

A photograph of a man with a mustache, wearing a blue baseball cap and a white t-shirt, smiling at the camera. He is holding a large red bucket with his left hand, which is wearing a blue glove. The background is a lush green field of crops.

FAIR FOOD PROGRAM

2015 ANNUAL REPORT

WORKER-DRIVEN SOCIAL RESPONSIBILITY

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





Foreword

This is the third annual report by the Fair Food Standards Council on the state of the Fair Food Program. It includes an assessment of the Program's first four years of implementation in the Florida tomato industry as well as the inaugural season of Program expansion to Florida-based growers' tomato operations in Georgia, North and South Carolina, Virginia, Maryland and New Jersey. The reporting period begins on September 1, 2014 and runs through October 14, 2015. This report contains many important updates to last year's report, while also providing key contextual information on the origins, objectives and structure of the Program.



About FFSC

Mission

The mission of the Fair Food Standards Council (FFSC) is to monitor the development of a sustainable agricultural 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. For more information, visit fairfoodstandards.org.

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Executive Director

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, the 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 and a 2015 Purpose Prize from Encore.org.



Fair Food Program Participants

Participating Buyers

Ahold USA
Aramark
Bon Appétit Management Co.
Burger King
Chipotle Mexican Grill

Compass Group
The Fresh Market
McDonald's
Sodexo
Subway

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

Participating Growers

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

Harllee Packing
Hunsader Farms
Palmetto Vegetable Company
South Florida Tomato Growers

Kern Carpenter Farms
Lady Moon Farms
Lipman Produce
Pacific Tomato Growers
Taylor and Fulton Packing
Utopia Farms
Tomatoes of Ruskin
Artesian Farms
Diehl and Lee Farms
Frank Diehl Farms
TOR Farms

West Coast Tomato/McClure Farms

For a weekly updated list of Participating Growers in good standing, please visit
fairfoodstandards.org/participating_growers.





photo: Melanie Stetson Freeman for the Christian Science Monitor

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Executive Summary

For decades, farmworkers in the US have experienced sub-standard wages and working conditions. Today, this reality has changed 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 is the leading example of 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 definition, 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 its launch in 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 \$20 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 enforceable 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 nearly 35,000 workers at 400 face-to-face sessions, and reached 150,000 workers with written and video materials, on their rights within the Program;
- Workers have brought forth over 1,100 complaints under the Code of Conduct, 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 issued nearly 120 comprehensive reports and corrective action plans – based on 12,000 worker interviews during audits ranging from two days to two weeks and integrating operational, management and financial systems reviews – in order to assess and improve Participating Growers' implementation of the Code of Conduct.



In June 2015, after four seasons of successful implementation across the Florida tomato industry, the FFP expanded to several tomato operations in Georgia, North and South Carolina, Virginia, Maryland and New Jersey. During the 2015-2016 growing season, the Program is expanding to crops other than tomatoes for the first time, including several major Florida growers of bell peppers and strawberries.

Since last season's annual report was issued, the FFP has made significant additional strides towards full compliance among Participating Growers. Areas of improvement include:

- Timekeeping;
- Growers' internal complaint procedures;
- The quality and frequency of worker and supervisor training on FFP policies;

- The implementation of health and safety plans, including elimination of unsafe conditions, adequate injury and illness response and enforcement of workers' rights to take breaks and days off to rest;
- The provision of safe and authorized worker transportation; and
- The creation of Health and Safety Committees.

Improvement is still needed on some fronts, including the registration of all workers prior to beginning work in the fields. 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. The workers' efforts are supplemented by independent audits of Participating Growers' operations carried out by FFSC.

The expansion of the Fair Food Program is not only evidence of its scalability, 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 other industries where corporate social responsibility efforts have been either ineffective in bringing about significant human rights progress or absent altogether.



Introduction



photo: Scott Robertson

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.¹ Farmworkers have also faced endemic wage theft, resulting in widespread violation of minimum wage laws.² 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.”³ 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.”⁴

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 agricul-

tural 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.”⁵

“The CIW has effectively eradicated human trafficking in the farms that participate in their Fair Food Program. That is an extraordinary accomplishment...”
– Secretary of State John Kerry.

Since 2011, 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’ rights.

After four years of implementation across the Florida tomato industry, last summer the FFP expanded to cover several Participating Growers’ operations in Georgia, North and South Carolina, Virginia, Maryland and New Jersey. The FFP has also begun to expand into Florida green bell peppers and strawberries. Lastly, the Program has launched a consumer-facing Fair Food label which will help to foster and harness consumer demand for ethical production while creating additional value for growers and retailers alike.

Growing Recognition of the Fair Food Program

The FFP continues to garner institutional recognition from the highest levels. In January, 2015, the Program’s architect, the Coalition of Immokalee Workers (CIW), received a Presidential Medal for Extraordinary Efforts to Combat Human Trafficking in Persons. At the White House ceremony, Secretary of State John Kerry noted, “...The CIW has effectively

eradicated human trafficking in the farms that participate in their Fair Food Program. That is an extraordinary accomplishment, and reminds all of us not just of the work we have to do, but that dedicated individuals, like those with us here today from the Coalition, can strike out against injustice, break down barriers, and make a world of difference.”⁶

Just four months earlier, in September, 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.⁷ 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.” He later added, “You’ve got a success model, and you ought to put the pedal to the metal.”

In addition to these awards, the CIW and the Fair Food Standards Council (FFSC) have been invited to speak about the Program in a number of high-profile forums. The CIW spoke at the White House twice during the past year alone, once during the Presidential Medal ceremony and then again at the White House Summit on Worker Voice in October, 2015. The United Nations Working Group on Business and Human Rights, after visiting Immokalee in 2013, invited CIW to speak about the Fair Food Program as a unique example of effective, worker-driven remedy to human rights abuses at its Annual Forum in Geneva, Switzerland in November, 2015 (the CIW and FFSC presented at the United Nations Annual Forum in 2013). Also notably, in October, 2015, FFSC executive director Judge Laura Safer Espinoza was invited to provide testimony at the Equal Employment Opportunity Commission’s (EEOC) Select Task Force meeting in Los Angeles on best practices to prevent workplace harassment. Finally, as a part of the European Union’s Horizon 2020 Initiative, CIW advised on policy changes to eliminate forced labor in EU supply chains by 2020.

The success of the Fair Food Program has also gained significant attention from national media, including the New York Times, Washington Post, and PBS “Frontline.” In August, 2015, the Peabody Award-winning “CBS News Sunday Morning” broadcast an eight-minute feature on the Program to over six million viewers. The FFP was also featured in the 2014 documentary Food Chains, which premiered internationally at the Berlin Film Festival and in the US at the Tribeca Film Festival prior to its nationwide theatrical re-

lease. Food Chains won the prestigious James Beard Award for documentary film in 2015.

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 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.⁹ 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.

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.⁸

CIW has since expanded and incorporated these principles, including a worker-driven Code of Conduct, into thirteen subsequent Fair Food Agreements with corporate buyers. Today, Participating Buyers, in the order they joined, include: Yum Brands



The Fair Food Program has injected nearly \$20 million into farm payrolls since 2011.

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

(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), Walmart (2014), The Fresh Market (2015) and Ahold USA (2015).

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 \$20 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.¹⁰ With over 30,000 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.¹¹

According to industry estimates, over 30,000 workers are needed to grow and hand-harvest the crop.

Furthermore, as documented in this report, the FFP has begun to expand both into new states and new crops. Operationally, the Fair Food Pro-

gram 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;
- 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 domestic 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 a former New York State Supreme Court Justice, FFSC's fourteen-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.

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.¹²

Walmart became the first Participating Buyer to join the Fair Food Program not 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, which began in June, 2015. The expansion was reinforced by CIW's recent agreement with Ahold USA (Stop & Shop and Giant) and will be included in prospective Fair Food Agreements as well.

Expansion of the FFP presents an exhilarating opportunity to demonstrate that the Program's success can be replicated, first throughout U.S. agriculture, and then internationally. 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."

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 (WSR).

Beyond the confines of the US agricultural industry, the FFP's worker-driven, market-enforced model holds many lessons for 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 dairy workers in Vermont. 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 (WSR) appears to offer a 21st-century solution to the age-old problem of low-wage labor exploitation and abuse in corporate supply chains.

Process



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

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.¹³

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

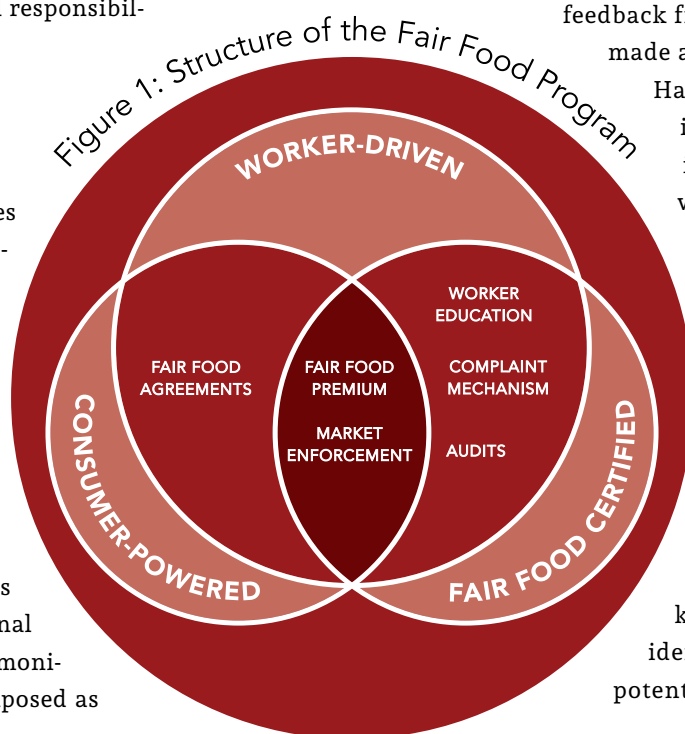
not just inadequate, but in most cases, aimed more at the protection of a brand image than worker rights.¹⁴

1. **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 farmworker staff, informs workers of their rights 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



allowing 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 thousands of trained and motivated monitors on the ground every day.

