

Labor Management Decisions

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Asparagus harvest in California's Imperial Valley, January 1992.

In this issue:

ADA Soon Coming Into Play	1
Software Review: Policies PLUS	3
Assisting Southeast Asian Refugee Farmers	6
Incentives That Worked and Those That Failed	7
Governor to Be Advised on Farm Worker Services ..	8
New Field Sanitation Standard Will Be Enforced	9
Events	9
Resources	10
Contributors	20

A Summer issue of *Labor Management Decisions*, Volume 2, Number 2, is planned for publication in July.

ADA Soon Coming Into Play

James Severson, Stephen R. Sutter, and
Howard R. Rosenberg

On July 26, 1992, employment-related provisions of the Americans with Disabilities Act will take effect for organizations with 25 or more employees. Two years later they will be extended to employers of 15 or more. Part-time and seasonal employees working 20 or more full weeks in the current or preceding calendar year are included in the count determining employer coverage.

Portions of the following were adapted from articles by James Severson, Attorney, McCutchen, Doyle, Brown & Enersen, San Francisco, in Personnel Law Update, published by Borgman Associates, Walnut Creek, California. Another article in the Update by William W. Floyd, Jr., Attorney, Best, Best & Krieger, Riverside, provided useful information.

The Americans with Disabilities Act (ADA), enacted in 1990, prohibits discrimination against disabled persons who can perform the essential functions of a job with or without reasonable accommodation. Last year the U.S. Equal Employment Opportunity Commission (EEOC) issued its final regulations attempting to clarify the terms "disabled," "essential functions," and "reasonable accommodation." The EEOC also recently published a technical assistance manual to help employers understand ADA requirements.

Disability

A "disabled" person is one who currently has, or has a record of, or is regarded as having a disability—any physical or mental disorder that substantially limits a major life activity, such as walking, seeing, hearing, speaking, or breathing. Temporary, non-chronic impairments that have little or no long-term or permanent impact are usually not to be considered disabilities.

Examples of conditions or attributes that are *not* ADA disabilities are broken limbs, influenza, left-handed-

ness, pregnancy, current use of illegal drugs, obesity (except in rare circumstances), lack of education, homosexuality, poor judgement, and quick temper. Also excluded from ADA protection are individuals with a “characteristic predisposition to illness or disease.” Existence of a disability is to be determined without reference to medications or aids (such as a hearing aid) that may correct for the condition.

EEOC guidelines contain detailed discussion of what makes a condition a disability under ADA. Disabilities that substantially limit life activities are generally presumed to also limit the ability to work. Individuals with back problems that preclude heavy labor, for example, may be considered disabled, even though they can perform many other types of work.

Essential Functions of a Job

If a disabled person can perform the essential functions of a job with modifications or adjustments that the employer can reasonably provide, the employer may not exclude the person from the job because of disability. It is thus important for employers to distinguish the fundamental or “essential” functions of a job from the “marginal” ones. The EEOC guidelines indicate factors to be considered in case-by-case determination of whether a particular function is essential to a job:

- *Whether the job exists primarily to perform that function.* For example, an essential function of a truck driver job would be driving a truck. But loading and unloading are not essential functions of the position where those tasks are normally performed by loading dock or warehouse personnel.

- *The number of employees available to perform that job function.* Smaller employers often require a great deal of versatility among employees. Carpentry, tractor driving, routine engine maintenance, record-keeping, and even selling may all be essential functions of a job on a small farm. On larger operations, carpentry and selling would more likely be considered marginal to a job that is mainly responsible for tractor work.

- *Whether hiring to the position is based on expertise or ability to perform that function.* Examples would be repairing combines or communicating with field workers in three different languages.

The ADA regulations also set out types of evidence that could be weighed in deciding whether a given function is essential to a job:

- The employer’s judgement;
- Written job descriptions prepared before recruiting for and filling a position;
- The amount of time on the job normally spent performing the function;

- The consequences of not requiring the job incumbent to perform the function;
- The work experience of past incumbents in the job;
- The nature of the employer’s operation and organizational structure; and
- For employers of union workers, the terms of a collective bargaining agreement.

The content of job descriptions, though useful, is not conclusive. If a job description contains duties that an employee rarely, if ever, performs, they are not likely to be considered essential. But tasks performed infrequently may be considered essential because of their critical value or a lack of available employees to perform them. Although an office employee may spend only a few minutes each day entering into a computer file data on field worker production, this task would be essential to the job if no one else on the ranch had any skill in using the computer.

Reasonable Accommodation

Disabled persons who are otherwise qualified and able to perform essential functions of a job are entitled to “reasonable accommodation,” which the EEOC manual defines as “modification or adjustment to a job, the work environment, or the way things usually are done that enables [a disabled person] to enjoy an equal employment opportunity.” Such accommodation is not required if it would cause undue hardship to the employer by imposing excessive cost, disruption, or fundamental alteration of the nature or operation of the business.

Examples of reasonable accommodation are: restructuring a job to transfer marginal functions to others; providing assistants to help perform some aspects of the job; acquiring or modifying tools or equipment; permitting the use of equipment, aids, or services that the employer is not obligated to provide (e.g., a guide dog); and making nonwork areas, including restrooms, accessible.

Modified work schedules to accommodate disabled employees or applicants may provide a weekly variance for medical appointments, permanent assignment to a particular shift, weekend work to replace regular days lost during the week (such as for dialysis treatment), and flexible leave (although paid leave in addition to the normal allowance is not required).

