the Code of Conduct (eight of these cases involved multiple complainants including at least 41 additional workers);
- 56 were resolved through agreement on mutually beneficial actions although no Code violation was found; and
- Five resolutions happened at farms outside of Florida.

FFSC also found that:

- 48 cases were not valid, either because no Code violation was alleged, or because, after investigation, the complaint was found to be without merit;
- 13 calls were made by workers seeking to receive or provide information only;
- 17 cases could not be investigated, based on complainants’ stated choice or when contact was lost with complainants; and



photo: Scott Robertson



photo: Scott Robertson

- One additional case was received concerning a grower that had previously withdrawn from the Fair Food Program.

SIGNIFICANT OUTCOMES

Just as significant as the complaint resolutions for this season is what workers at Participating Growers' farms did not report.

NO cases of forced labor at Fair Food Program farms were reported, for the third consecutive season.

NO cases of sexual harassment with physical contact were reported at any FFP farms this season. Given the well-recognized prevalence of sexual assault suffered by agricultural workers, this is a remarkable achievement. Three supervisors who were found to have committed sexual harassment with physical contact in prior seasons served two-season suspensions as required under the Code of Conduct and received sexual harassment prevention training from VIDA Legal Assistance. Any subsequent violation of the Code's zero tolerance provisions by these supervisors would result in a lifetime ban from FFP farms.

The power of worker-to-worker education and a trusted complaint resolution process to eliminate and prevent sexual harassment is illustrated by a case reported to FFSC by a Participating Grower at the start of the 2013-2014 season. A female worker informed the company's human resources representative of her concerns about a crewleader who had made sexually charged comments to her in the past.

The worker explained that she wanted to avoid any repetition or escalation of this conduct and that she feared retaliation because she had rejected the crewleader's advances. The company met with the crewleader and warned him that neither sexual

harassment nor retaliation would be tolerated, and that his conduct would be closely monitored. A written disciplinary warning was added to the crewleader's personnel file. During follow-up calls with FFSC during the season, the worker reported that she and her family had experienced no further problems.

NO valid cases of violence or threats of violence by supervisors were reported by workers at any FFP farms. Only one such case was the subject of complaint investigation this season. Although investigation did not support the complaint concerning a threat of violence by a low-level field supervisor (a dumper), the company's policy against any such conduct was emphasized to the supervisors and workers on that crew.

Almost **NO** demands for over-filled buckets were reported by callers to the FFP. In strong contrast to the initial two seasons of the program's monitoring and enforcement, the visual bucket-filling standard has been accepted by most supervisors and figured in only two complaints received by FFSC.

The complaint process continues to be effective in improving the work environment in the fields, by exposing any supervisors who commit abusive practices and helping Participating Growers to rid their operations of the risks they represent.

The termination of one entrenched and abusive crewleader this season has had significant impact among supervisors and workers at other FFP farms. The crewleader, whose attitude of defiance with regard to the program was consistent with his pattern of retaliation, verbal abuse, discrimination and health and safety violations, was the subject of numerous worker complaints and FFSC audit findings. Representatives of upper management and FFSC met with workers to explain the reasons for his termination and that the action had been taken as a result of workers' active monitoring of the program.

Another outcome of this season's complaint resolution process worthy of note is the increase in the number of cases where resolutions mutually acceptable to workers and Participating Growers were reached, facilitated by FFSC, although no Code violation was established. Workers are increasingly confident of their ability to raise issues and have them addressed, while Participating Growers are increasingly willing

Workers are increasingly confident of their ability to raise issues and have them addressed, while Participating Growers are increasingly willing to take corrective actions as preventive measures.

to take corrective actions as preventive measures, even when the subject matter does not constitute a Code violation or the violation alleged could not be proven. As a result, systems have been put in place at several growers' operations to deal with risks, including unsafe and/or unlicensed bus driving and poor quality of food provided by outside vendors, as well as abusive behavior by supervisors towards non-qualifying workers.

These resolutions, facilitated by FFSC through calls and meetings, have also helped to improve communication between growers and workers and to avoid more serious problems stemming from a range of issues, including lack of effective communication regarding pay practices, stay bonuses, disciplinary procedures, crew rotation and transfer policies, as well as incompetent performance by field-level supervisors, disputes between workers, and policies on child care at company housing.

ISSUES ADDRESSED BY COMPLAINTS

Close to 40% of valid complaints this season concerned failure to accurately record workers' hours and production, and as a result to provide proper compensation. While this appears to be the same percentage reflected in last season's report, the figure bears closer analysis. In fact, only 20% of these complaints were generated by Participating Growers that have been in the program for three seasons, while 80% were generated by a single new Participating Grower. Therefore, complaints related to wages and hours at Participating Growers that have been in the program for three seasons constituted just 8% of all complaints.

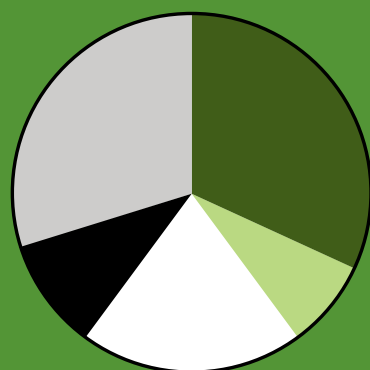
In another development worthy of note, where systemic failure by one Participating Grower to properly record workers' hours and production was demonstrated by FFSC, complaint resolution included the issuance of wage adjustment checks to all impacted workers. Florida Legal Services referred two such cases to FFSC and commented that the program's ability to achieve complete resolution of the workers' claims within 24 hours resulted in excellent outcomes for their clients.

In a second case, where a company's payroll system had not been properly programmed to make appropriate minimum wage adjustments, complaint resolution also resulted in adjustment checks being issued to all impacted workers.

In these two cited cases where wage adjustment checks were issued to substantial numbers of workers, the companies also agreed that any adjustment checks remaining unclaimed by the end of the season by workers who had left the area and could not be located by the end of the season would be added to those companies' Fair Food Program Premium funds for distribution to workers next season.