2. 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 invaluable compilation of information on the conduct of individuals, as well as company practices.

3. 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 – never less than 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 reports for Participating Growers and drafts corrective action plans, which serve as detailed roadmaps to full compliance and as the launch point for the next round of audits. At the request of some growers, FFSC has assisted in drafting model company policies and training company supervisors on Program-related policies.

4. 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

Figure 2: FFSC Complaint Process



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.

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 thirteen 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 Fair

Food Premium, Participating Buyers contribute to the alleviation of the extreme poverty faced by farmworkers for decades. Finally, with its January, 2015, Fair Food Agreement, The Fresh Market became the first Participating Buyer to commit to an annual support payment to the Fair Food Standards Council to help underwrite the costs of monitoring the Fair Food Program. This provision was included in Ahold's Fair Food Agreement and will be incorporated into all prospective Fair Food Agreements, thereby helping to diversify the Program's financial base.

Figure 3: FFSC Audit Process



- **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.

Implementation Timetable

The timeline below summarizes the stages of implementation of 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. 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 comprehensive audit beyond Florida's borders.

- **Season Four (2014-2015)** – FFSC continued to monitor Participating Growers' implementation of corrective action plans through audits and the complaint procedure. In general, FFSC verified increasing levels of compliance at most FFP farms. One farm was successfully reinstated into the Program after suspension, and three farms had their probationary status lifted. No suspensions were issued this season, though four farms were placed on probation for failure to pass their remedial audits. Qualitative evaluation of complaints received through the FFSC hotline also confirmed a broad trend of compliance with the Code of Conduct.

Season Four also marked the formal launch of Program expansion beyond the Florida tomato industry. This entailed carrying out audits and resolving worker complaints at seven major tomato-growing operations outside of Florida during the summer of 2015. Comprehensive reports and corrective action plans have been issued for all eight locations, though the most pressing violations have already been addressed on an expedited basis. In summer 2016, FFSC will verify that any remaining violations from the previous summer have been cured and that no new violations have arisen.

In Season Five, FFSC will begin to audit and resolve complaints for two bell pepper growers and one strawberry grower in Florida. As additional buyers commit to support expansion into peppers and strawberries, it is anticipated that additional growers will elect to join the Program.

Outcomes



"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

Since 2011, the Fair Food Program has brought about many far-reaching reforms across the Florida tomato industry. In the span of just four years:

- CIW has **educated nearly 35,000 workers at 400 face-to-face sessions, and reached 150,000 workers** with written and video materials, on their rights within the Program;
- **Workers have brought forth over 1,100 complaints under the Code of Conduct**, 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 issued nearly 120 comprehensive reports and corrective action plans – based on 12,000 worker interviews** during audits ranging from two days to two weeks and all operational, management and financial systems reviews – in order to assess and improve Participating Growers' implementation of the Code of Conduct; and
- **Participating Buyers have paid nearly \$20 million in Fair Food Premiums** to improve workers' wages.

Beneath the numbers, an even more remarkable story has unfolded.

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 the state's agricultural industry "ground zero for modern slavery."¹⁵ 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."¹⁶ The Fair Food Program is setting the gold standard for prevention of forced labor in high-risk industries.



**"I came here to work, and I'm going to work... But now the fear is gone."
– Julia de la Cruz, August 2014¹⁹**

Additionally, the Fair Food Program has made significant strides in addressing endemic sexual harassment and eliminating sexual violence in the fields.¹⁷ 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. Seasons Three and Four then saw no more reported cases of supervisor violence and sexual assault at Fair Food Program farms. Again, as was the case with forced labor, the FFP has allowed the CIW to move from prosecution to prevention with regard to sexual violence in the fields.

These developments, too, have not gone unnoticed. In 2013, after a year-long investigation of sexual assault in the fields from California to Florida, PBS's *Frontline* declared the FFP to be the single most effective prevention program in the US agricultural industry.¹⁸ Moreover, in October, 2015, FFSC executive director Judge Laura Safer Espinoza was invited to provide testimony at the Equal Employment Opportunity Commission's (EEOC) Select Task Force meet-

ing in Los Angeles on best practices to prevent workplace harassment.

Finally, 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. This new curriculum will solidify the FFP's gains against gender-based violence and sexual harassment at participating farms, and ensure that the FFP remains the leader on this issue in the field of social responsibility in agriculture.

As a result of these advances, 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. Over the last two years, 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.

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.

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	Florida
	<p>During the 2014-2015 season, FFSC conducted comprehensive audits of all Participating Growers.</p> <p>The FFP’s fourth season was again 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 again 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.</p> <p>The impact of support from upper management continued to translate into increased cooperation from field-level supervisors. In only one instance during the 2014-2015 season was a crewleader suspended for intimidating and coaching workers. The incident occurred in retaliation against workers who called the FFSC hotline to complain about verbal abuse, lack of access to bathrooms, and denial of reasonable rest breaks. After meeting with FFSC, the company agreed to suspend the supervisor for six weeks.</p> <p>At the upper management level, FFSC also experienced improvements in this area. In only one instance did a lack of transparency from management contribute to a company being placed on probation.</p>
	Expansion
	<p>During the 2014-2015 season, FFSC conducted comprehensive baseline audits of seven Participating Grower operations in Georgia, North and South Carolina, Virginia, Maryland and New Jersey.</p> <p>Upper management was cooperative at all locations. Auditors encountered isolated incidents of non-cooperation from three field-level supervisors at two farms, resulting in disciplinary corrective action measures.</p>

Best Practice

Full cooperation and transparency with audits, including scheduling, 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

- During an audit, one worker compared field conditions before and after the implementation of the FFP. He noted, "Long ago there were lots of problems. People were suffering, and they could not complain about abuses or they would be fired. But now there is the Fair Food Program, and people's rights are respected." (April 2015)
- During an audit, one worker explained, "I am thankful for the Program that protects us now. Many years ago, we did not have a voice, rights, or the freedom to complain – but today, with the help of CIW and FFSC, now we can work in peace and with great freedom." (November 2014)
- At the end of an audit, the farm manager at a large operation spoke about the company's experience implementing the FFP. He shared that, at first, the Program seemed like a burden, but that today he recognizes the value of the changes it has brought. "I remember flipping through the Code of Conduct and asking: Shade? Time clocks? A Health and Safety Committee? But all of those things have made us a better company and created a better work environment for our employees."

He then shared how a number of the company crewleaders had told him about groups of workers who left the company to try working at a nearby tomato farm outside of the Program, only to quickly return and complain that the other company did not do a good job keeping track of workers' hours or pay, that there were no bathrooms or shade, and that supervisors were verbally abusive. "It makes us feel good to see how our investment has paid off."

He compared the experience of implementing the FFP to when food safety requirements were first introduced in the early 2000s, recalling how the farm used to not have hand-washing stations or accessible bathrooms for workers to use in the fields. "You think about that now and realize how disgusting it was." He then talked about how the Florida tomato industry was one of the first industries to adopt food safety standards and is now considered a leading model. Contrasting the company's farms with conditions in Mexico, he reflected on how the Florida tomato industry is now also helping set the bar for socially responsible labor practices in agriculture. (January 2015)

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.

A subset of this arrangement included “pinhooker” or “vine-ripe” crews that harvest 5-10% of the 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 often 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.

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

Florida

Throughout the 2014-2015 season, at all but one Participating Grower, no instances of unregistered workers were found on regular crews. FFSC confirmed instances of unregistered workers at that one farm, affecting a total of eight workers. The company was placed on probation and must demonstrate full compliance at the beginning of the 2015-2016 season in order to avoid suspension.

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 2013-2014 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.

Nearly 90% of those growers reached full-compliance regarding vine-ripe workers by the end of the 2014-2015 season. This signified a dramatic change for those who had borne the risks of working in this previously unmonitored sector. On FFP farms, they are now covered by Workers Compensation, 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

* 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.”

Direct Hiring, contd.

Assessment of Implementation

payroll procedures, as required in their corrective action plans for the 2015-2016 season.

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. 85% of all growers (up from 55% last season) 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 farm placed on probation) 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.

Expansion

Full compliance with worker registration requirements for both regular and field-pack crews was verified at 100% of expansion sites.

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 male worker in a field-pack crew told an auditor that the Program had many benefits. He stated that he has worked for many years and wanted to note that the registration requirements, “are good because if a worker gets injured, now he can get the appropriate help.” (November 2014)
- Before the Working Group emphasized the requirement to place all vine-ripe crews on company payroll, FFSC faced multiple instances in which Participating Growers denied the use of external vine-ripe crews. One company that had denied use of these crews for three years developed a best practices model within one season. Now a single crewleader oversees all aspects of vine-ripe harvesting, including recruitment and transportation of workers. The crewleader possesses all required licenses and authorizations, workers are transported to and from company property on a fully insured bus, and vine-ripe workers have been fully integrated into the company’s electronic timekeeping system and issued photo IDs. (April 2014)

Illustration of Impact

- FFSC auditors spoke with a field-pack worker who was starting his first day of work, but had not been taken by the crewleader to be registered. Upon reporting the issue to a farm manager, auditors were informed that the crewleader had already been instructed that this worker was not permitted to work before completing the company's hiring and training process. The farm manager immediately utilized the company's discipline policy, giving the crewleader a written disciplinary warning. The worker was then registered and trained before returning to work. (November 2013)



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

Florida

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 last two seasons, 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.

Representing the change in attitude brought about by implementation of Program standards, in two cases Participating Growers took preventive measures to avoid any future risk of violence, as a result of worker complaints.