Another form of reasonable accommodation is reassignment to a vacant position with comparable pay and benefits. If a comparable position does not exist, reassignment to a lower rated position may be sufficient. An employer is not required to create a new job or to bump another employee from a job to provide a reasonable accommodation.

The Internal Revenue Service allows a deduction of up to \$15,000 per year for expenses associated with removal of barriers to the disabled. Businesses with gross receipts less than \$1 million or a full-time workforce not exceeding 30 are also permitted tax credits for certain costs of ADA compliance. These businesses may claim a credit of up to 50 percent of eligible expenditures exceeding \$250 but no more than \$10,250.

Other Issues

EEOC regulations specifically prohibit employers from making pre-employment inquiries about an applicant's history of workers' compensation claims. Employers may make hiring offers contingent upon results of a medical exam and may conduct pre-employment tests to ascertain that disabled persons can perform a job. Applicants may be asked to describe or demonstrate how they would perform job functions.

Employers may deny employment to a disabled applicant on the grounds that the job presents a safety threat to that person only if an individualized assessment shows "high probability" that he or she cannot perform the job safely.

The EEOC is responsible for enforcing ADA employment provisions. Although the information it has provided thusfar is a step toward enabling employers to comply with the new law, many questions about standards and implementation of the law remain. Most of these issues will probably be resolved in time through litigation. Remedies for ADA violations may include compensatory and punitive damages, back pay, front pay, restored benefits, reasonable accommodation, job offers, and attorney's fees.

Employers are obligated to post ADA notices. A poster, a copy of the technical assistance manual, and booklets on ADA may be obtained from the EEOC (see *Resources*, page 11). □



Loading boxes of asparagus in the Imperial Valley.

Software Review

Policies PLUS Employee Handbook and Procedures Manual

Norman J. Hetland

The Spring 1991 issue of *Labor Management Decisions* contained a detailed review of KnowledgePoint's Personnel Policy Expert, an expert-system software program for creating customized employee handbooks. The review prompted a letter from COR•TECH (Hanford, CA), producers of Policies PLUS, pointing out features of their product and inviting a test of the program.

Testing revealed one major procedural difference between Policies PLUS and PPE: Policies PLUS takes a more global approach to customizing the first draft of policies. It uses an initial questionnaire with 27 questions instead of PPE's one-(or none)-to-ten specific questions for each policy. Policies PLUS then utilizes the responses to the 27 questions to modify *all* policies and procedures created for the user. After two and a half minutes (using a hard disk) of such customization in the review test, an on-screen tally proclaimed up to 20,000 "actions" taken.

Entering two different sets of responses to the questionnaire (which requires re-installing the entire program) makes apparent to the reviewer many modifications based on user-provided information. Some paragraphs get deleted, others get inserted, a few phrases get reworded, and the like. Yet most policies are rather general and only a paragraph or two long — consistently shorter than those in PPE — so the preponderance of those actions taken are hard to detect or verify.

Program Organization and Content

Comparing the organization of the PPE and Policies PLUS employee manuals is not straightforward. Whereas PPE has 65 policy topics organized in nine groups, Policies PLUS (Version 3.10) has 37 policy sections comprising some 110 subsections. In actual content, both programs cover pretty much the same ground. Policies PLUS sections [and sub-sections] include the following:

- *Purpose; Introduction; Company History; Supervisory Relationship; Employment Practices* [Promotions, Transfers, Recruiting; Introductory Period; Definitions; Management's Rights; Benefits Eligibility; Union Recognition]; *Hours of Work* [Work Schedules and Overtime; Arrival, Departure, Access; Meal Periods, Rest

Breaks; Time Reporting]; *Attendance* [Policies; Reporting; Proof of Absence; Emergency Time off].

■ *Compensation* [Wage & Salary Administration; Pay Plans; Paydays: Weekly, Monthly, Bonuses and Incentives; Check Distribution, Pay Errors; Payroll Deductions; Check Cashing; Payroll Advances]; *Job Performance* [Job Duties and Management's Right to Change]; *Code of Conduct* [Guidelines; Violation and Discipline]; *Drugs and Alcohol* [Position Statement; Testing; Search and Inspection; Disciplinary Action]; *No Harassment Policy*; *Problem Solving*.

■ *Requirements On Duty* [Parking; Food and Beverages; Housekeeping; Personal Business and Phone Calls; Smoking; Visitors]; *Activities Off Duty* [Activities; Other Employment]; *Employee-Owned Property* [Personal Property; Work Tools]; *Company-Owned Property* [Issuance and Responsibility; Records and Files; Removal; Right to Inspect]; *Operation of Vehicles* [Authorized Use; Driver's Licenses and Records; Safe Operation; Collision; Seat Belts].

■ *Safety* [General Rules; Hazardous and Toxic Materials; Equipment Operation]; *Appearance* [General; Dress Code; Uniforms; Grooming and Cleanliness]; *Miscellaneous* [Business Gifts and Gratuities; Health Reporting; Personnel Records; Posters and Bulletin Boards; Publicity Release; Non-Fraternalization; Related Employees; Solicitations; Termination; Vehicle Operation]; *Public Relations* [General; Courtesy; Telephone Etiquette; Document Preparation; Service Work].