Health and safety issues generated 20% of valid complaints. Many of these complaints were made by workers to enforce their rights to take reasonable breaks and days off to rest, as well as to stop work (without compensation) when they believed that their health or safety was endangered. Participating Growers have participated in complaint resolutions that not only include re-training, but also disciplinary action, up to and including suspension, for supervisors who failed to respect these rights. Workers have also used their access to an effective complaint mechanism to expose failures to provide prompt and adequate access to medical treatment. Although the FFP received a very small number

ISSUES ADDRESSED BY VALID COMPLAINTS



- Failure to provide proper compensation—one new participating grower
- Failure to provide proper compensation—All other participating growers
- Health and safety issues
- Verbal harassment and retaliatory actions by supervisors
- Other complaints, including sexual harassment, discrimination, disciplinary procedures, pay practices, and housing conditions

of such complaints this season, the opportunity was taken to retrain and discipline the supervisors involved, as well as to provide workers with multiple contacts at the companies involved, to ensure effective access to medical attention.

Verbal harassment and retaliatory actions by supervisors each generated 10% of valid worker complaints. In every case, workers were reinstated and/or supervisors were retrained and disciplined by upper management.

Other complaints successfully addressed concerned sexual harassment, discrimination, disciplinary procedures, check distribution practices, and housing conditions. As a result of a discrimination complaint brought by a group of women workers who were excluded from particular tasks, the company’s method of work distribution was revised, and supervisors retrained accordingly. In a case of sexual harassment (without physical contact) a bus driver was suspended

and sent for sexual harassment prevention training before reinstatement with a final disciplinary warning.

COMPLAINTS OUTSIDE THE FFP

This season, the FFP received 37 complaints from workers at companies that do not participate in the program. As detailed in the Opportunities section of this report, several of these calls represented large groups of workers reporting conditions ranging from physical beatings and firing of weapons in the field by supervisors to direct exposure to pesticide spraying. In previous seasons, many of these workers or their family members had worked at a Participating Grower and received education on the Fair Food Program. As in previous seasons, other calls from outside the FFP have involved wage theft, minimum wage violations, sexual harassment and endangerment of workers’ health and safety.

FAIR FOOD PREMIUM

TABLE 5: FAIR FOOD PREMIUM PAID BY PARTICIPATING BUYERS

| 2010-2011 | 2011-2012 | 2012-2013 | 2013-2014 | TOTAL |
|----------------|-----------------|-----------------|----------------|------------------------|
| \$5,175,447.00 | \$ 3,212,904.17 | \$ 2,989,657.48 | \$3,546,956.77 | \$14,924,965.42 |

The Fair Food Program Premium, perhaps better known as the “penny per pound,” is a price premium paid by Participating Buyers on their Florida tomato purchases. It is similar in concept to the premiums long associated with imported “fair trade” commodities, most notably coffee. It is designed to help reverse the downward pressure on farmworker wages exerted by food industry leaders as an unintended consequence of consolidated, high-volume purchasing practices.

Historically, following the CIW’s landmark Fair Food Agreement with Yum Brands in 2005, Fair Food Premium was distributed through two Florida growers for the 2005-2006 and 2006-2007 seasons. However, in the wake of the CIW’s Fair Food Agreement with McDonald’s in 2007, the Florida Tomato Growers Exchange elected to self-impose a \$100,000 penalty for any member who passed the funds through to their workers.³⁴ For the next three years, FTGE member-growers declined to participate in the Fair Food Program, including the premium pass-through.

In November 2010, the CIW and FTGE reached agreement to expand the FFP across the Florida tomato industry; as a result, the Fair Food Premium resumed flowing to workers in February 2011. Participating Buyers who had purchased Florida tomatoes during the FTGE boycott had held premium funds in escrow or as accrued liabilities; these accrued funds also began to be distributed to Participating Growers in February 2011. The last of these so-called “escrow” funds were paid out by relevant Participating Buyers during the 2012-2013 season.

The specific rate of the Fair Food Premium varies by tomato variety, as do the Participating Buyers’ chosen payment mechanisms:

- Some Participating Buyers’ remit monthly, lump-sum premium payments directly to Participating Growers;
- Some Participating Buyers instruct their repackers and distributors to remit monthly, lump-sum premium payments to Participating Growers, and the cost is recouped by the repacker on the invoice when the

tomatoes are re-sold to the Participating Buyers;

- Some Participating Buyers incorporate the premium rates into their day-to-day purchases from Participating Growers as a line item on the invoice.

The Fair Food Premium, therefore, builds on previously existing financial channels and payment schedules within the fresh produce industry. Under no existing or potential mechanism do buyers issue payment directly to farmworkers, nor do funds pass through any entities, such as CIW or FFSC, that are outside the buyer’s normal supply chain.

The Fair Food Standards Council carefully monitors the supply chain to ensure that premium funds are properly flowing. Specifically, this includes reconciling and testing monthly records (which include check and invoice numbers) submitted by Participating Buyers and Participating Growers, as well as conducting audits of growers’ payrolls

to ensure that 87% of premium funds are promptly and accurately distributed to workers as a line-item bonus on their paycheck according to the pro rata formula outlined in Appendix A of the Fair Food Code of Conduct Guidance Manual. Growers are permitted to retain the remaining 13% of the funds to offset increased payroll taxes and administrative costs.

As one example of the need for constant vigilance, during the 2012-2013 season, FFSC identified roughly \$500,000 that had pooled among several repackers and, working closely with the relevant Participating Buyers, ensured the money was passed through to the correct Participating Growers. During the 2013-2014 season, as a result of continuing improvements to several Participating Buyers’ payment and reporting systems, the amount of pooled premium identified by the FFSC and passed through to the correct Participating Growers was reduced to approximately \$30,000.