In one case, a farm manager spoke inappropriately to a worker while instructing him on an assigned task and approached him in a way that was perceived to be intimidating. Although the farm manager denied that this was his intent, the company recognized the impact on the worker, and removed this supervisor from his normal tasks for retraining on how to properly address workers. A disciplinary notice was provided to this supervisor, which he signed before it was placed in his personnel file. The worker reported no further issues and confirmed that both FFSC and the company had been supportive of his complaint.

In a second case, a Participating Grower helped to investigate an incident of threat of violence against workers lodged at a local hotel. In that case, a dumper who had been terminated previously by that Participating Grower tried to intimidate the workers he normally transported from leaving with another “niclero” or sub-contractor. Although this individual was no longer employed by the Participating Grower, the company’s involvement in the investigation helped to ensure that workers felt free to leave and to work with other supervisors. They were provided with an opportunity to transfer to other lodging, with safe transportation provided by the grower. The grower also terminated an individual who was identified as continuing to work with this sub-contractor, to avoid any risk of similar incidents. As a result of this complaint, the dumper was also reported to law enforcement, and barred from employment at Fair Food Program farms.

Assessment of Implementation

Expansion

Full compliance with zero-tolerance provisions was verified at all expansion sites.

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.”²⁰ (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

Florida

Over 95% of all Participating Growers (up from 90% last season) have implemented company-led trainings on the prevention of sexual harassment and discrimination for both workers and 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 2014-2015 season, FFSC received no worker reports of sexual harassment or discrimination at over 70% of all Participating Growers (same as last season). Required corrective actions for next season again include mandatory discipline or suspension for any supervisor found to have engaged in, or neglected to address, any incidents of sexual harassment or discrimination.

Last season, the Fair Food Program was the host site for an innovative curriculum on sexual harassment prevention specifically designed to address abuses suffered by workers in agriculture. This training will continue during the 2015-2016 season.

Sexual Harassment and Discrimination in the Workplace, contd.

Assessment of Implementation

Expansion

Company-led trainings on the prevention of sexual harassment and discrimination for both workers and supervisors have been implemented at all expansion sites.

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

- Noting the dramatic improvement in supervisor behavior after a complaint was resolved by FFSC, one worker stated, "There is a huge difference now since we have started this season, the conditions here are really improving. For example, the supervisors used to get angry, and now they behave respectfully towards us [the workers]. Now we can make a complaint without fear of retaliation, and they [the supervisors] treat us well and as if we are all equals, without preference for one over the other. Now I feel happy to harvest here." (November 2014)
- Noting the environment of disrespect and harassment female workers endured before the FFP, one harvester expressed gratitude that workers were now able to work with respect, secure in the knowledge that the Coalition and FFSC will be visiting farms to ensure that conditions for female farmworkers continue to improve. (April 2015)
- During an audit, one worker embraced an investigator in thanks for assisting in the resolution of a recent harassment case against a co-worker. Speaking to the investigator, she said she felt "more fulfilled and proud than ever" that her case was taken seriously. She added that harassers were no longer able to treat women at the farm in a "disgusting way." (December 2014)
- 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)
- 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



photo: Smriti Keshari

Illustration of Impact

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 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)

- 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

Florida

For the second straight 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.

Expansion

Full compliance with worker-to-worker education requirements was verified at 100% of expansion sites.

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.



CIW staff members lead an education session at a Fair Food Program participating farm in Georgia. photo: CIW.

Illustration of Impact

- A worker called the 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

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

Florida

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 provide workers with training on company policies, which must be in compliance with the Code of Conduct.

Expansion

Full compliance with point-of-hire training requirements was verified at all but one of the expansion sites. The sole instance of non-compliance involved two workers on a local research crew who did not receive full training prior to beginning work in the fields.

Education at the Point of Hire, contd.

Best Practice

Company-led trainings on the prevention of sexual harassment and 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 recently entered the Program, 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)
- A worker at an expansion site told auditors that other workers used to make fun of him for speaking Mixteco Bajo. He felt humiliated and unable to express himself without being ridiculed. However, he stated that this doesn't happen anymore. After the CIW started doing education sessions at farms, he feels that there is now more respect. (August 2015)
- Local crewleaders from an expansion site told auditors that in the past they would allow sexually charged jokes and comments in the field, because they perceived that as "normal," but now through FFP training they understand that such vulgar jokes can be offensive and are no longer tolerated. They have noticed a decline in this behavior and take their responsibility to stop such conduct seriously. (July 2015)

Complaint Procedure

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, and written materials distributed to workers during orientation and training.

All complaints received by FFSC, CIW, and Participating Growers must be promptly shared, investigated and resolved in the transparent and cooperative complaint resolution process required by the Code.

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 field. Over 20 percent of Participating 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 and complaint investigation procedures are reviewed through the FFSC audit process. Corrective action measures put in place following audits have provided a road map for strengthening the capacity of Participating Growers to intake, investigate, and resolve complaints under the Code.



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 Procedure, contd.

Assessment of Implementation

Florida

All Participating Growers continue to either contract with a toll-free complaint line or direct workers to the FFSC hotline. Workers are provided with company and FFSC 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 over 80% of FFP farms, (up from 70% last season), workers have brought forth complaints with no adverse consequences. With the exception of one company that has been placed on probation, all Participating Growers have responded promptly and appropriately to address any instances of retaliation by supervisors brought to their attention through the FFP complaint and/or audit process.

During the 2014-2015 season, all Participating Growers, with the exception of the same company mentioned above as currently on probation, demonstrated cooperation with FFSC complaint investigations and the FFP's complaint resolution process.

Participating Growers continue to improve their internal procedures for receiving, investigating and resolving complaints. In a significant development, workers at over 35% of companies report being comfortable with using Participating Growers' internal complaint mechanisms (up from just 10% last season).

Expansion

Most Participating Growers involved in FFP expansion demonstrated high levels of compliance with the Program's complaint procedures at their out-of state operations, comparable to the performance of these companies in Florida.

A lower level of compliance, including failure to make local crews aware of the FFP hotline and to cooperate fully during the complaint resolution and investigation process, was experienced at the expansion sites of only one Participating Grower. At one additional company, the FFP complaint hotline was not clearly identified on workers' paystubs in Spanish.

In previous seasons, workers told FFSC investigators that, referring to the increased guarantees workers have under the FFP, some field level supervisors, would make statements like, "Wait until we get out of Florida, then things will all be done my way." This season, with the Program's formal expansion, workers expressed great satisfaction with the fact that the same FFP standards apply everywhere, and as a result work environment requirements, time clocks, shade, the visual bucket-filling standard, Health and Safety Committees, the Fair Food

Assessment of Implementation

Program Premium, and the Program's complaint mechanism are now enforced throughout their employers' operations.

Although some Participating Growers had voluntarily resolved a small number of complaints generated by their operations outside Florida during previous seasons, dozens of workers have now exercised their right to make complaints under the FFP's official expansion, without fear of retaliation.

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. The company communicates and cooperates with FFSC during complaint investigation procedures and resolutions, in a prompt and effective manner.

Illustration of Impact

- After learning of the FFSC 24-hour complaint hotline and the ability to address mistreatment for taking a break to rest, a new worker expressed gratitude for the opportunity to make complaints and be treated with dignity: "We are human beings and we shouldn't be mistreated if we get tired, we deserve to have respect. It is very good to know that we can call to get help."
- A couple was fired in violation of a Participating Grower's disciplinary policy, for leaving work early one afternoon to pick up their children, after notifying their crewleader of the need to do so. Although the company initially told FFSC that these workers were not called back due to a decline in the need for labor, examination of payroll records requested by FFSC revealed that in fact, their crew continued to work for more than two weeks after they were terminated. As part of the complaint resolution, these workers were invited to return to work and compensated for the full amount of time that their crew continued to work following their improper termination. The crewleader was warned and retrained on the company's progressive disciplinary policy.
- An H-2A worker called FFSC to report reckless driving by a bus driver, as well as workers being forced to clean their crewleader's buses, off the clock. After this complaint was reported to the company, the crewleader told workers that they should not go to the Coalition with complaints and that he would learn the names of any workers who called in the future. The worker's claims regarding unsafe driving and off the clock, uncompensated work were found to be valid. Both practices were halted, the crewleader and bus driver were disciplined and all compensable hours were recorded for these workers. The worker who made the complaint reported that other H-2A workers who had been afraid to call now believe that they can use the Fair Food Program's complaint process without fear of retaliation.
- Many supervisors also applaud the improvements in work environment and worker treatment that the Program has brought to the fields: "I tell workers all the time that, if they ever have any problems that they don't feel comfortable sharing with me, they should call the number in the Know Your Rights and Responsibilities booklet.... I'm not worried about workers calling because I know I'm doing my best and have nothing to hide."

Timekeeping Systems

Manipulation of the manual records of workers' compensable hours has long been a source of minimum wage violations in U.S. 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 at the point of departure from the grower's property, 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 recalibrated 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

Florida

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

FFSC auditing confirmed that 90% of all growers 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 90% 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 probation for three Participating Growers during the 2014-2015 season.

Expansion

All of the expansion sites had fully implemented Code-required timekeeping systems to generate payroll. Workers' hours are consistently tracked from arrival at farm property until work related tasks are complete at 85% of expansion sites.

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.



A worker clocks in at participating Fair Food Program farm utilizing a Code-required timekeeping system. The Code's visual bucket filling standard can be seen on multi-lingual postings on the wall behind the machine.

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.”²¹

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 (pictured, below left). 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, below right) has meant an additional wage increase of up to 10%.



Assessment of Implementation

Florida

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 last two seasons have seen a marked reduction in demands for cupping, resulting in the near elimination of this once common practice. By the end of the 2014-2015 season, 85% of Participating Growers (up from 70% last season) have fully implemented the visual bucket-filling standard and, at the remaining farms, cupping is an infrequent demand rather than a regular requirement.