■ *Employee Benefits: Holidays* [Priority of Bargaining Agreement; National Holidays; Waiting Period; Holiday Pay; Before-After-During Vacation]; *Vacations* [Priority of Bargaining Agreement; Entitlement; Pay; Carryover; Pay in Lieu of Time Off; Minimum Time Off; Scheduling; Pay at Separation]; *Sick Leave* [Priority of Bargaining Agreement; Accumulation; Benefit Payment; Termination]; *Jury Duty* [Priority of Bargaining Agreement; Time Off; Reporting]; *Leaves of Absence*; *Group Insurance*; *Other Protection* [Unemployment Insurance; Workers' Compensation; Social Security; State Disability Insurance]; *Planning for Tomorrow* [Priority of Bargaining Agreement; 401(k) Savings Plan]; *Other Benefits* [Employee Discounts; Training and Tuition Reimbursement].

■ *Conclusion; Acknowledgment of Receipt*.

Policies PLUS also creates a separate but related Procedures Manual with the following sections:

■ *Personnel Policies: General* [Scope and Authority; Revisions]; *Applications for Employment* [Forms; Receiving; Filing and Retention]; *Screening and Interviews* [Interviews; Verifications and Reference Checks; Offers of Employment; Notification of Unsuccessful Candidates]; *New Employees* [Conditions of Employment; Documenta-

tion and Files; Orientation]; *Termination* [Definitions; Documentation; Separation Pay; Return of Property; Continuation of Insurance; Unemployment Claims]; *Attendance Records* [Record-Keeping; Supervision]; *Unpaid Leave of Absence* [Requests and Approvals; Duration; Service Credit and Accruals; Paid Time off during Leave; Continuation of Insurance Benefits; Reinstatement; Physician's Statement; Forfeiture and Termination; Industrial Injuries; Pregnancy Disability; Newborn and Adoptive Child Care; Active Military Service; Summer Reserve Duty]; *Personnel Files and Records* [File Maintenance; Employee Access; Outside Disclosure; Changes in Records; Recording Conduct Problems; Forms]

■ *Federal Employment Regulations* [Discrimination; Wage and Hour Laws; Garnishments; Polygraph-Lie Detector Tests; Bulletin Board Posting Requirements]

■ *California Regulations* [At-Will; Discrimination; National Guard Duty; Jury Duty; Pregnancy-Maternity Leaves; Child-Family Care Leaves; Industrial Injuries; Drug-Alcohol Testing and Rehabilitation; Smoking Restrictions; Wages, Hours, Overtime; Paying Wages on Termination; Vacation Pay at Separation; Payroll Deductions; Garnishments; Injury and Illness Prevention Program; Restrictive Covenants; Miscellaneous; Bulletin Board Posting Requirements].

These statements of procedure provide more detailed nuts-and-bolts implementation rules than do the policies; compare, for example, the entry on the policy for Leaves of Absence with the list of procedures concerning those leaves. But the distinction is sometimes hard to fathom. PPE, in contrast, incorporates many equivalent procedures into its policies without producing a separate manual. Advantages of the Policies PLUS approach are not entirely clear and must be weighed against the frequent need to look in two places for full information on a given policy topic.

It is difficult to compile a precise inventory of policy categories included in one software program but not in the other. Of particular interest to agricultural employers, Policies PLUS places less emphasis on employment provisions of immigration law, confining its treatment of IRCA to the procedures manual. Other neglected or relatively de-emphasized topics, some of which may seldom apply in agricultural contexts, include nondisclosure, several secondary benefits (bereavement, relocation, witness duty), emergency closings, specific kinds of leaves of absence, resignation, and AIDS in the workplace.

Policies PLUS appears to offer more extensive policies or procedures than PPE on employee-owned property, hazardous and toxic materials, non-fraternization, public relations, group insurance, mandated insurance protection other than workers' compensation, retirement planning, employee discounts and reimburse-

ments, and those listings of federal and California employment regulations. Many of these may be of more consequence in industries other than agriculture.

Some idea of the relative inclusiveness of Policies PLUS and PPE may be drawn from comparing their disk storage requirements: Policies PLUS uses about 1.5 megabytes, or about half the space required by PPE. Although the difference could indicate more efficient storage, it probably also reflects comparative frequency and timing of questions asked as well as resulting variations in policies.

Policies PLUS also offers computerized templates for four commonly drafted personnel letters (applicant interview scheduling, conditional offer of employment, and two rejection letters), as well as a hard-copy set of eight personnel forms (reference checks, performance evaluation, new employee checklist, absence/conduct report, attendance record, separation report, leave request, general memo). The letters are very simple; the forms are adequate, but not available on disk files for design refinements.

Program Operation and User-Friendliness

Policies PLUS takes about five minutes to install on a hard disk. A necessary prerequisite step, however, is to make backup copies of six floppy program disks. This took about half an hour for the review test and was a nuisance. (Couldn't the program be set up for direct installation onto the hard disk from write-protected master disks?) Running the program from the backup floppies, incidentally, is possible but too cumbersome to tolerate for long.

Once installed, the program interface operates much like PPE's. Choices can only be made by pressing mnemonic letters, without the PPE options of Arrow and Return keys. The Escape key can almost always be used to retrace one's steps, and the Function keys offer some shortcuts (F1 — Help, F10 — Save & Exit, etc.). On the (PC-compatible) Everex used for the test run, pressing improper keys activated a buzzer that would jolt anybody in the room out of their concentration or slumber.