WORKER-TO-WORKER EDUCATION SESSIONS

TABLE 6. WORKER-TO-WORKER EDUCATION SESSIONS

| | Pilot 2009-2011 | Season One 2011-2012 | Season Two 2012-2013 | Season Three 2013-2014 | TOTAL |
|--------------------------------------|----------------------------|---------------------------------|---------------------------------|-----------------------------------|----------------|
| Education Sessions | 30 | 73 | 88 | 89 | 280 |
| Number of Growers | 6 | 27 | 25 | 28 | – |
| Number of Farm Locations | 12 | 40 | 42 | 48 | – |
| Workers Attended | No Data | 6,595 | 7,702 | 7,803 | 22,100 |
| Avg. Session Size | – | 90 | 87 | 88 | – |
| KYRR Booklets Distributed | 10,500 | 31,500 | 33,600 | 33,000 | 108,600 |

CIW’s Worker Education Committee has achieved significant progress since the launch of the Fair Food Program. After selecting and hiring additional farmworker-members for six staff positions, CIW spent the pilot seasons developing the curriculum for on-site trainings, including writing and designing the “Know Your Rights and Responsibilities” booklet and developing the FFP training video for the complementary point-of-hire education process. To date, CIW

has trained over 22,000 workers at 280 sessions at Participating Growers’ farms throughout the state of Florida. The average session size is less than 90 workers, and each session is approximately 45 minutes long, including time for questions and answers. Additionally, since the inception of the FFP, Participating Growers have distributed over 100,000 “Know Your Rights and Responsibilities” booklets to workers at the point of hire.



photo: Scott Robertson

CONCLUSION



photo: Smriti Keshari

CHALLENGES

While the Fair Food Program has made considerable progress in the three years since it began to be implemented across the Florida tomato industry – both in terms of concrete change in the fields and program development – much work remains to be done. First, while twelve food industry leaders have joined the FFP and are supporting the reforms underway with their funds and market influence, including retail leader Walmart, other corporate buyers of Florida tomatoes have not yet joined. Not only are these non-participating buyers continuing to exert downward pressure on farmworker wages through their traditional volume purchasing practices and refusing to shoulder their portion of the costs of safeguarding human rights in their supply chain, but they also represent a “low bar” market for growers who are unwilling to meet the high standards and rigorous enforcement of the Fair Food Program.

In other words, growers who are suspended from the FFP, or those who refuse to join in the first place, can be secure in the knowledge that a segment of corporate buyers will purchase their tomatoes. Growers who are making the necessary and significant investments to comply with the Code deserve to be rewarded with real and sustained commitment from a growing base of Participating Buyers. As the Fair Food Program continues to build on its

unparalleled track record, and as consumers take note, it is likely that many of these currently non-participating buyers will sign Fair Food Agreements with CIW.

Another challenge faced by the Fair Food Program – and Florida growers in general – is the explosive growth of the export agribusiness sector in Mexico. Since the implementation of the North American Free Trade Agreement in 1994, Florida growers have increasingly faced the challenges of a global marketplace. The availability of Mexican imports has played a role in declining Florida tomato production over the last two decades.³⁵ The development of the Fair Food Program adds an additional dynamic to this complex issue. At the same time that workers, growers, and retailers are pioneering a model to ensure that the Florida tomato is the most ethically produced fruit or vegetable available today, the Mexican industry remains mired in gross and largely unfettered human rights abuses.

In the summer of 2013, to cite one recent example, Mexican authorities rescued 275 workers from a slavery operation in the state of Jalisco. The workers were forced to live in squalid conditions, eat rancid food, and work for very little wages; those who tried to escape were beaten by their employers and brought back to the labor camp.³⁶ Less than a year later, days before the 2014 NFL Super Bowl, when guacamole consumption peaks in the US, the Wall Street Journal published a report detailing widespread violence and infiltration of criminal enterprise in the Mexican

avocado industry. “Blood avocados... are the Mexican equivalent of the conflict diamonds that are sold from war-torn parts of Africa,” according to one analyst cited in the report.³⁷

In light of the stark contrasts in human rights protection between Mexico and Florida, price should not be the primary factor driving the purchasing decisions of US retailers. From this perspective, in 2013, CIW and the Florida Tomato Growers Exchange, supported by an affidavit from FFSC’s executive director, jointly and successfully petitioned the US Department of Commerce to strengthen antidumping enforcement against imported Mexican tomatoes.³⁸ Recent reports indicate that suspension agreement has been effective in raising the price floor of imported Mexican tomatoes, to the benefit of Florida growers.³⁹

Beyond the arcane realm of trade governance, however, food industry leaders have a unique opportunity to support the further consolidation of an unrivaled social responsibility program that protects their supply chains from the sort of risks recently uncovered in Mexico.

OPPORTUNITIES

Notable opportunities exist on the horizon for the Fair Food Program. Consumer demand for ethical products will continue to grow in the 21st century.⁴⁰ When channeled through the Campaign for Fair Food, this energy will drive additional corporate buyers to sign Fair Food Agreements with CIW. With every additional buyer that joins the program, farmworkers will receive greater and more consistent amounts of Fair Food Premium, and Participating Growers will enjoy the benefits and security of real commitment on the basis of human rights from the retail food industry.

Such demand is also driving the deployment of a consumer-facing Fair Food label, which will further differentiate Florida tomatoes in produce aisles and restaurants across the country. CIW is currently working with several Participating Buyers in the supermarket and foodservice sectors to develop point-of-sale promotional materials that will be displayed in produce aisles and at checkout counters throughout the US as early as November 2014. This retail-level presence with consumers marks

an important milestone for the Fair Food Program.

Another exciting development, formally set in motion by Walmart’s entry into the FFP, is expansion of the program beyond the Florida tomato industry. To be sure, as discussed earlier in the report, some Participating Growers have already helped facilitate its expansion north, beyond the Florida border.


However, beginning in 2015, Walmart is requiring that its Florida-based tomato suppliers with US operations beyond the state of Florida bring those operations into the FFP, initially including farms in Georgia, North Carolina, South Carolina, Virginia, Maryland and New Jersey. Workers on these farms will receive worker-to-worker education from CIW as well as point-of-hire FFP training materials and will be covered by FFSC’s complaint resolution mechanisms. FFSC will also conduct baseline compliance audits of these growing operations. In addition, CIW and Walmart will work together over the next year to identify an additional crop, probably in Florida, for implementation of an FFP pilot project. In the future, the demonstrated value of the FFP should lead to its further expansion in additional crops and locales, at the behest of growers, buyers, workers and consumers alike. As it expands, the FFP will benefit from greater economies of scale and directly improve the lives of hundreds of thousands of workers.

In addition, due to the ongoing working relationships with Participating Buyers, the FFP has already been able to address some serious issues in crops other than tomatoes or in states other than Florida. In one example, one Participating Buyer terminated a supplier after investigators from CIW established to the buyer’s satisfaction that the supplier was engaged in illegal and abusive practices. In another example, FFSC was able to provide risk prevention information to several Participating Buyers after workers from one of Tennessee’s largest tomato growers called FFSC hotline to report a range of abuses, including health and safety violations and nonpayment of wages. More recently, CIW helped facilitate investigations by regulatory agencies into Florida strawberry farms after dozens of calls were placed to the FFSC hotline reporting “pesticides being sprayed on workers, physical assaults and a supervisor firing a pistol in the air at the start of the workday.”⁴¹





photo: Forest Woodward



Another example of the program's reach beyond was a call received on the FFSC complaint hotline in 2012. Workers who participated in a CIW education session at a Participating Grower reported abuses at a non-FFP farm where they had previously been employed. The abusive treatment included the use of guns, sexual harassment, assault, threats of deportation as intimidation, and 15- to 17-hour workdays at far below minimum wage. An investigation is ongoing.