Expansion

The bucket-filling standard has been fully implemented at 70% of expansion sites. Some workers at two farms report occasional demands for cupping.

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 interview, a crewleader stated, “Not only on my crew, but on all crews, I hear that workers refuse to overfill their buckets. It cannot happen. The people know it is long gone, that it is history.” (April 2015)
- 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)

Fair Food Premium

Historic change in farmworkers’ traditionally sub-standard pay has been achieved through the payment of nearly \$20 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. 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

Florida

Qualifying Workers continue to receive accurate and timely Fair Food Premium distributions through Participating Growers. Nearly 85% of Participating Growers (up from 75% last season) 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. Instances of non-compliance for the remaining 15% often involve small distributions of FFPP to supervisory employees such as crewleader assistants, bus drivers, fieldwalkers, and dumpers.

Expansion

60% of expansion sites worked successfully with FFSC to ensure that all distributions are made in accordance with the guidelines described above. At two farm locations, FFSC uncovered isolated instances of supervisory employees receiving FFPP. Moreover, at one of these farm locations, auditors found that the



Fair Food Premium, contd.

Assessment of Implementation

Expansion, contd.

company failed to pay out \$2,000 in Fair Food Premium to H-2A workers during one pay period. This finding was brought to the company's attention, and full payment was made during the next pay period.

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.

PACIFIC TOMATO GROWERS LTD 503 10TH ST W PALMETTO FL 34221		Employee: [REDACTED] Id: [REDACTED] SSN: [REDACTED] Crew: PC ARN: [REDACTED] EIN: 59-2155225	Check: 94769 Ck Dt: 05/06/2011 From: 04/24/2011 Thru: 04/30/2011		094769	
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

- After noticing the bump in his most recent paycheck from the Fair Food Premium, one worker explained how the increase in wages is a major help in providing for his family: "The Bonus is really helping us and our families." (November 2014)
- One 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."²² (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

Florida

30% of Participating Growers (up from 25% last season) 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.

Another 55% of Participating Growers (up from 45% last season) have started to implement Health and Safety Committees, and are working toward full compliance with Code requirements. Only 15% of Participating Growers (down from 30% last season) have not yet implemented Health and Safety Committees.

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.

Expansion

Health and Safety Committees that are in full compliance with the Code were implemented at five of the expansion sites. At the other two farms, Committees had been created, but they included participation from qualifying and non-qualifying workers.

Best Practice

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

- When discussing the Health and Safety Committee with auditors, two workers gave examples of the meaningful improvements that the committee has brought about, including the installation of a shaded lunch area on the farm. (July 2015)
- 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. The heat index in Florida is regularly in the upper 90's during the growing season and easily exceeds 100 along the East Coast during summer months, as workers repeatedly bend over, fill a bucket with 32 pounds of tomatoes, haul and throw it up to a dumper on a flatbed truck, and then race back to start the cycle anew. Heat injury and illness is a leading cause of work-related death for farmworkers in the U.S., a rate nearly 20 times greater than for non-farmworkers.²³ The provision of a safe, shaded area and the ability to access it during needed rest breaks is therefore critical to workers' health and wellbeing.

Assessment of Implementation

Florida

All Participating Growers have now purchased and distributed shade structures, and FFSC has observed increases in the quality of shade units at many locations.

However, this season there was regression in compliance with the Code requirements for shade availability and accessibility. Only 30% of all Participating Growers (down from 50% last season) consistently ensure that shade is available and accessible to workers throughout the entire workday. At the remaining farms found to be partially compliant, a point of emphasis for the 2015-2016 season includes improving accessibility and availability of shade structures for all workers, including vine-ripe crews, at all times.

Expansion

While shade structures have been purchased for all expansion sites, FFSC verified that there were problems at each farm with accessibility and availability. Compliance with this requirement will be a point of emphasis for these locations next summer.

Shade in the Fields, contd.

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.



Illustration of Impact

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, could be fired on the spot or 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. Most Participating Growers now require the involvement of upper management in any decision to terminate workers and 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

Florida

The number of Participating Growers that have established and effectively implemented progressive discipline policies increased to over 75% during the 2014-2015 season (up from 65% last season). Of the remaining growers, 100% have created written disciplinary policies and trained supervisors on implementation (up from 50% last season), but the policies have not been consistently practiced.

Assessment of Implementation

Pursuant to CAP Measures from the last two seasons, most supervisory employees at Participating Growers have been informed that supervisors are also subject to escalating discipline for failure to implement FFP standards.

Expansion

Progressive discipline policies have been fully implemented at all expansion sites.

Best Practice

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

- During a phone conversation with investigators, a worker stated that since a crewleader had returned to the farm, following his suspension for attempting to interfere with a complaint investigation, "He has to swallow his anger and knows he can't yell at workers because he will get in trouble. Workers do not have to put their heads down after being yelled at anymore. Workers are beginning to understand that they will be treated with respect." (December 2014)
- 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 an 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)

H-2A

After the 2013-2014 season, the Working Group was asked by a number of Participating Growers whether it is permissible under the FFP to utilize guest workers under the H-2A program, and if so, whether those workers must be on the payroll of the Participating Grower. The Working Group decided that, given the well-known history of abuse in guest worker programs, Participating Growers would be permitted to employ H-2A workers on a trial basis, but those workers must be on the grower’s payroll, not that of any company that has provided the H-2A workers for work on the Participating Grower’s farm.

A fundamental provision of the Fair Food Code of Conduct is that Participating Growers are to abide by the law, and the FFSC audits for compliance with that standard as a baseline. Therefore, Participating Growers utilizing H-2A workers must demonstrate that they are in compliance with all legal requirements of the H-2A program. This means that Participating Growers are responsible for demonstrating compliance with the employment contract requirements of the program, including the Adverse Effect Wage Rates (AEWR) applicable on their farms, the housing, transportation and “3/4 employment” rules, and all other requirements of the law as it applies to this guest worker program, including the prohibition against application fees and recruitment costs.

In addition, all the protections of the Fair Food Program apply to H-2A workers, including worker-to-worker education, point-of-hire training on the FFP, unimpeded access to the complaint resolution process, progressive discipline and protection against retaliation for exercising any of the worker’s rights under the law or the FFP. Beyond this, because loss of employment in the H-2A context leads to deportation of the worker, with regard to H-2A workers any retaliatory firing must be addressed immediately (and in any event before the worker is deported) by the Participating Grower in order to avoid suspension from the FFP, as there can otherwise be no meaningful remedy for a deported worker who is wrongfully fired.

Participating Growers that intend to use H-2A workers must inform FFSC of that fact and of the relevant information concerning the use of those workers in advance. When less than all of a grower’s Qualifying Workers are H-2As workers, it is also necessary for the Participating Grower to provide FFSC with the names and/or other identifying information of the H-2A workers so that FFSC is able to audit for compliance with the legal and employment contract requirements specific to those workers.

Assessment of Implementation

Hiring and Registration

During the 2014-2015 season, four Participating Growers utilized workers under the H-2A program. One grower employed these workers in Florida plus two expansion states. Therefore, H-2A workers were used at a total of six FFP sites during the season.

All sites but one (83%) notified FFSC of their intent to use H-2A workers prior to the workers’ arrival in country. 100% of sites provided FFSC with a complete list of all H-2A worker names and ID numbers.

In the broader H-2A context, illegal recruitment and application fees are one of the most widespread violations that workers face, as informal networks of recruiters frequently charge workers for access to information about employment opportunities or for the jobs themselves. Over the years, these frequently exorbitant fees have been linked to extortion and violence on both sides of the border and even forced labor operations.²⁴ Illegal recruitment practices are of serious concern and will remain a special point of emphasis within the Fair Food Program as long as the H-2A program is utilized by Participating Growers. CIW, FFSC and Participating Growers are currently

Assessment of Implementation

exploring options for a FFP-specific recruitment channel with guarantees that would safeguard workers against these abuses.

During the 2014-2015 season, many workers at three sites (50%) reported paying significant recruitment fees, representing systemic problems with illegal recruitment and application fees inside the company's recruiting network. Based on these findings, 52 workers were reimbursed a total of \$13,386 by Participating Growers, and corrective actions detailed in the Worker Complaints section below were implemented to ensure against similar abuses in the future at those companies.

FFSC also verified that all workers' inbound and outbound transportation and subsistence costs were properly reimbursed or paid for by the company at three sites (50%). At two sites, FFSC identified problems related to the company's reimbursement of inbound and/or outbound transportation and subsistence costs; however, when identified, the companies promptly remedied the issue. At another site, FFSC identified significant problems related to the company's reimbursement of inbound and/or outbound transportation and subsistence costs. Though resolution on reimbursements was not achieved prior to the workers' departure for Mexico, the company has informed FFSC that it will not utilize H-2A workers for the upcoming season, providing a measure of positive resolution.

Wages, Hours and Pay Practices

At 100% of FFP sites, H-2A workers were consistently paid the AEWR during the course of the company's H-2A contract. Domestic workers in corresponding employment were consistently paid the AEWR during the course of H-2A workers' contract at four sites (67%). FFSC identified some problems with one crew of domestic workers not receiving AEWR for corresponding work as legally required at one site; however, these problems did not represent a systemic failure to pay the required rates. FFSC is working with the company to ensure that those workers are retroactively compensated and the problem is corrected prospectively.

FFSC did identify a systemic failure to pay AEWR to domestic workers for corresponding work at one other site. This failure was addressed with the company and corrected prospectively. The corrective action will be closely monitored during the 2015-16 season.

FFSC verified at 100% of sites that all H-2A workers were compensated for at least $\frac{3}{4}$ of the hours guaranteed in their contract, as legally required.

H2-A, contd.