After the initial questionnaire-driven global modification of policies and procedures, Policies PLUS provides pertinent "Policy Guide" screens for further editing of individual policies. Unlike PPE, however, these screens rarely suggest further choices or changes. Since most of the initial items on the questionnaire affect just one or two policies anyway, they could be asked when those particular policies are being drafted. Such an approach, as used by PPE, allows the user to consider questions in more precise relation to the policies they affect.

Agricultural users will find as much or more occasion to edit policies created by Policies PLUS as by PPE.

For this purpose, editing features of Policies PLUS are mostly similar to PPE's, both providing much less than a standard word processor. Notable differences between the two programs: Policies PLUS does have a somewhat more powerful search and replace feature than PPE, so it can globally replace all appearances of a text string instead of doing so only one at a time. Unfortunately, blank spaces cannot be part of a text string, so, for example, the string *the* is replaced in *together* as well as wherever it occurs as a whole word. Use of the search-replace feature is further limited to the subsection currently being edited; global replacements can only be made during the initial customization. Even then, not all are under the user's direct control. For example, the company name (entered by COR•TECH when the program is purchased) gets inserted at many, though by no means all, appropriate points in the text of various policies.

The Alt key is used for search-and-replace and for other functions like Block and Paste. Pasting would be easier if marked blocks were highlighted. Users can delete blocks only one line at a time, and can move a block only by copying it to a new location and then deleting the original block line by line. Reformatting requires pressing a function key.

An exotic penalty was suffered for accidentally hitting Alt-C and responding *No* to an unscheduled question that then appeared. The system was returned—without warning—to the DOS prompt.

Printing is accomplished by pressing letter choices on the main handbook and manual screens. One problem is that margins, page length, and other formats are difficult to adjust, requiring knowledge or lookup of printer codes. The defaults are workable, although the lines-per-page setting was slightly off for the printer used in the review test. Also, printing of the employee manual was interrupted twice by buffer overflows. As with initial policy modification, Policies PLUS takes an all-or-nothing approach to final printing. The only option for printing single policies is as worksheets (which include automatic date and time stamps) or proofs of individual subsections.

PPE allows individual policies to be marked Pending or Accepted and then selected for printing; Policies PLUS allows marking subsections for deletion only. Entire sections cannot be marked for deletion until all subsections have been so marked. Marked sections or subsections will not print even though they may actually not yet be erased from the disk. These sections may be restored later, if desired.

With Policies PLUS, export of policies or entire manuals to higher-powered word processors can be accomplished only by opening individual policy text files from within such programs.

Policies PLUS takes a minimalist, nothing-fancy approach to user documentation. Though clear enough and probably sufficient for normal use, the materials are hardly as attractive and easy to work with as PPE's. Some of the Policies PLUS screens contain typos (e.g., *alledged*, *abandoned*, *shuold*, *spearate*), doubtful usages (*precedent* as a verb), and curious phrasing (*weekly pay every other Friday*), all of which erode confidence if not also clarity.

The tone of Policies PLUS sections and subsections is rather positive and personal, with some headings more so in the manual (*Your Pay; Respect and Dignity*) than in the internal index descriptions (*Compensation; No Harassment*). Unlike PPE, Policies PLUS does not identify its legal counsel.

Summary Assessment

Overall, Policies PLUS is another helpful aid in the task of creating employee policy manuals. At \$395 retail, it costs \$100 less than PPE. Both programs are sufficiently thorough and conservative that choosing one over the other comes down to personal preference. In terms of overall flexibility and scope, PPE generally offers more, but Policies PLUS does have the edge in some aspects of editing and content. Neither customizes as finely as a true "expert system" or provides editing capabilities anywhere near those of a good word processor. But both Policies PLUS and PPE are a cut or two above the standard "sample policies" approach, and they should serve careful users well. □

Project Report

Assisting Southeast Asian Refugee Farmers

Steve Sutter and Pedro Ilic

In 1991, the Agricultural Personnel Management Program funded a project to assist Southeast Asian refugee farmers in understanding compensation regulations and developing personnel record and accounting systems. In effect, this grant was tagged onto a UC Small Farms Program project delivering pesticide safety and technical advice to refugee farmers.

Nearly 55,000 Southeast Asian refugees live in Fresno County, and this population is expected to increase by 1,500 new immigrants in 1992. The Fresno Southeast Asian community comprises about 60 percent Hmong, 21 percent Laotian, 11 percent Cambodian, 5 percent Vietnamese, and 3 percent Chinese and other nationalities.

About 750 refugees are engaged in farming. Cherry tomatoes, strawberries, bittermelon, and sugar peas

probably account for about one-half of the acres farmed by refugees. Other crops commonly produced are green beans, opo, Chinese long bean, luffa, eggplant, mokuia, and squash.

Inta Phakhonekham, a Laotian refugee and former teacher, was hired as a field survey worker for 8 weeks. A total of 269 Southeast Asian refugee farmers were contacted at 128 field locations. Farmers were advised of coming meetings and the availability of business information from the UC Cooperative Extension Fresno office.

Eight of the farmers were female, and 745 families were working at these sites. The sample families were 63 percent Hmong, 32 percent Lao, 3 percent Chinese, and 2 percent other Asian nationalities. All farmers gave their home address and telephone and were placed on Fresno's Southeast Asian refugee farmer mailing list.

From backyard beginnings, some of these refugee farmers now operate consequential farms. In the sample, 100 farmers (37 percent) operated 5 acres or more, and 29 (11 percent) had plots ranging from 11 to 50 acres.