These final examples both demonstrate the power of the Fair Food Program and serve as cautionary tales of the world outside the FFP. And while much remains to be done within the Program, Participating Growers and Buyers have clearly committed themselves to a set of standards and a process for enforcing those standards. When abuses arise, they are dealt with efficiently and collaboratively. With verifiable results after four seasons, the FFP offers a promising path forward for a previously intractable social problem – the conditions under which men and women labor in US fields.

APPENDIX A

“In Florida Tomato Fields, A Penny Buys Progress”

The New York Times

By Steven Greenhouse

April 24, 2014

A1

IMMOKALEE, Fla. — Not long ago, Angelina Velasquez trudged to a parking lot at 5 each morning so a crew leader's bus could drop her at the tomato fields by 6. She often waited there, unpaid — while the dew dried — until 10 a.m., when the workers were told to clock in and start picking.

Back then, crew leaders often hectorated and screamed at the workers, pushing them to fill their 32-pound buckets ever faster in this area known as the nation's tomato capital. For decades, the fields here have had a reputation for horrid conditions. Many migrant workers picked without rest breaks, even in 95-degree heat. Some women complained that crew leaders groped them or demanded sex in exchange for steady jobs.

But those abusive practices have all but disappeared, said Ms. Velasquez, an immigrant from Mexico. She and many labor experts credit a tenacious group of tomato workers, who in recent years forged partnerships with giant restaurant companies like McDonald's and Yum Brands (owner of Taco Bell, Pizza Hut and KFC) to improve conditions in the fields.

By enlisting the might of major restaurant chains and retailers — including Walmart, which signed on this year — the Coalition of Immokalee Workers has pressured growers that produce 90 percent of Florida's tomatoes to increase wages for their 30,000 workers and follow strict standards that mandate rest breaks and forbid sexual harassment and verbal abuse.

The incentive for growers to comply with what's called the Fair Food Program is economically stark: The big companies have pledged to buy only from growers who follow the new standards, paying them an extra penny a pound, which goes to the pickers. The companies have also pledged to drop any suppliers that violate the standards.

So far, the agreements between retailers and growers are limited to Florida's tomato fields, which in itself is no small feat considering that the state produces 90 percent of the country's winter tomatoes.

But gaining the heft and reach of Walmart — which sells 20

percent of the nation's fresh tomatoes year-round — may prove far more influential. To the applause of farmworkers' advocates, the retailer has agreed to extend the program's standards and monitoring to its tomato suppliers in Georgia, South Carolina and Virginia and elsewhere on the Eastern Seaboard. Walmart officials say they also hope to apply the standards to apple orchards in Michigan and Washington and strawberry fields in many states.

“This is the best workplace-monitoring program I've seen in the U.S.,” said Janice R. Fine, a labor relations professor at Rutgers. “It can certainly be a model for agriculture across the US. If anybody is going to lead the way and teach people how it's done, it's them.”

Since the program's inception, its system of inspections and decisions issued by a former judge has resulted in suspensions for several growers, including one that failed to adopt a payroll system to ensure pickers were paid for all the time they worked.

But progress is far from complete. Immokalee, 30 miles inland from several wealthy gulf resorts, is a town of taco joints and backyard chicken coops where many farmworkers still live in rotting shacks or dilapidated, rat-infested trailers. A series of prosecutions has highlighted modern-day slavery in the area — one 2008 case involved traffickers convicted of beating workers, stealing their wages and locking them in trucks.

“When I first visited Immokalee, I heard appalling stories of abuse and modern slavery,” said Susan L. Marquis, dean of the Pardee RAND Graduate School, a public policy institution in Santa Monica, Calif. “But now the tomato fields in Immokalee are probably the best working environment in American agriculture. In the past three years, they've gone from being the worst to the best.”

Amassing all these company partnerships took time. The workers' coalition organized a four-year boycott of Taco Bell to get its parent company, Yum Brands, to agree in 2005 to pay an extra penny a pound for tomatoes, helping increase workers' wages. In 2007 the coalition sponsored a march to Burger King's headquarters in Miami, pushing that company

to join the effort. Whole Foods, Trader Joe's, Chipotle and Subway have also signed on.

Perhaps the coalition's biggest success is luring Walmart, which joined the program in January without a fight. Walmart officials said they were looking for ethically sourced produce as well as a steady supply of tomatoes. The giant company's decision coincides with its major inroads into organic foods and fresh fruits and vegetables.

"We try to sell safe, affordable, sustainable sources of food — that's the only way we will be able to grow the way we want in the future," said Jack L. Sinclair, executive vice president of Walmart's grocery division. "These guys have a pretty good set of standards in place that we think will allow our growers to get a consistent level of labor." He told of Arizona growers whose tomatoes had rotted in the fields because of a lack of pickers.

The Fair Food Program's standards go far beyond what state or federal law requires, mandating shade tents so that workers who request a rest break can escape the hot Florida sun. Remedying a practice that Ms. Velasquez abhorred, growers must clock in workers as soon as they are bused to the fields.

Every farm must have a health and safety committee with workers' representatives, and there is a 24-hour hotline that workers can call, with a Spanish-speaking investigator.

Under the program, tomato pickers may receive an extra \$60 to \$80 a week because of the penny-a-pound premium. That means a 20 to 35 percent weekly pay increase for these workers, who average about \$8.75 an hour. The extra penny a pound means that participating companies together pay an additional \$4 million a year for tomatoes.

"We see ourselves as a standard-setting organization," said Greg Asbed, co-founder of the Coalition of Immokalee Workers.

Established in 1993, the coalition was one of the nation's first worker centers dedicated to aiding migrants. It has since grown steadily, to 4,500 members, and its tactics have become more sophisticated. Last spring, a group of 100 workers and their supporters marched 200 miles from Immokalee to Lakeland, Fla., to press Publix Super Markets to join the program. Publix said it already used growers that adhered to high standards.