Assessment of Implementation

Housing

FFSC verified full compliance with all housing-related regulations at 100% of H-2A sites, including:

- The company provided free housing without exception to all H-2A workers;
- All housing provided to H-2A workers was inspected by the State Workforce Agency prior to occupancy, and FFSC was provided with all requested documentation showing agency approval; and
- The company provided kitchen facilities or three meals a day to all H-2A workers during the course of their contract.

Best Practice

Full compliance with all legal and FFP requirements outlined above. Growers recruit workers directly and avoid the use of informal recruiting networks.

Illustration of Impact

- After H-2A workers employed by a Participating Grower learned that they would be reimbursed for illegal recruitment fees, workers expressed surprise and gratitude to the FFP. One worker who had paid almost \$1000 in illegal fees told auditors: "I thought that money was lost. Thank you for hearing us and helping us." Another worker who had paid more than \$300 in illegal fees said: "I told you about this only because you asked. I didn't think that anything would come of it. This is all because of the program." (October 2015)
- At a Participating Grower, an H-2A worker asked an auditor if the Fair Food Program applied to tobacco farms in North Carolina. The worker shared his experience working at a tobacco farm on an H-2A contract during the prior year, and said that workers were treated much more harshly there as compared to the Participating Grower due to the presence of the FFP. He was thankful to see FFSC out in the fields ensuring that workers experience a respectful work environment. (August 2015)
- An H-2A worker who reported ongoing issues with a farm supervisor who verbally abused and threatened to send workers back to Mexico as a way of pressuring workers to work harder, told an FFSC auditor that "it didn't matter how much pressure we had to endure, because we knew that the Coalition was coming to make things better." When this group of H-2A workers was preparing to return to Mexico, another H-2A worker spoke to FFSC about the supervisor's behavior following the FFSC audit: "Everything changed. [The supervisor] began to treat us with more respect. He started asking us if we had any problems and if there was anything he could help us with." (August 2015)



Audits

Table 1. Grower Audits

	Pilot 2009- 2011	Season One 2011- 2012	Season Two 2012- 2013 [†]	Season Three 2013- 2014	Season Four 2014-2015			FFP TOTAL
Location	Florida				Florida	Expansion[‡]	Total	
Management Audits	5	31	25	26	27	8	35	122
Payroll and Fair Food Premium Audits[§]	10	29	31	38	32	8	40	148
Operations Audits^{**}	8	26	25	46	36	8	44	149
Worker Interviews	577	1,158	2,810	3,026	3,617	863	4,480	12,051
Crewleader Interviews	28	63	95	114	102	19	121	421
Farm Locations Visited	13	37	45	43	48	8	56	-
Company Housing Locations Visited	7	18	27	18	27	14	41	-
Corrective Action Plans	5	30	29	23	25 ^{††}	8	33	120

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 in Florida, the Fair Food Standards Council assumed responsibility for all monitoring. Since then, FFSC auditors, logging thousands of miles on highways and back roads from Florida to New Jersey, have:

- Issued nearly 120 comprehensive audit reports and corrective action plans, integrating operational, management, financial systems reviews;

- Interviewed 12,000 workers and conducted over 400 crewleader interviews to assess knowledge of Code requirements and compliance at the field level; and
- Visited more than 50 separate farm locations and 40 company-provided housing sites in seven states.

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 per season.

[†] FFSC conducted 3 total voluntary out-of-state audits in Summer 2013, 2014, and 2015.

[‡] Expansion sites are located in Georgia, Maryland, New Jersey, North Carolina, South Carolina and Virginia.

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

^{**} These numbers include re-visits, which are undertaken when areas of non-compliance must be remedied on an expedited basis. FFSC was required to undertake fewer re-visits in Season Four due to Participating Growers' increased levels of compliance.

^{††} Two Participating Growers ceased operating at the end of the 2014-15 season for reasons unrelated to the FFP, thus Corrective Action Plans were not drafted.

Worker Complaints

Table 2. Grower Suspensions and Probations

	Pilot 2009- 2011	Season One 2011- 2012	Season Two 2012- 2013	Season Three 2013- 2014	Season Four 2014-2015		TOTAL
Location	Florida			Florida	Expansion		
Grower Probations	0	0	5	4	4	0	13
Grower Suspensions	1	2	1	3	0	0	

To date, seven growers have been suspended, for varying lengths of time, from the Fair Food Program. Thirteen 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 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.

Table 3. Worker Complaints By Outcome

	Season One 2011- 2012	Season Two 2012- 2013	Season Three 2013- 2014	Season Four 2014-2015			FFP TOTAL
Location	Florida			Florida	Expansion	Total	
Valid, Resolution Reached	39	85	102	189	17	206	432
No Violation of Code of Conduct but Resolution Reached	8	18	56	95	23	118	200
No Violation of Code of Conduct Alleged or Not Valid after Investigation	24	41	48	66	10	76	189
Informational Only	0	7	13	13	6	19	39
Could Not Investigate	8	8	17	16	4	20	53
Under Investigation	0	0	0	1	1	2	2
Participating Grower Previously Withdrew or Suspended from FFP	5	4	1	2	0	2	12
Non-Participating Grower or Other Employer Outside the FFP	21	36	37	-	-	83	177
Total	105	199	274	382	61	526	1104

Table 4. Worker Complaints From Participating Growers by Source

	Season One 2011-2012	Season Two 2012-2013	Season Three 2013-2014	Season Four 2014-2015			FFP TOTAL
Location	Florida			Florida	Expansion	Total	
FFSC	57	96	147	261	40	301	601
CIW	25	63	82	91	14	105	275
Growers	2	4	8	30	7	37	51
Total	84	163	237	382	61	443	927

The Fair Food Program handled 443 complaints this season. Consistent with FFSC's practice over the past three 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 in Florida remain 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. Workers at all expansion sites were also made aware of the availability of the Program's complaint process and began to use it, particularly following CIW education sessions and FFSC audits. Although some Participating Growers had voluntarily resolved a handful of complaints at their out-of-state operations last season, that number increased significantly (from 5 to 57) with official expansion of the FFP.

Similar to trends found last season, of the complaints received by the FFP during the 2014-2015 season:

- 206 (over 46%) were found to be valid under the Code of Conduct;
- 118 (over 25%) were resolved through agreement on mutually beneficial actions although no Code violation was found;
- 76 (17%) were found to be not valid, either because no Code violation was alleged, or because, after investigation, the complaint

was found to be without merit;

- 20 (almost 5%) could not be investigated, based on complainants' stated choice or when contact was lost with complainants;
- 19 calls were made by workers seeking to receive or provide information only; and
- Two additional complaints were received concerning a grower that had previously withdrawn from the Fair Food Program.

61 (almost 15%) came from workers at FFP expansion sites.

Several Participating Growers have adopted complaint investigation techniques recommended by FFSC, which has led to improved fact finding and communication between supervisors and workers. As a result, workers are demonstrating a higher level of willingness to use the internal complaint mechanisms of Participating Growers. Thirty seven worker complaints were reported to FFSC by Participating Growers, as opposed to just 8 such complaints, last season.

Prompt Resolutions

An important measure of the effectiveness of the FFP's complaint process is the speed with which resolutions are achieved. For migrant and seasonal workers, justice delayed is truly justice denied. In the Fair Food Program, almost 80% of all complaints received last season were resolved in under one month, over 60% in less than two weeks, and almost 45% in one week or less.

When the complaints of one Participating Grower

(responsible for the vast majority of the Program's wage claims last season and currently on probation) are removed from this calculation, 85% of all remaining FFP complaints were resolved in under one month and 66% were resolved in under two weeks. That grower's payroll and timekeeping systems are currently undergoing fundamental

restructuring, based upon corrective action measures, and must reach comparable levels of compliance with other Participating Growers during the 2015-2016 season to avoid suspension.

Table 5. Season Four Complaint Resolution Timeframes		
Days	Complaints	Percentage
0-13	275	62%
14-27	73	17%
28+	95	21%
Total	443	100%

Significant Outcomes

Just as significant as the complaint resolutions for this season is what workers at Participating Growers' farms did not report. The best evidence of the effectiveness of the Program's market-driven incentives for employers to police their own operations is to be found in the following results:

- No cases of forced labor at Fair Food Program farms were reported, for the fourth consecutive season.
- No valid cases of sexual harassment with physical contact by supervisors were reported at any FFP farms for the second consecutive season. Given the well-recognized prevalence of sexual assault suffered by agricultural workers, this is a remarkable achievement. Four supervisors were found to have engaged in sexual harassment without physical contact. In three of those four instances, the companies they worked for found that these supervisors' conduct constituted an unacceptable risk. Therefore, although not required by the Code, they were terminated. The fourth supervisor was retrained and provided with disciplinary warnings.
- In one of these sexual harassment cases, the supervisor in question had stalked and harassed at least three female workers. The first worker to call stated that she had been hesitant to report her own complaint, but was moved to act when she saw another female worker crying as a result of similar conduct by this supervisor. Based on several accounts received

from workers during complaint investigation, the supervisor was promptly terminated and suspended from employment at Fair Food Program farms.

- No valid cases of violence by supervisors were reported by workers at any FFP farms, for the second consecutive season. In the only case where a worker reported that a farm manager had approached him in an intimidating way, that supervisor was disciplined, removed from his normal tasks and retrained on how to properly address workers. The worker reported no further issues and affirmed his confidence in the FFP complaint process, as both FFSC and the company had been supportive of his complaint.

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 those practices represent. During the 2014-2015 season, a total of five supervisors were terminated and suspended from employment at all Fair Food Program farms for behavior including discrimination, sexual harassment and retaliatory conduct. One of these terminations resulted from a complaint made directly by workers to a Participating Grower. Three of the five supervisors have served their suspensions, undergone intensive retraining and been rehired, with no further incidents.

Beyond this, significant improvements by Participating Growers in health and safety procedures, from work



stoppages during dangerous conditions to injury and illness response, workers' ability to take rest breaks and days off, provision of safe and authorized transportation and adequate sanitation, resulted in a 50% decline in worker health and safety complaints.