Most of the farmers (80 percent) work a land parcel as part of a group of families, generally in clusters of two to seven families. Size of the farming site was moderately correlated with the number of families.

Communication barriers, particularly reading and writing limitations of most of these farmers, create a special challenge in delivering agronomic, business, and personnel management information to them. Many refugee farmers cannot read or write any language.

Two refugee farmer meetings were conducted with interpreters to instruct in farm business and payroll accounting, taxes, employment-related regulations, pesticide safety, and production techniques. Internal Revenue Service and state tax agency representatives joined us in the schooling.

A total of 26 farmers attended the free half-day sessions. Special Hmong and Lao radio broadcasts, Mr. Phakhonekham's field contacts, and a translated meeting announcement sent to 440 persons on the refugee farmer mailing list were the main means of publicity. None of the attendees indicated that they learned of the meetings through the newsletter.

It was interesting that all three female attendees took meeting notes furiously. Although pencils and paper were offered to all, only one male attendee was observed taking notes. Meetings were started with "warm-up" questions. Written before/after knowledge tests were omitted intentionally.

Attendees asked a moderate number of questions. Two farmers requested an analysis of an 18-page (English) lease agreement. Several sought information on minimum wage rules, workers' compensation, local ag-

ricultural burning rules, and individual help in applying for business tax identification numbers. No questions were raised on records and tax filing. This activity is managed mostly by paid tax preparers. Two farmers spoke of high-priced preparation services.

This project helped advance our contacts with representatives of refugee and general social service agencies, and the Internal Revenue Service. We continue to respond to information requests from leaders in the refugee community and to the visible flow of refugee farmers into the Fresno County UCCE office. A recent project spin-off was an invitation to meet with the IRS Regional Director and community agencies regarding the problem of refugee and other taxpayers filing returns in years they are not required to do so.

At an awards banquet on November 13, 1991, the University of California Cooperative Extension was one of 44 area employers presented an appreciation award from the Central California Forum on Refugee Affairs for "special efforts in hiring refugees." □

Incentives: Those That Worked And Those That Failed

Gregory Encina Billikopf

Results from a 1990 incentive pay study are in. Most of the 158 farmers who responded to a call for participation published in *People in Ag* newsletter and *Ag Alert* had used incentives at some time. Their average experience with incentives was about 8 years. Half of those who had paid an incentive had eliminated at least one of their incentive programs at some time. An additional dozen respondents had never used incentives.

A third of the farmers who used incentives described their feelings about using them. Of these, about 65 percent were positive, 10 percent were ambivalent or had reservations, and 25 percent were negative.

Sixty-six percent of the one-third who indicated an opinion felt that employees generally liked incentives. Another 15 percent felt workers were about evenly divided between those who liked and those who disliked incentives; 3 percent felt employees disliked incentives; and 16 percent were not sure. One respondent, with whom I personally agree, said that "good workers" liked incentives.

Incentives That Worked

The most frequently mentioned benefit of pay incentives was better work quality. Examples given by the diverse group of respondents ranged from improve-

ments in bed straightness in land preparation, to cultural practices in budding, thinning, pruning, and harvesting tree fruit crops, to milk quality factors including bacterial and somatic cell count.

Farmers also observed that their incentives led workers to increase productivity and lower costs, to pay attention to detail, and to report problems rather than ignore them. Incentives also helped farmers measure work efforts, reduce turnover, and reduce complaints about difficult conditions (such as the night shift). As another plus, employers felt that incentives gave workers added flexibility. For instance, during picking, workers could work harder for fewer hours and leave before it got too hot. And workers who hustled could earn more.

Effective labor management programs bring side benefits, and incentives are no exception. Several farmers reported improved worker morale and loyalty.

Problems with Incentives

Paradoxically, for respondents who were either negative or ambivalent about incentives, quality was once again at the top of the list. Their observations, however, were of decreased work quality. About two-thirds of these respondents appear to have rewarded employees for increased productivity but had not established checks and balances to protect quality. Farmers can either reward employees for surpassing quality standards or discipline those who do not meet minimum requirements.

Output incentives may cause unexpected problems. The medication that employees used to keep hogs healthy in one operation cost more than the operator saved in reduced mortality rates. Caps on spending need to be added when setting this type of incentive.

A few farmers who offered incentives for quality encountered poor productivity. Their employees became too focused on quality. Once again, a balance between quantity and quality needs to be rewarded.

Next in importance after poor work quality in the list of difficulties, farmers noted that employees did not always change their behavior after the incentive was in place. Often the reason is that workers simply do not see the connection between the reward and their added hustle. A successful grower in the first-year of a program gave his three best-quality workers lunch at a local restaurant. Employees may not try as hard in the future, if they see that the same few tend to be the only ones rewarded. Studies show that top workers today are likely to be tops tomorrow.

Some employees may not try hard out of a fear that the harder they work, the more the employer will expect of them. And yet others prefer to work at a slower pace and earn less. When employees do not seem moti-

vated by an incentive program, farmers may want to note how widespread the situation appears. If only a few workers are not interested in the incentive, perhaps the difficulty lies with them. If 40 percent of the employees are not motivated by the incentive, the problem may be the way the incentive was developed or presented to them. In some cases, farmers simply need to give the incentive more time to work.

Some farmers felt their employees were not getting enough of a reward for their effort. I know of farmers who pay very small incentives that motivate employees, nevertheless. In these cases, workers are motivated by the recognition from the farmer and the satisfaction of helping to meet company goals. In others, workers find that recognition is nice but does not pay the bills.