Mr. Asbed attributes the program's success to getting giant corporations like Walmart to join.

"We've harnessed their market power to eliminate worker abuses," he said. "There has to be real and believable market consequences for growers that refuse to comply."

In late 2007, after McDonald's signed on, the Florida Tomato Growers Exchange, an industry association, sought to scuttle the coalition's efforts. It threatened growers with \$100,000 fines if they cooperated with the coalition, stalling its efforts.

But the logjam was broken in 2010 when Pacific Tomato Growers — one of the nation's biggest producers, with large operations in Florida — joined. Weeks later, Lipman, the nation's largest tomato grower, also signed on, and eventually the Tomato Growers Exchange did, too.



Beau McHan, Pacific's harvest manager, said, "We're trying to run a business and make a profit, yet everyone wants to know they're changing the world for the better."

Joining, he acknowledged, has cost Pacific hundreds of thousands of dollars — \$5,000 a year for shade tents and \$50,000 for an improved drinking-water system as well as the money to pay workers for waiting time that was once off the clock. A former New York State judge, Laura Saffer Espinoza, oversees the inspection apparatus, which interviews thousands of workers, audits

payrolls and conducts in-depth interviews with farm managers. There are lengthy trainings for crew leaders, and six of them were fired after her team investigated allegations of verbal abuse and sexual harassment.

"Supervisors have gotten the message, and we're seeing far fewer allegations of harassment than three years ago," she said.

Now that the three-year-old program has stopped much of the abuse and harassment, participants are planning to give tomatoes produced under its watch a "Fair Food" label that could reassure — and attract — shoppers who want ethically sourced produce.

APPENDIX B

Fair Food Program Changes the Norm: Confronting Sexual Violence and Harassment in the Fields⁴²

By the Coalition of Immokalee Workers

March 2012

“It happens so much it’s kind of normal.” — former female farmworker⁴³

Sexual violence and harassment of women in the workplace violates federal and state laws as well as fundamental principles of human rights, including the prohibition of discrimination based on sex, the duty to provide safe and healthy conditions at work, and the basic human dignity of all. Yet sexual harassment persists as a constant concern for women worldwide due in part to the difficulty – and in many cases impossibility – of enforcing whatever legal protections exist.

Female agricultural workers in the US have long served as a glaring example of this reality, as they face a constant barrage of verbal abuse and sexual violence from supervisors and co-workers in an industry in which any attempt to report the abusers immediately endangers a worker’s precarious livelihood. A 2010 study among farmworker women found that 80% had experienced sexual harassment at work and described the confluence of factors – among them, extreme poverty, racial discrimination, language barriers, isolated work sites, and often complete dependence on individual men for their continued employment – that make them particularly vulnerable to sexual harassment and violence.⁴⁴ Human Rights Watch in a recent report concludes that sexual harassment experienced by farmworkers in the United States is so common that some farmworker women see these abuses as an unavoidable condition of agricultural work.⁴⁵ In another study of the “constant menace” of sexual harassment and violence in the fields conducted by the Southern Poverty Law Center, a female farmworker described the norm in the fields succinctly: “You allow it or they fire you.”⁴⁶

While such retaliation for reporting harassment is illegal, few women possess the resources to file a legal action, and dealing with the lengthy loss of employment during litigation often results, at best, in a Pyrrhic victory. As importantly, the few lawsuits against individual employers that are filed cannot begin to address the pervasive nature of the problem throughout the industry. The cases that are pursued, however, provide a glimpse of the harassment faced daily by farmworkers across

the nation. For example, a recent EEOC lawsuit charged Di-Mare Ruskin, Inc., a Florida-based tomato grower and produce provider, with subjecting their female employees to physical and verbal harassment by their supervisors – including unwanted touching and sexual comments – and with retaliation for assigning them to more physically demanding work and ultimately firing them after they complained. The company settled the case in July 2012 by agreeing to pay \$150,000 to two female farmworkers and establish new anti-harassment policies and trainings at its facilities nationwide. However, innumerable other cases of harassment and violence go unreported due to the vulnerability of the women farmworkers, whose families depend on their income and on the continued goodwill of employers, who often wield immense power over their lives, including their access to housing and income for other family members.

Incidents of sexual harassment reported by female farmworkers to the Coalition of Immokalee Workers (CIW) exemplify the “allow it or you’re fired” norm women have faced when they have tried to complain of harassment through company channels. For example, one woman worker was fired along with her husband and son, and lost their company housing, after complaining to the company’s human resources office of a crewleader’s uninvited visits to her trailer in the early morning after her husband had left for work, during which the crewleader would make sexually suggestive comments to her and to her children. Later, when she was invited back to work because of difficulties filling her position, she was promised that she would not have to deal with that crewleader. In fact, the harassment escalated to include groping and an attempt to change her job so she would be under his direct supervision in the fields without the protection of others. When she rejected that change, she was fired again. Throughout both periods of employment, the harassing crewleader was responsible for, and often withheld, payment of her wages. There are also accounts of supervisors who attempt to pressure young women workers into sexual relations by offering them easier jobs, and then fire them when they refuse.

These reports underscore the reality that, in order to provide

female farmworkers meaningful protection, the norm in the fields must be changed from impunity to accountability. There must be immediate consequences for harassers as well as for companies who allow harassment to continue unchecked. Women reporting harassment must be protected from retaliation. Only a system creating such accountability can address sexual harassment effectively when it occurs, while providing an incentive for employers to prevent such harassment in the first place, creating a safer and more dignified workplace for women.

How can the necessary structures of accountability for sexual harassment be created in an industry in which the power imbalance between workers and employers has allowed such a pernicious, abusive culture to persist? The answer lies in addressing pervasive sexual harassment as a product of the severe disempowerment and marginalization of all farmworkers and creating new structures that reflect and institutionalize farmworker empowerment throughout the industry.

CIW's Fair Food Program is creating such new structures of accountability in the tomato industry in Florida. Along with a wage increase supported by a price premium paid by corporate purchasers of Florida tomatoes, the Fair Food Program is enforcing a human rights based Code of Conduct throughout the industry. The Fair Food Code of Conduct provides a new model for accountability in the agricultural industry generally and a new approach to sexual harassment and violence in the fields that has already proven effective.