As noted earlier, this season saw the first significant use of H-2A workers at Fair Food Program farms. It is important to highlight that, for the first time, many H-2A workers now have access to an effective complaint mechanism that they can exercise, free of fear of retaliation, in the Fair Food Program. Dozens of H-2A workers have contacted FFSC's complaint line and/or made complaints to FFSC investigators during audits. Matters ranging from wage claims to health and safety issues and abusive conduct by supervisors have all been successfully addressed on behalf of H-2A workers this season.

The Fair Food Program is also making important inroads in an area notorious for abuse in the H-2A program. Illegal recruiting fees and the related extortion of workers and their families are well-known corrupt practices that victimize the most vulnerable workers. Initiated by accounts provided to FFSC during audits, investigations carried out cooperatively with two Participating Growers disclosed widespread illegal fees charged to workers by recruiters or their assistants. At both companies, guarantees against retaliation were put in place, including provision of a direct channel to the company for future employment of workers who came forward to denounce these practices. Additionally, Participating Growers reimbursed workers for the illegal fees they had paid. Recruiters found to have engaged in illegal practices have been barred from further use by the Participating Growers and reported to the authorities. Beyond this, however, the FFP and its Participating Growers are now exploring fundamental

changes in the recruitment process, in the hope of creating a channel for workers that is free of the abuses that have traditionally plagued guest worker programs.

As noted last season, in a substantial number of cases – over 25% of the total – resolutions mutually acceptable to workers and Participating Growers were reached, facilitated by FFSC, although Code violations were

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.

not established (either because the complaint allegation could not be conclusively confirmed, or the subject matter was not directly covered under the Code). 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.

These resolutions have 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 conditions at company housing.

In another positive trend, complaints received by FFSC reflect a growing percentage of routine matters – including facilitation and improvement of procedures for forwarding final paychecks of workers who have left the area – that are easily resolved through the FFP’s collaborative complaint resolution process.

Issues Addressed by Complaints at Participating Growers in Florida

Less than 15% of valid complaints this season concerned failure to provide proper compensation, down from 40% last season. One grower, cited above as now on probation, was responsible for the vast majority of these claims. Therefore, complaints related to wages and hours at

Participating Growers that have been in the Program for four seasons constituted just 3% of all complaints.

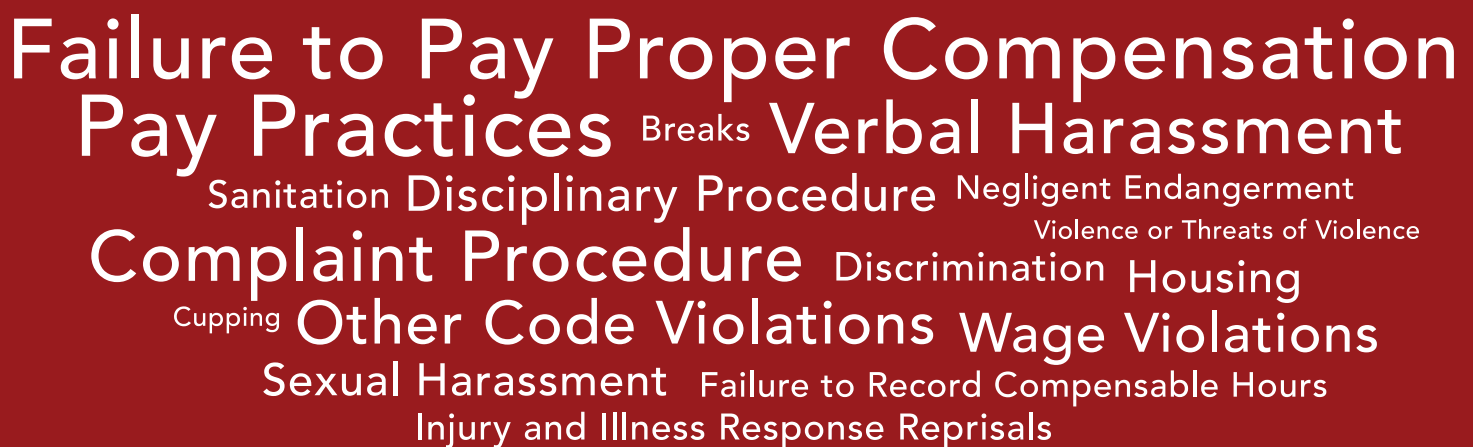
Improvements in the enforcement of FFP standards have also resulted in a significant reduction in complaints related to health and safety, accounting for less than 10% of valid complaints, down from 20% last season. Workers have continued to use their access to an effective complaint mechanism to expose dangerous conditions, inadequate rest breaks, or failure to provide prompt and adequate access to medical treatment, as well as adequate water and bathrooms. Although the FFP received very few 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.

Retaliatory actions by supervisors accounted for only 3% of all valid cases, down from 10% last season. In all cases, workers were reinstated, compensated for any days missed and supervisors were retrained and disciplined by upper management. One supervisor involved in a case of retaliation was terminated as a result of his actions, and another was suspended for a six-week period.

Complaints related to the FFP’s bucket-filling standard, which is now enforced at all Participating Growers, accounted for only 1% of all valid complaints.

Complaints related to the Participating Growers’ complaint procedures accounted for 12% of all valid cases, with half of those matters accounted for by one Participating Grower,

Season Four Code Violations by Type and Frequency



currently on probation. These cases help FFSC to detect any important work still to be done in making the complaint process at all Participating Growers as responsive and effective as possible. Corrective actions are designed to achieve prompt reporting of all complaints received by Participating Growers to FFSC, effective investigations that include interviews with adequate numbers of workers potentially impacted by reported conditions, and prompt feedback to workers.

Issues Addressed by Complaints at Participating Growers at Expansion Sites

Workers at expansion sites brought forth valid complaints related to Code violations in patterns that did not differ greatly from those in Florida. Reflecting the generally high levels of compliance by the Participating Growers involved in expansion, in addition to the work done by those companies in preparation for FFP expansion, non-compliance confirmed through worker complaints was not notably greater outside Florida, in most categories. Small increases were noted in the percentages of complaints at expansion sites concerning

health and safety, discrimination, the Program’s bucket-filling standards, and company provided housing.

Complaints Outside the Fair Food Program

“I think that many women now have the courage to speak up, and not remain silent.”

– Amalia Mejia Diaz, farmworker who filed sexual harassment complaint with FFSC during Season One.

This season, the FFP received 83 complaints from workers at companies that do not participate in the Program (last season, the FFP received 37 such complaints; the growth in this number reflects the growing footprint of the FFP in East Coast agriculture). Several of these calls represented groups of workers reporting conditions ranging from physical beatings and display of weapons in the field by supervisors to sexual assault and direct exposure to pesticide spraying. Some of these workers or their family members had previously worked at Participating Growers 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 6. Fair Food Premium Paid by Participating Buyers					
2010-2011	2011-2012	2012-2013	2013-2014	2014-2015	Total
\$5,175,447.00	\$3,212,904.17	\$2,989,657.48	\$3,546,956.77	\$4,062,572.96	18,987,538.38

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.

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 and 2014-2015 seasons, 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 FFSC and passed through to the correct Participating Growers as a result of FFSC's efforts was reduced to approximately 1% of each season's FFPP totals.

A Note About the Fair Food Premium

Historically, following 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 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.²⁵ For the next three years, FTGE member-growers declined to participate in the Fair Food Program, including the premium pass-through.

In November 2010, CIW and FTGE reached a breakthrough agreement to expand the FFP across the Florida tomato industry, and, 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.



Worker-to-Worker Education Sessions

Table 7. Worker-to-Worker Education Sessions

	Pilot 2009- 2011	Season One 2011- 2012	Season Two 2012- 2013	Season Three 2013- 2014	Season Four 2014-2015			FFP TOTAL
Location	Florida				Florida	Expansion	Total	
Education Sessions	30	73	88	89	99	18	117	397
Number of Growers	6	27	25	28	27	4	–	–
Number of Farm Locations	12	40	42	48	45	7	–	–
Workers Attended	No Data	6,595	7,702	7,803	9,851	1,940	11,791	33,891
Average Session Size	–	90	87	88	100	108	–	–
Know Your Rights and Responsibilities Booklets Distributed	10,500	31,500	33,600	33,000	31,000	6,200	37,200	145,800

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 nearly 35,000 workers at 400 sessions at Participating Growers' farms throughout the state of Florida. The average session size is roughly 100 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 almost 150,000 "Know Your Rights and Responsibilities" booklets to workers at the point of hire.



An FFSC Investigator speaks with a worker in the fields at a Fair Food Program participating farm.

Conclusion



Challenges

The Fair Food Program has made considerable progress since it was first implemented across the Florida tomato industry in 2011, progress both at the level of the concrete changes in the fields documented in this report and at the level of internal Program development. However, much work remains to be done, and the Program will continue to face many challenges in the years ahead.