One farmer reported that some employees did not make minimum wage when working under piece rate. If a substantial number of employees are not making minimum wage, perhaps the piece rate level is set too low. It is also possible that some of the employees are not qualified to do the job. I favor the use of brief practical tests where employees prove they can do the job before being hired. It may also be possible to place workers making less than minimum wage in a different type of task, rather than have everyone performing at a level below their capacity.

Other problems with incentives included (1) profit sharing that was not profitable and (2) reduced value for the commodity (the reduced profit margin meant that the farmer could not afford the incentive). Employees often do not see the connection between their hard work and pay under profit sharing. One farmer felt that profit sharing was a plus for him because it helped employees feel the ups and downs right along with the owner. Commodity prices can fall through no fault of people at a given ranch.

Some farmers found that employees took their incentive pay for granted. They expected either a check at the end of the year or an extra amount in their regular paycheck. Even though incentives may be paid at irregular intervals, farmers may want to keep employees informed about their performance more frequently. To emphasize the incentive, it helps to pay it at a different time than with the regular paycheck. One farmer reported lack of gratitude on the part of employees who were allowed to leave work early. Employees may have feared that showing gratitude would mean additional responsibility. Perhaps they had to work hard so they could leave and felt they earned the privilege.

Other difficulties included the effect changes had on incentives, complicated record-keeping, and lack of worker understanding. It may be worth waiting before establishing an incentive program when changes, such as introduction of new machinery, are foreseen. Records

are critical, but should be kept simple. Keeping the program understandable helps, but increased communication between the farmer and employees is often required.

A final difficulty reported by farmers was supervisors' lack of interest in the incentive program. Perhaps some supervisors do not see how they will benefit. Some workers may earn more under incentives than their supervisors. At times farmers pay supervisors a percentage of the incentive given. This is a fine idea, but it is critical that the supervisor be rewarded for all the important criteria that the farmer seeks to fulfill. If paid only on the basis of production, the supervisor may be the first to ignore quality.

Future Study

This study raised more questions than it answered. In the near future a follow-up incentive pay questionnaire will be mailed to interested farmers.

A set of guidelines on developing or fine-tuning an incentive pay program is available at no charge from the author at University of California Cooperative Extension, 733 County Center III, Modesto, CA 95355 (phone 209/525-6654). □

Governor to Be Advised on Farm Worker Services

In November 1991, Governor Wilson established the Farm Worker Services Coordinating Council (FWSCC) by executive order W-20-91. The Council is charged with helping state agencies that serve farm workers to develop more consistent policies and more effective delivery mechanisms. It is to deliver a report of policy recommendations to the Governor by November 15, 1992.

Membership stipulated in the executive order includes Secretaries or Directors, or their respective designees, of the following California agencies: Health and Welfare Agency (Council Chair), Department of Food and Agriculture, Department of Industrial Relations, Office of Child Development, Department of Education, Department of Finance, Employment Development Department, Department of Health Services, Department of Housing and Community Development, and Department of Economic Opportunity. Although the order does not provide a FWSCC seat to the Agricultural Labor Relations Board, it does authorize the Council Chair to appoint representatives from other state agencies, a Job Training Partnership Act grantee, and the agricultural industry.

The initial meeting of the Council was in Sacramento on February 24. Spoken or written testimony is invited from all interested parties at a series of six public hearings. The first two were in Calexico (April 14) and Santa Rosa (May 6), and three of the others are scheduled for Costa Mesa, Salinas, and Fresno (see *Events*, page 10).

Written testimony, offers to speak at the hearings, and questions about Council activities may be addressed to the attention of Roberta Valla or Dale Kooyman, FWSCC Support Unit, Employment Development Department, Job Service Division, MIC-37, 800 Capitol Mall, P.O. Box 826880, Sacramento, CA 94280-0001. Phone inquiries are welcome at 916/654-5911 or 916/654-6202. □

New Field Sanitation Standard Will Be Enforced

Steve Sutter

By April 1, 1992, agricultural employers were required by Cal/OSHA Safety Order 3457 to supply toilets, hand-washing facilities, and drinking water for hand laborers, including irrigators. Employers include farm labor contractors.

Under legislation passed in 1990, the California Division of Occupational Safety and Health was directed to begin a "special emphasis" field sanitation inspection program, commonly called a sweep, on April 1. The San Joaquin Valley was expected to be one of the prime targets. Complaints received by county health departments are often referred to Cal/OSHA.

Failure to provide field sanitation results in a minimum penalty of \$750. Inspectors will also look for other serious hazards, however, and will check for a written injury and illness prevention program. Serious violations carry maximum fines of \$7,000 each.

Drinking water must be sufficient, pure, and cool. Employers are required to provide one hand-washing facility for each 20 employees or fraction thereof. If fewer than 5 hand laborers are employed, separate toilets for each sex are not required.

Employers are also responsible for ensuring that workers use facilities and for telling them of good hygiene habits to minimize health hazard exposure. Written records of toilet servicing are to be kept for 2 years.

English/Spanish hygiene posters and brochures, and a copy of the field sanitation rule, are available for \$1.00, payable to "County of Fresno," from the UC Agricultural Personnel Management Program, 1720 South Maple Avenue, Fresno, CA 93702.