The Code of Conduct addresses sexual harassment directly, making sexual harassment that involves physical contact an event that automatically triggers market consequences for the employer – the curtailment of purchases from participating buyers for at least a three-month period – unless the harasser is fired and other necessary corrective action is taken immediately once the incident is confirmed. Sexual harassment not involving physical contact triggers a requirement that the employer develop and implement a corrective action plan that is satisfactory to CIW and to the participating Buyer. If the time frame set forth for full compliance is not met, purchases are curtailed until the situation is remedied.

Other provisions of the Code not directly addressing sexual harassment, such as the requirement that all workers be employed and paid by the company, not by individual crewleaders, make farmworkers less vulnerable to their supervisors and therefore better able to report abuses. The participatory health and safety committees required under the Code create a space for workers to address sexual harassment and violence as important health and safety issues in a collaborative process with their employers. Employers must also allow CIW to provide education to their employees on their rights under the

law and under the Code, in worker-to-worker sessions conducted on the employers' premises and on company time. These trainings directly address protection against sexual harassment as an important set of rights under the code. A section of the Know Your Rights and Responsibilities booklet given to the workers focuses specifically on sexual harassment, and the video shown to workers includes a sexual harassment scenario. The entire education program is worker-to-worker: The education sessions are led by CIW members, the rights booklet was written by CIW members, and the educational video was scripted and acted by CIW members.

Importantly, employers participating in the Fair Food Program must commit to participating in a detailed complaint resolution mechanism that allows complaints to be made and investigated without fear of retribution to the complaining worker. The efficacy of this procedure – and of the program generally – to address sexual harassment has already been proven. When one participating grower failed to respond appropriately to a complaint of sexual harassment, it was removed from the program. Determined to continue its participation in the program, and thereby regain its lost sales, the grower chose to engage in corrective action, including firing the crewleader, formulating a sexual harassment policy and conducting trainings. On another occasion, the grower involved didn't wait to be removed from the program. Rather it took quick action to fire the crewleader responsible for the violation and instituted changes designed to avoid similar problems in the future.

Already, the Code's strict requirements of action by employers and consequences for failure to act have created an immediate incentive for the curtailment and prevention of abuse. But the Fair Food Program seeks to create an industry-wide race toward the top, not an atmosphere of minimum compliance. It therefore strongly encourages participating buyers to purchase from employers who work to exceed the specific requirements of the Code by developing systems to prevent violations, not just address them after the fact.

Moving forward, the Fair Food Program has committed to making sexual harassment a point of emphasis in its implementation of the Fair Food Code of Conduct. In collaboration with some of the industry's leading growers through the Fair Food Program's Working Group, guidelines and benchmarks for the industry-wide implementation of the program's Code of Conduct are being developed and constantly refined. These guidelines and benchmarks, along with the structure of the program itself, provide models for changing the norm of sexual harassment in other parts of the agricultural industry, as well as other industries where women face similarly widespread harassment and violence.

APPENDIX C

Fair Food Code of Conduct & Selected Guidance

OVERVIEW

Compliance with the Fair Food Code of Conduct is a fundamental requirement of the Fair Food Program. Operating pursuant to the Code helps define what it means to be a Participating Grower, which in turn makes a grower eligible to sell to the Program's Participating Buyers.

The Fair Food Code is a living document. It has been shaped through detailed negotiation and ongoing dialogue among workers, growers and buyers. As the Fair Food Program matures and evolves, so too will the Code, as it continues to serve as the primary platform upon which to build a truly sustainable tomato industry.

Because the Fair Food Code establishes mostly broad principles, it has been augmented by a more detailed Guidance Manual to assist Participating Growers in implementing the Code. In some places, the Guidance Manual merely provides detail or examples concerning Code provisions. In other instances, it sets forth alternative procedures for implementing concepts articulated in the Code.

What follows is the Fair Food Code of Conduct, supplemented where appropriate with provisions from the Guidance Manual that provide further substance, meaning or texture to the requirements of the Code.

INTRODUCTION

Buyers (i.e., companies participating in the Fair Food Program) will give purchase preference within the Buyer supply chain to tomatoes that meet its specifications supplied by Florida Tomato Growers ("Growers") who can demonstrate socially responsible practices that meet or exceed the standards in the Fair Food Code of Conduct, although a Buyer is not obligated to purchase tomatoes from every Grower that meets or exceeds these standards.

PART I: EMPLOYMENT PRACTICES AND MINIMUM REQUIREMENTS FOR PARTICIPATING GROWERS

1. Growers are required to abide by all applicable laws, codes and regulations, including but not limited to this Code, and any local, state or federal laws regarding wages and benefits, working hours, equal opportunity, and employee and product safety.

Further, Growers will follow these employment and workplace practices:

2. Growers will participate in, and comply with, the "penny per pound" premium pass through Program (hereafter Fair Food Program) and pass through to their Qualifying Workers the appropriate premium payments received under that Program.

The term "appropriate premium payments" means the Qualifying Workers' portion of the "penny per pound" paid by Buyer as part of the Program.

POLICY 2.1

The extra 1.5 cents per pound paid by participating Buyers [for round tomatoes, or the equivalent amount paid for other types of tomatoes] is called the Fair Food Program Premium (FFP Premium).

POLICY 2.2

Qualifying Workers are non-supervisory workers performing the following tasks related to growing tomatoes for a Participating Grower: harvesting, irrigation, planting, laying plastic, staking, tying and miscellaneous work of a similar nature that does not involve the operation of vehicles or machinery. Field walkers and dumpers are not Qualifying Workers.

POLICY 2.3

All tomatoes sold (either directly or through repackers) to customers participating in the Fair Food Program must come from Growers participating in the Fair Food Program. Therefore, Fair Food Program Premiums, whether paid directly by the customer or by a repacker, can only go to Growers participating in the Fair Food Program.

3. Growers will regularly reconcile wages paid, including buckets picked, to pounds harvested, and if that reconciliation indicates uncompensated pounds harvested, using a 32 pound bucket for calculation for round “gas green” tomatoes (or the appropriate standard weight and container for other types of tomatoes, if different), the Grower shall adjust the amount paid to Workers in the next payroll so that they are fully paid for the uncompensated pounds identified in the reconciliation process.

POLICY 3.1

Cupping of buckets is not permitted under the Code, nor is fluffing of buckets by Qualifying Workers. A bucket is cupped if any tomato in the bucket is fully above the rim of the bucket. Fluffing is shaking a bucket to make it appear more full than it actually is. In addition, no bucket shall weigh more than 34 pounds gross. A properly filled bucket is pictured immediately below.