First, while 14 food industry leaders have joined the FFP at the time of this report, many more corporate buyers remain on the sidelines of what has become the most important farm labor reform movement in over a century for the East Coast's agricultural industry. By refusing to join the Program, these non-participating buyers not only fail to shoulder their rightful share of the costs of safeguarding human rights in their supply chain but in fact undermine the progress that has already been made by exerting a destructive downward pressure on farmworker wages through their traditional volume purchasing practices. As importantly, non-participating buyers also continue to collectively 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 significant segment of corporate buyers will purchase their tomatoes, no questions asked. This poses a meaningful competitive disadvantage to Participating Growers who are making the necessary and significant investments to comply with the Code. Those ethical growers deserve to be rewarded with real and sustained commitment from a growing base of

Participating Buyers. However, as the Fair Food Program continues to build on its unparalleled track record, and 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 U.S. growers in general – is the explosive growth of the export agribusiness sector in Mexico. Since the implementation of the North American Free Trade Agreement (NAFTA) in 1994, Florida growers have faced increasing price pressure from lower cost producers in Mexico, where the cost advantage is driven in large part by lower wages and inferior, often grossly abusive working conditions. The availability of cheaper Mexican imports has played a role in declining Florida tomato production over the last two decades.²⁶

The emergence of the Fair Food Program materially widens the human rights gap between the Florida tomato industry and its competition in Mexico. At the same time that workers, growers and retailers are making unprecedented investments to address poverty and human rights concerns in the Florida tomato industry, the Mexican industry remains mired in gross and largely unfettered human rights abuses, as most recently exposed in a four-part series, "Product of Mexico:

Hardship on Mexico's farms, a bounty for U.S. tables," published by the *Los Angeles Times* in December, 2014. The investigation into tomato, pepper and cucumber mega-farms across nine Mexican states found:

- "Many farm laborers are essentially trapped for months at a time in rat-infested camps,

"The real truth is that we're work animals for the fields."
– Pasqual Garcia, farmworker interviewed for the LA Times "Product of Mexico" series.

often without beds and sometimes without functioning toilets or a reliable water supply.

- Some camp bosses illegally withhold wages to prevent workers from leaving during peak harvest periods.
- Laborers often go deep into debt paying inflated prices for necessities at company stores. Some are reduced to scavenging for food when their credit is cut off. It is common for laborers to head home penniless at the end of a harvest.
- Those who seek to escape their debts and miserable living conditions have to contend with guards, barbed-wire fences and sometimes threats of violence from camp supervisors.
- Major U.S. companies have done little to enforce social responsibility guidelines that call for basic worker protections such as clean housing and fair pay practices.”²⁷

The investigation also documented systemic child labor in Mexico’s fields, as well as “tales of impunity” when the government has attempted to hold farms accountable to baseline labor laws.

In light of the stark and documented contrasts in human rights protections between Mexico and Florida, price should not continue to 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.²⁸ Recent reports indicate that suspension agreement has been effective in raising the price floor of imported Mexican tomatoes, to the benefit of Florida growers.²⁹

Trade policy reform is not a sufficient solution, however, to this ongoing problem. Instead, the retail food industry must also bring its market power to bear. Indeed, in recognition of the power of the Fair Food Program to address and eliminate gross human rights violations, an article in Newsweek published in the wake of the LA Times series argued that the Fair Food Program should be extended to Mexico, noting that the FFP, “...has been a leader in using cooperation, visibility, and accountability to meet the needs of workers, buyers, growers.”³⁰

While such an expansion is the eventual solution, it is not a realistic short-term response to Mexico’s farm labor human rights crisis for a number of reasons. Not the least

of those is the ongoing epidemic of violence and social dysfunction dominating Mexico today, which makes the worker participation so crucial to the FFP’s success virtually impossible at this time. However, until worker-driven human rights protections can become a reality in Mexico, retail food industry leaders have a role to play in rewarding producers who make real investments – and verifiable progress – in human rights reforms, wherever those producers may be. At the time of this report, it would appear that the retail food industry has not responded with sufficient urgency to the deplorable conditions revealed in the Los Angeles Times series and that much more needs to be done to put market support behind serious human rights reforms like those achieved by the Fair Food Program.

Lastly, several new social responsibility schemes that seek to emulate the Fair Food Program – but fail to replicate the key elements that make real enforcement possible – also pose a challenge to the Program’s expansion, both geographically and to new crops. The Fair Food Program works precisely because it obligates those in the Program, both buyers and growers alike, to take measures that verifiably protect the human rights of workers. Approaches that appear similar on the surface in terms of their articulated standards, but lack the fundamental elements for enforcement – worker education, an accessible complaint process free from retaliation, independent oversight, and market enforcement rooted in binding legal agreements with Participating Buyers – threaten to siphon off buyer participation while promising, but ultimately being unable to deliver, similar results.

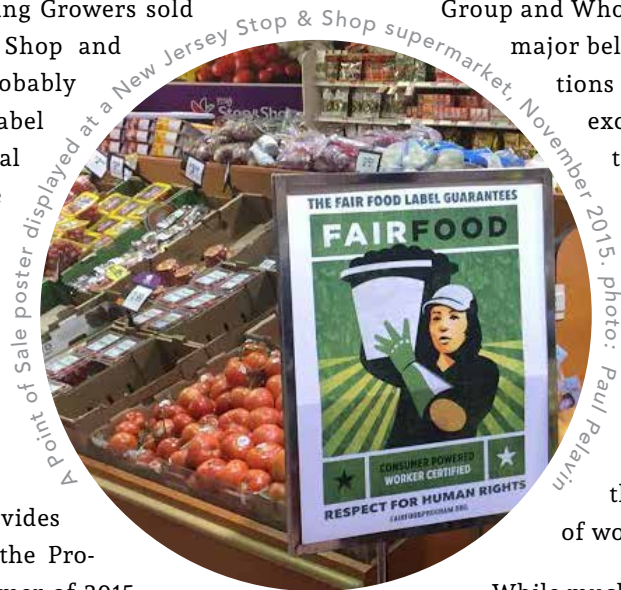
Opportunities

Notable opportunities exist on the horizon for the Fair Food Program. It is widely agreed that consumer demand for ethical products will continue to grow in the 21st century.³¹ When channeled through the Campaign for Fair Food, this energy will drive additional corporate buyers to join the FFP and put their resources and market power behind its reforms. 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 market commitment to fundamental human rights from the retail food industry.

Today, such demand has driven the development of a consumer-facing Fair Food label, which will further differentiate Fair Food products in produce aisles and restaurants across the country. After point-of-sale pilot

displays with Whole Foods Market and Compass Group last season, it is anticipated that the Fair Food label will be affixed to tomatoes from Participating Growers sold at Whole Foods, Ahold (Stop & Shop and Giant), and Walmart stores, probably during the 2015-2016 season. The label will be accompanied by additional point-of-sale information about the Program, including, in the case of Ahold chains, in-store radio announcements and advertisements in the weekly circulars. This expanded retail-level presence marks an important milestone for the Fair Food Program.

The ongoing expansion also provides another exciting opportunity for the Program. As noted earlier, in the summer of 2015, the FFP expanded its coverage in tomatoes. This initially included operations in Georgia, North Carolina, South Carolina, Virginia, Maryland and New Jersey. Last summer, for the first time, workers on these farms received worker-to-worker education from CIW and were covered by FFSC's complaint resolution mechanism. FFSC also conducted baseline compliance audits of these growing operations.



During the 2015-2016 season, the FFP will expand into crops other than tomatoes. With support from Walmart, Compass Group and Whole Foods, the FFP will cover several major bell pepper and strawberry operations in Florida as the first step in this exciting new trajectory. In the future, the demonstrated value of the FFP should lead to its further expansion in additional crops and locales, in response to demand from growers, buyers, workers and consumers alike. As it expands, the FFP will benefit from greater economies of scale and stands to directly improve the lives of hundreds of thousands of workers.

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.

The Need for Expansion

- One worker asked an FFSC auditor, "Is the Fair Food Program going to expand into okra or peppers? Over there it's bad – they do not bring bathrooms often, they do not offer shade, they rarely bring water, and they don't teach people about their rights. Here, we watch the videos that educate us on our rights, anything we need in the field is provided, and people are always treated with respect. I am glad that I can choose to work in the tomato harvest."
- A strawberry worker called the CIW office to contrast her experiences on a strawberry farm and a FFP tomato farm. In strawberries, she reported that she was not allowed to rest, there was no water, and the bathrooms were very far away. Everyday, the supervisors would yell at workers, and many people were fired on the spot for complaining. By contrast, at the FFP farm, "It is beautiful. There is attention paid to how workers are doing. There is water. We have bathrooms and shade, and the best part is that they pay the bonus to workers every week. Anywhere from \$50 or \$60 or \$70 a week. What a difference!"
- During an FFSC audit, a female worker stated that she decided to stay working in tomatoes rather than other crops because of the improved treatment workers receive. "I wish that all places were like this."



Appendix A

CIW Remarks at the White House Forum on Combating Human Trafficking in Supply Chains

Greg Asbed • January 29, 2015 • Washington, D.C.

I would like to close our panel's remarks with a brief thought experiment, to look at the question before us today in a slightly different light. So, imagine for a moment that we had come together not for the White House Forum on Human Trafficking but for the White House Forum on the Fight against Cancer.

We all know someone with cancer. It is a fight that touches all of us, our mothers and fathers, our sons and daughters, our friends and colleagues. Because the stakes are so high, and because the pain is all around us, failure in the fight against cancer is not an option. And because we cannot afford to fail, we do what we do when we take a fight seriously – we invest significant resources in it, we establish strict protocols and standards of evaluation to distinguish effective treatments from those that don't work, and we implement those cures that do work as widely and with as much discipline as possible. Charlatans exist in the fight against cancer, but only where cures have not yet been found. Where an effective approach has been proven through the scientific method to work better than snake oil, the effective approach is accepted and applied by all reasonable people.

Let's return now to the fight against forced labor and for fundamental human rights in corporate supply chains. Sadly, failure in this field has not just been an option, but rather, if we are to be honest with ourselves, it has been the norm, and success an all too rare exception. We failed for years to fight modern-day slavery in Florida's fields, we failed horribly to fight factory fires and building collapses in Bangladesh, and we continue to fail to fight child labor, debt bondage and violence against workers in Mexico's produce fields, just to name a few glaring examples.

But, as you have just heard, we do, finally, have a proven success story not just to celebrate, but to replicate, and it was designed by workers themselves, the very workers whose wages were stolen for generations, whose bodies were violated by their bosses, who were forced, by violence or the threat of violence, to work against their will. For the workers

in Immokalee whose struggle gave birth to the Fair Food Program, the pain – like that of the fight against cancer – was all around them, and failure was never an option, so they constructed a system of education, monitoring, and enforcement so airtight that it was virtually guaranteed to succeed.