Events

Agricultural Personnel Management Workshop Held in February



Above, groups examine problems that arose on a farm when an employee was promoted to supervisor. Below, participants compare notes on clients' experiences with incentive programs.



Agricultural Personnel Management for Extension Educators, a special in-service program for Farm Advisors, Extension Agents, and Specialists, was held in Napa, California, February 26 – 28, 1992. Registrants came primarily from the western United States, but also from Kentucky, Texas, and British Columbia. The program, planned and co-sponsored by the APMP, included presentation and discussion of such topics as: federal and state labor management regulations; characteristics of the agricultural workforce; selection and supervision of employees; wage structures; and integrating family and business interests in personnel decisions. Each participant received a binder containing the speakers' presentation notes or text, handouts, and resource materials. The USDA has also distributed the binders for use as a basic reference in agricultural personnel management throughout the United States land grant system. An outgrowth of the February workshop is formation of a West Coast Committee on Farm Labor Management Education, with participation from California, Oregon, Washington, and British Columbia. Further interstate collaboration on educational materials development is also planned.

Future Events

Health and Safety Seminars. Presentations in the series held by the UC Agricultural Health and Safety Center at Davis have been scheduled for the remainder of May and June. All seminars are on Fridays at 12:00 noon in the Institute of Toxicology and Environmental Health Conference Room on Old Davis Road, Davis. For further information, phone Janice Abrinko, Ag Health and Safety Center, 916/752-4050.

May 22. James Grieshop, Specialist/Lecturer, Community Education, Department of Applied Behavioral Sciences, UC Davis, "Delivering Safety Training and Hazard Awareness Information to Agricultural Workers."

June 5. Ralph Lightstone, Attorney, California Rural Legal Assistance, topic to be announced.

June 19. Rob McConnell, Division of Environmental and Occupational Medicine, Mt. Sinai School of Medicine, "Peripheral Neuropathy of Methamidophos/ Neurobehavioral Effects of Organophosphates."

California Agricultural Employment Work Group. *Wednesday, May 13, 9:00 a.m. to 1:00 p.m.,* at 750 N Street, Sacramento. For further details, phone Tony Bland at 916/741-4194.

Farm Worker Services Coordinating Council. The next two public hearings have been arranged, and details are being finalized for the third. For more information phone Dale Kooyman at 916/654-6202 or Roberta Valla at 916/654-5911.

May 20, 2:00 to 8:00 p.m. Costa Mesa: Orange County Office of Education, 200 Kalmus Drive.

June 3, 2:00 to 8:00 p.m. Salinas: Community Center, 940 North Main Street.

June 17. Fresno area. Details to be announced.

Free Seminar on Cal/EPA Agricultural Hazard Communication Standard. *June 11, 8:30 a.m. to noon,* at the University of California Kearney Agricultural Center, 9240 South Riverbend Avenue, Parlier. New employee communication, training, and documentation requirements accompany the new Cal/EPA standard. A short "down to earth" presentation on sexual harassment in agriculture will also be presented by a local attorney. The seminar is co-sponsored by the UC Cooperative Extension Agricultural Personnel Management Program and the Fresno County Agricultural Commissioner. Pre-registration is a must. Phone Chrys Moore or Steve Sutter at 209/488-3285.

Pesticide Training in Northern California. Hands-on pesticide applicator training workshops are being conducted in May by the California Statewide Integrated Pest Management Project's Pesticide Education Program (PEP) in cooperation with Cooperative Extension county

offices: *May 12* at the Nichol's Estate in Arbuckle; *May 14* at the Agricultural Practices Facility, UC Davis; and *May 28* at a site to be announced in Yuba City. The May 12 and 14 workshops will be in English and Spanish; the May 28 workshop, in Punjabi language only, for Sikh agricultural workers. Topics will include: protective clothing and the pesticide label; pesticide mixing and loading; leaks and spills; first aid for pesticide exposure; application equipment components and calibration; environmental protection; cleanup and disposal. The workshop will comply with a significant portion of training mandated by the California Department of Pesticide Regulation for employees handling pesticides and will offer qualified applicator continuing education credit hours. Cost will be \$40 for preregistration; and \$50 for registration within 7 days of the workshop. For information, phone IPM/PEP at 916/752-2733. □

Resources

Making Every Dollar Count (Su Dinero Puede Rendir Mas). A 44-page money management guide for farm workers, prepared by Connie Costello, Karen P. Varcoe, and Myriam Grajales-Hall, University of California, Riverside, with funds from the APMP. In easy-to-read language, the illustrated bilingual booklet provides advice on cutting expenses and saving money, as well as instructions for setting up a year-round spending plan. It gives tips on how to stay out of financial trouble, deal with unemployment, and cope when bills cannot be paid, and includes a list of community resources. Copies are free, but a shipping fee is charged on orders of six or more (\$2 for 6 – 25 copies; \$3 for 26 – 50 copies; \$6 for 51 – 160 copies). Order from Consumer Economics Program, University of California, Riverside, CA 92521 (phone 714/787-5241).

El Ingles Necesario Para Vivir y Trabajar en Los Estados Unidos (English Needed to Live and Work in the United States). The 122-page pocket-size booklet of useful English words and phrases for Spanish speakers covers basic grammar and usage, as well as English pronunciation. It includes lists of useful words and expressions, as well as a basic Spanish-English dictionary, to help in tasks such as looking for work, being on the job and at home, handling medical problems, shopping, eating out, and dealing with money, the post office, schools, and government offices. Publication and distribution was funded by a grant through the UC Riverside Foundation. For information, contact Myriam Grajales-Hall, Spanish Media Service, Cooperative Extension, Highlander Hall, University of California, Riverside, CA 92521 (phone 714/787-4397).