4. All compensable hours shall be recorded, and Growers will keep accurate hours through a system (time clock punch, card swipe or other method) in which employees control their time cards or similar time registration devices.

POLICY 4.1

Clocking in all workers should be the first thing that happens after the bus arrives at the Grower’s property, whether or not the place where the workers are let off the bus is the work site.

POLICY 4.2

Workers who get to the fields on their own should be told, the day before, where to be the next day and when to be there. If the Worker arrives at that time, he or she should then be clocked in at the stated arrival time, whether or not work actually begins at that time.

POLICY 4.3

Workers should be clocked out just before leaving the Grower’s property for the day.

AUDIT MEASURE 4.3

- Workers receive pay slips that show:
 - pay period
 - hours worked
 - wages
 - Fair Food Program Premium as a separate line item
 - bonuses (if applicable)
 - gross earnings
 - itemized deductions
 - net wage
 - pieces and/or units produced (if applicable)
 - the telephone number to file a confidential complaint (unless it appears on the Worker’s company issued identification badge)
5. Growers will hire farm workers as employees.

POLICY 5.1

All Workers, whether working under the supervision of an employee of the Grower or the supervision of a crewleader (whether or not the crewleader is an employee of the Grower), are considered employees of the Grower and must have gone through the Grower’s orientation process and be on the Grower’s payroll.

6. Growers will pay wages and benefits directly to employees.
7. Growers, without cost to the employees, will provide employees with protective equipment adequate for its intended purpose, including shade when necessary to avoid danger from excessive heat, and provide training on company time on the use of such equipment.
8. Growers will take all necessary steps to avoid endangering the safety of employees including, but not limited to:
 - Permitting individual employees who feel threatened or in danger for their health or safety to cease working (without pay) without consequences or retaliation. Growers will clearly and unequivocally educate their employees that in the event an employees feel threatened or in danger for their health or safety, they have the right to cease working without consequences or retaliation; and

- Implementing a system for work safety stoppages due to lightning, heat, chemicals, pesticides or other factors for all employees present where the potential danger exists. Calling a work stoppage shall be at the discretion of the Grower, but the reasonableness with which the Grower exercises this discretion shall be subject to the Complaint Process.

9. Growers will provide a safe and healthy working environment for their employees and, working with the Coalition of Immokalee Workers (CIW), will develop and implement a Worker Health and Safety process through which employees are able to offer the Grower their input and perspective on health and safety issues in a regular and structured manner.

10. Growers will provide plans and procedures to insure the adequate and timely treatment of workers in the event of injury or sickness that might occur anywhere on a Grower’s property.

11. Growers will provide plans and procedures to insure that workers have sufficient breaks during the day, including adequate time for lunch, without unreasonably compromising the ability to earn wages.

12. Growers will provide opportunity for advancement, including the ability for qualified employees to move from fields to other types of employment with the Grower, including management positions, and will regularly communicate these opportunities to employees.

- If housing is provided by a Grower, it must be voluntary and comply with the law, and the cost for such housing to the employee cannot reduce the employee’s net wages below the minimum wage or be increased other than to reflect increases in the cost or quality of the housing.
- Growers will verify and provide transparency to their practices, including the pass through of the appropriate premium payments, by permitting third party monitoring by an entity chosen or accepted by Buyer and the CIW.

Growers will work with the CIW to:

13. Establish, implement, and enforce a process acceptable to the CIW for complaints to be filed by, and credible complaints* to be investigated on behalf of, employees without fear of retribution.

14. Develop a system acceptable to the CIW for informing and educating their employees, on the Grower’s premises and on company time, of all applicable laws, codes and regulations, including but not limited to this Code, and any local, state or federal laws regarding wages and benefits, immigration rights, working hours, and equal opportunity.

AUDIT MEASURE 16.2

During registration of a newly hired worker, the worker receives a copy of the Rights and Responsibilities Handbook that includes a copy of the Code, written in a language workers understand.

AUDIT MEASURE 16.3

The Code is communicated to illiterate workers, if applicable. At registration, workers are shown the orientation video containing this information from the CIW.

PART II: VIOLATIONS

Violations by a Grower shall be divided into three categories – “Article I Violations,” “Article II Violations” and “Article III Violations.”

ARTICLE I VIOLATIONS:

1. Use of forced labor of any kind.
2. Systemic use of illegal child labor as defined by Florida law or any applicable federal law.
3. Use or threat of physical violence against employee(s) by or at the direction of either supervisor(s) directly employed by the Grower or by crewleader(s) unless the offending person(s) are fired and any other necessary corrective action is taken immediately upon confirmation of the incident.
4. Use or display of weapons of any kind (including firearms, knives, bats, etc.) at any point for the explicit or implicit purpose of intimidation, unless the offending person(s) are fired and any other necessary corrective action is taken immediately upon confirmation of the incident.
5. Sexual harassment that involves physical contact, unless the offending person(s) are fired and any other necessary corrective action is taken immediately upon

*A credible complaint, which may be confidential but shall not be anonymous, should, through a statement of the facts, indicate how relevant laws, codes or regulations have been violated.

Se necesitan
Trabajadores para la pesca



Mucho Trabajo

Sin Copete Llano

Buena cosecha

Se Paga \$4.00 por cubeta. La cubeta se acepta sin copete.

*Tenemos casas GRATIS!! para vivir.

*Si necesitan que vayan por ustedes, la

Para mas info

Crewleaders for a Participating Grower recruit workers for the cherry tomato harvest, advertising their "No Cupping" policy.

confirmation of the incident.

CONSEQUENCES OF ARTICLE I VIOLATIONS:

Buyer will not accept for use in the Buyer system tomatoes originating from Growers committing Article 1 violations and will decline to purchase tomatoes from such Growers pursuant to the following schedule and for such additional time, if any, as the Grower takes to remedy the situation to the satisfaction of Buyer and the CIW; provided that Buyer shall have a reasonable time, using reasonable best efforts, to transition purchases from that Grower to provide for a sufficient supply of tomatoes that meets Buyer quality standards.

For the first violation of Article I, at least 90 consecutive days, none of which is in the months of May through September.

For a second violation of Article I, at least 180 consecutive days, none of which is in the months of May through September.