Agricultural Labor Research Symposium: June 1991 Proceedings, California Agricultural Studies 91-6,

contains panel presentations and general discussion on studies of farm workers, farm labor contractors, and agricultural labor management. The research conference, held June 5–6, 1991, in Napa, California, was organized by the California State Employment Development Department (EDD) and co-sponsored by the University of California and U.S. Department of Labor. A free copy of the 170-page proceedings can be obtained from Special Projects Unit, Labor Market Information Division, MIC 57, Employment Development Department, Box 942880, Sacramento, CA 94280-0001 (phone 916/424-7310).

Hired Hands in California's Farm Fields, Giannini Foundation Special Report, June 1991. Essays by Varden Fuller on California farm labor history and policy, although most have been published elsewhere, are collected for the first time in a 194-page publication by the Agricultural Issues Center, University of California, Davis. Part One presents a condensed version of Professor Fuller's 1939 Ph.D. dissertation, "The Supply of Agricultural Labor as a Factor in the Evolution of Farm Organization in California." Part Two includes essays on labor-management relations, 1955–64, and Part Three covers development of a national and state farm labor policy. Copies are available from ANR Publications, University of California, 6701 San Pablo Avenue, Oakland, CA 94608-1239 (phone 510/642-2431).

ADA Guides: EEOC in Washington, D.C., offers a handbook, in binder format, for employers: *A Technical Assistance Manual on the Employment Provisions (Title I) of the Americans with Disabilities Act* (in two volumes, a manual and a resource directory). Employers may obtain a single copy of the manual at no charge by writing: Equal Employment Opportunity Commission (EEOC) Office of Communications, 1801 L Street, N.W., 9th Floor, Washington, D.C. 20507 (phone 1-800-669-EEOC). Other booklets and fact sheets that can be obtained from local or district offices, or from Washington include: *The Americans with Disabilities Act: Questions and Answers*; *The Americans with Disabilities Act: Your Responsibilities as an Employer*; *The Americans with Disabilities Act: Your Employment Rights as an Individual with a Disability*. Local EEOC offices are in Fresno, Oakland, San Jose, San Diego, and district offices are: 901 Market Street, Suite 500, San Francisco, CA 94103 (phone 415/744-6500) or 3660 Wilshire Blvd., 5th Floor, Los Angeles, CA 90010 (phone 213/251-7178).

Farmers Tax Guide, Publication 225, from the Internal Revenue Service is a useful year-round reference explaining how federal tax laws apply to farming. Topics covered by the free, 95-page booklet include tax changes, deductible expenses, depreciation, casualty and theft losses, employment taxes, the examination and appeals process, and farm accounting. A copy can be ordered by phoning 1-800-TAX-FORM, or through Steve Sutter,

UC Cooperative Extension, 1720 South Maple Avenue, Fresno, CA 93702 (phone 209/488-3285).

Catalog of Selected Safety Materials and Resources to help agricultural employers develop injury and illness prevention programs has been prepared by Steve Sutter and Jenny Rodriguez in English and Spanish. The booklet gives titles, addresses, and phone numbers for several hundred free and low-cost safety resources. Cost is \$2, payable to the County of Fresno, 1720 South Maple Avenue, Fresno, CA 93702 (phone 209/488-3285).

Hired Farmworkers: Health and Well-Being at Risk, reports findings of a study, by the U.S. General Accounting Office, comparing federal health and safety protections for migrant and seasonal farm workers with those for other workers. The study, conducted through interviews with farm worker advocates, migrant health programs, and agricultural employer organizations, was requested by Representative Edward R. Roybal (D – Los Angeles), chair of the House Select Committee on Aging. One free copy of the report, HRD-92-46, may be obtained by phoning GAO at 202/275-6241.

Posters for Translation. *Spanish/English for Landscaping/Agriculture* and *Spanish/English for the Equestrian* contain lists and pronunciation guides for commonly used words. The landscaping/agriculture poster includes plant types, food crops, gardening equipment, hand tools, weather, and planting and cleanup procedures. The equestrian poster includes tack, feeds, common chores and procedures, and parts of the horse. Posters are \$9.95 each, plus shipping and tax, from Translation Posters, P.O. Box 1745, Lucerne Valley, CA 92356 (phone 619/248-9018).

Video Tape. *Dairy Safety – It's No Accident* is a 26-minute video tape for training dairy employees in safety. A segment on cattle handling covers moving cattle, working with dams and calves, artificial insemination, working with bulls, and safety in the milking parlor. A general dairy segment includes hazardous chemicals, feeding livestock, facility safety, and vertical silo and manure pit safety. The tape is available for \$95 plus tax, shipping, and handling from AgAmerica Communications, P.O. Box 370, Carpinteria, CA 93014 (phone 800/678-GROW). □

Beef Packinghouse Union Elected

The United Food and Commercial Workers has been certified to represent 1,760 food production employees at the National Beef Packing Company slaughter and fabrication plant in Liberal, Kansas. The vote was 863 to 671 in favor of the union in an election held by the National Labor Relations Board. Wages, health care, job security, and speed of the production line were major issues in the election. □

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We welcome readers' opinions, news items, and other information. Letters will be published as space permits.

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