For any subsequent violation of Article I, a period of time established by Buyer, which shall be at least one full season.

ARTICLE II VIOLATIONS:

1. Racial, national origin, religious, sex or sexual preference discrimination, as evidenced by a finding of probable cause of any such discrimination by the EEOC or any similar state or federal agency, or by a finding resulting from the Complaint Process adopted by the Fair Food Program, or by such other evidence as Buyer and CIW together find sufficient to substantiate such harassment. For purposes of this paragraph, discrimination shall include differential treatment (physical or verbal) of worker(s) of a given race, nationality, religion, sex or sexual preference, or crew(s) predominantly of a given race, nationality, religion, sex or sexual preference.

AUDIT MEASURE ART II 1.1

Grower can demonstrate that it has implemented the training and discrimination prevention protocols, including continuing education programs for workers and training for staff members assigned to receive and process workers' reports or complaints of discrimination, harassment or abuse.

AUDIT MEASURE ART II 1.2

Worker(s) from each crew used by the Grower report

no conduct prohibited by this provision, Appendix E or Policy Art II 1.2, including differential treatment of crews of a particular race, nationality or sex.

2. Sexual harassment not involving violence, the threat of violence or physical contact, as evidenced by a finding of probable cause of sexual harassment by the EEOC or any similar state or federal agency, or by a finding resulting from the Complaint Process adopted by the Fair Food Program, or by such other evidence as Buyer and CIW together find sufficient to substantiate such harassment.
3. Negligent endangerment, which shall include any pesticide poisoning affecting more than two employees as a result of the same incident, two or more equipment failures in one season that harm employee(s), or one or more lightning injuries in a season, unless the Grower can demonstrate that (a) the pesticide poisoning, equipment failures or lightning injuries were not the result of negligent conduct, and (b) within the time frame set forth in Consequences of Article II Violations, Paragraph 1, steps have been taken that will prevent the pesticide poisoning, equipment failures or exposure to lightning from reoccurring.
4. Use of illegal child labor as defined by Florida law or any applicable federal law that is not widespread.
5. Wage violations on a systemic level, as evidenced by incorrect payments in any payroll period affecting a) at least 5% of all employees or b) at least 20% of all employees in any one crew.
6. Firing or threatening to fire worker(s) for defending or asserting legal rights, including protections under this Code, as established by a finding resulting from the complaint process adopted by the Fair Food Program, or any evidence that Buyer and CIW together find sufficient to substantiate such conduct.
7. Using workers in the fields who are not treated as employees of the Grower on whose property they are working.
8. Failing to pass on or otherwise provide to all covered employees as part of each payroll any "penny per pound" or other agreed upon additional employee payment or benefit incentive.
9. Failing to comply fully with any monitoring and auditing procedures established under this Code.
10. Failing to provide adequate drinking water, field toilets

or other hygiene facilities required by any applicable laws or standards.

CONSEQUENCES OF ARTICLE II VIOLATIONS:

1. Within seven (7) days of being notified of an Article II violation, the Participating Grower must present an action plan, which includes a time frame for each corrective action. Buyer will consult with CIW (or any independent organization established by CIW to serve this function) before informing the Grower whether the action plan meets these standards. If the action plan is not satisfactory, the Grower shall adopt the amendments to the action plan suggested by Buyer after consultation with the CIW (or any independent organization established by CIW to serve this function). Growers will then set a target re-audit date, except that final corrective action shall in all cases be accomplished as quickly as feasible and in any event within 4 weeks, unless extended after consultation with the CIW (or any independent organization established by CIW to serve this function).
2. If continuous improvement and eventual full compliance are not achieved within the time frames described in Paragraph 1, Buyer will direct its distributors to cease purchasing tomatoes provided by such Growers until such time as the Grower remedies the situation to the satisfaction of Buyer and the CIW (or any independent organization established by CIW to serve this function), provided that Buyer shall have a reasonable time, using reasonable best efforts, to transition purchases from that Grower to provide for a sufficient supply of tomatoes that meet Buyer quality standards.
3. Following Buyer's disqualification of tomatoes supplied by a violating Grower, Buyer may at its sole discretion (after consulting with the CIW or any independent organization established by CIW to serve this function), resume accepting tomatoes supplied by that Grower to its distributors if an audit satisfactory to Buyer and the CIW (or any independent organization established by CIW to serve this function) demonstrating compliance with the Code is completed prior to resuming business.

ARTICLE III VIOLATIONS:

1. Any violation of the Code of Conduct not listed under Articles I or II shall be an Article III violation.

CONSEQUENCES OF ARTICLE III VIOLATIONS:

1. Within fourteen (14) days of being notified of an Article III violation, the Participating Grower must present

an action plan, which includes a time frame for each corrective action. Buyer will consult with CIW (or any independent organization established by CIW to serve this function) before informing the Grower whether the action plan meets these standards. If the action plan is not satisfactory, the Grower shall adopt the amendments to the action plan suggested by Buyer after consultation with the CIW (or any independent organization established by CIW to serve this function). Growers will then set a target re-audit date, except that final corrective action shall in all cases be accomplished as quickly as feasible and in any event within 2 months, unless extended after consultation with the CIW (or any independent organization established by CIW to serve this function).

2. If continuous improvement and eventual full compliance are not achieved within the time frames described in Paragraph 1, Buyer will direct its distributors to cease purchasing tomatoes provided by such Grower until such time as the Grower remedies the situation to the satisfaction of Buyer and the CIW (or any independent organization established by CIW to serve this function), provided that Buyer shall have a reasonable time, using reasonable best efforts, to transition purchases from that Grower to provide for a sufficient supply of tomatoes that meet Buyer quality standards.
3. Following Buyer's disqualification of tomatoes supplied by a violating Grower, Buyer may, at its sole discretion (after consulting with the CIW or any independent organization established by CIW to serve this function) resume accepting tomatoes supplied by that Grower to its distributors if an audit satisfactory to Buyer and the CIW (or any independent organization established by CIW to serve this function) demonstrating compliance with the Code is completed prior to resuming business.

PART III: PROGRESS TOWARDS HIGHER STANDARDS

Buyer strongly encourages Participating Growers in the tomato industry to continuously improve working conditions and to provide terms and conditions that meet or exceed those provided by suppliers in other industries. Buyer will purchase to the greatest extent possible tomatoes from Participating Growers that demonstrate consistent adherence to these higher standards.

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