And that is perhaps the fundamental lesson that we should all take away from the success of the Fair Food Program: If we are to end modern-day slavery, factory fires, and rape in the fields, then we must start treating the fight for fundamental human rights like we do the fight against cancer — stop accepting failure and start applying real rigor to our social responsibility efforts. That means establishing strict standards of evaluation to distinguish effective practices from those that don't work, investing in the success of those that do, and implementing those proven approaches as widely and with as much discipline as possible. And to do all that effectively, we must acknowledge that workers themselves have to play a leading role in the protection of their own rights, not as a matter of philosophy, but as a functional necessity.

If we do this, then we will not just fight forced labor, we will eliminate it. We have the proof, and out of the very same laboratory dubbed “ground zero for modern-day slavery” by federal prosecutors just a few years ago. With the Fair Food Program, and in partnership with growers like Jon and corporate leaders like Cheryl, we have eliminated, not just addressed, forced labor, sexual assault, and violence against workers in Florida's tomato industry. And when lesser but still vexing violations like wage theft or health and safety problems occur, there is a system in place to address them quickly and effectively before they become more serious. We conceived a theory of change, we tested that theory against experiment, and the results are not just encouraging, but frankly astounding. After four years, it is even safe to say that we have cured the age-old epidemic of farm labor exploitation.

We have traveled the road from prosecution to prevention,

and we can tell you that prevention – a world without victims – is infinitely preferable, for all of us, workers, growers, and buyers alike.

But we should not fool ourselves. If we do this, if we undertake to implement worker-driven social responsibility widely and effectively, it will not be fast, and it will not be free. It will take time and resources. But we have failed, collectively failed, to combat modern-day slavery and other gross human rights violations for generations already, all the while throwing away money in salaries and consulting fees fighting the public relations crises caused by the unrelenting

human rights violations. The failure of the traditional CSR approach has many, many externalities, the value of which, when accounted for accurately, would easily fund the implementation of the WSR approach.

So we have time, and we have money, to lead this fight, and if we direct those precious resources toward their place of highest return – toward support of the proven WSR model and the verifiable protection of human rights and not the support of the failed CSR model and the management of public relations crises – then we can, together, wipe the cancer of forced labor from the face of the earth in our lifetimes.

Appendix B

FFSC Testimony to the EEOC Select Task Force Meeting on Promising Practices to Prevent Workplace Harassment

Judge Laura Safer Espinoza • October 22, 2015 • Los Angeles

An estimated 560,000 women work on U.S. farms. Although the exact scope of sexual violence and harassment against agricultural workers is impossible to pinpoint, a recent (2013) investigation by the Center for Investigative Reporting at UC Berkeley, aired on PBS Frontline, confirmed pervasive and persistent abuse of women working in the fields. Human Rights Watch reports cite a 2010 survey of farmworker women in California's Central Valley which found that 80 percent had experienced sexual harassment.³² Similar results were found in studies by the Southern Poverty Law Center.³³

As an EEOC regional attorney told investigators, "Sexual violence doesn't happen unless there's an imbalance of power. And in the agricultural industry, the imbalance of power between perpetrator, company and the worker is probably at its greatest."

Investigators for the Frontline program, entitled "Rape in the Fields," interviewed very brave women who came forward across the country to tell their stories. At the end of their trip, however, they encountered a very different set of circumstances. They had arrived in Immokalee, Florida, home of the Fair Food Program (FFP), where the headline was "No Victims in these Fields, and a New Day for Human Rights in Agriculture." In an interview on NPR, the producer stated that the FFP is unique in its "proactive policies, the participation of workers, and the economic incentives placed on anti-harassment policies."

How did this new day come about?

When the founders of the Fair Food Program – the Coalition of Immokalee Workers (CIW) – started organizing in the 1990's, conditions for agricultural workers had not changed significantly since the famous documentary *Harvest of Shame* was filmed there in the 1960's. Violence, including sexual assault, massive wage theft, stagnant wages, health and safety violations, sexual harassment and discrimination were all part of daily experience for farmworkers.

Beyond this, at the far end of a spectrum of degraded conditions, were cases of forced labor, often involving sexual harassment

and violence. Coalition members pioneered a worker-centered approach to slavery investigations and prosecutions, helping to free over 1200 workers in multiple states. Their efforts, for which they were recently awarded a Presidential Medal, were key in kindling the anti-trafficking movement in the U.S.

CIW's goal was not to keep going to court, however, but rather to eliminate the conditions that allowed these abuses to flourish. Organizing through traditional methods of work stoppages and strikes brought very little success. The growers themselves were experiencing tremendous downward pressure on prices from large corporate buyers, and farmworkers were excluded from collective bargaining rights by national legislation. A new strategy was needed.

The Campaign for Fair Food was born when workers realized that they would have to go to the top of the supply chain for solutions. The Campaign, supported by consumers, harnesses the power of the market as a force for good and is based on very simple principles: Participating Buyers (retail food companies) are asked to pay a penny more a pound for their produce, and to buy their tomatoes only from growers who implement a human rights based Code of Conduct with zero tolerance provisions for forced labor, child labor, and violence, including sexual assault and display of weapons. To date 14 major buyers, ranging from McDonalds and Subway to Whole Foods and Walmart have signed FFP agreements. At the end of 2010, growers representing over 90 percent of the Florida tomato industry joined the Program through agreements in which they commit to pass along the "penny per pound" to workers and to implement the Program's Code of Conduct on their farms.

This market-driven model has - in four short years of implementation - brought an end to impunity for sexual harassment and sexual violence. There have been no cases of sexual violence or sexual harassment with physical contact reported at Fair Food Program farms over the last two years. Cases of discrimination, whether based on national origin, gender or sexual preference have also been dealt with promptly and effectively through the

Program's complaint mechanism, without retaliation against complainants.

How is this accomplished?

1. The Code of Conduct that growers agree to implement is not generic, but rather informed by workers themselves.

As a result, the Code's requirements often exceed the law. For example, in addition to immediate termination for supervisors who are found to have engaged in sexual harassment with physical contact, there is a bar from employment at other FFP farms for those offenders. A similar bar is in effect for supervisors terminated for discrimination and other Code violations. Not only does the industry now have powerful market incentives to self-police, but the firings of supervisors, as well as the education done for both supervisors and workers at the time of those terminations have sent a powerful preventive message to others.

2. In addition to changing their own behavior, for the first time, supervisors are held accountable for stopping and proactively preventing sexual harassment and discrimination in the environments they supervise. And long before it was legally required, Fair Food Program farms were required to provide light duty accommodation for pregnant workers.

Effective education that is as deep and widespread as possible.

Workers at PGs receive FFP education at the point of hire, with materials created by farmworkers themselves. CIW's worker staff also carries out in-person worker to worker education at all FFP farms. Over 125,000 workers have received FFP education on their rights, including the rights to work free of discrimination and sexual harassment. Supervisors are also educated on their responsibilities for fulfilling the Code and the disciplinary consequences for failure to do so.

3. Monitoring that provides a continuous flow of credible information.

Worker education has created thousands of worker-monitors who actively enforce their own rights in the workplace as well as through their interactions with the Fair Food Standards Council. The Council is a unique monitoring and enforcement organization solely dedicated to this Program. Our audits include interviews with more than 50 percent of workers at any given farm, providing a snapshot of conditions, while our 24/7 complaint line, answered live by the same auditors who know and understand the situations

workers are calling about, provides an ongoing video feed. We have resolved over 1100 complaints, normally within days and almost always within a few weeks.

4. An enforcement mechanism that is prompt and powerful.

Behind the Code stand the prompt and effective market consequences of the Program's Participating Buyers. If Participating Growers do not come into compliance with the Code through agreed upon corrective actions, they simply cannot sell to Participating Buyers.

This structure has resulted in a win-win-win situation.

For growers, benefits include becoming an employer of choice, reducing turnover, preventing risks, improving management systems, and obtaining verification of ethical labor practices, thereby giving them a competitive edge with buyers.

For buyers, the benefits include transparency and elimination of supply chain risks at a time when consumers - with access to instant information - are increasingly demanding to know the conditions under which their products are produced.

For workers, the changes are comprehensive and dramatic. In just four years, forced labor, violence and sexual assault have been eliminated from FFP farms. A prompt and effective complaint mechanism that protects workers against retaliation has been implemented. \$20 million in "penny per pound" premiums have been distributed to workers, and systemic changes have helped to eliminate wage theft. Improvements in health and safety including provision of shade in the fields and worker participation in Health and Safety Committees - where all issues, including discrimination and harassment, can be productively discussed with management - have been made.

The FFP has expanded to six new states and, as of this season, two new crops. Beyond this, workers in other sectors as diverse as dairy workers in Vermont, construction workers in Texas, and those seeking to implement the Bangladesh Fire and Safety Accords are looking to the FFP as a model, and our staff is helping to train and advise them. Worker organizations and governments in several other countries have reached out for advice and training. At the very same time our hotline continues to receive calls from workers who are suffering the worst kinds of abuses outside the Program. In many of those cases, as you may know, CIW continues to work with EEOC in pursuing justice for those workers, until it is possible to one day prevent such abuses altogether.

Appendix C

CIW Remarks at the United National Annual Forum on Business and Human Rights

Greg Asbed • November 18, 2015 • Geneva, Switzerland

I know we have very strict time limits, so I will cut to the chase. In the U.S. real estate market, there is a saying that the value of any property is determined by 3 simple things: Location, location, and location.

I would propose a similar rule for the field of social responsibility, except when it comes to protecting human rights in corporate supply chains, the only 3 things that matter are:

1. Enforcement,
2. Enforcement, and
3. Enforcement.

That is to say, the United Nations Human Rights Council got it right when it established “Remedy” – access by victims to effective remedy, both judicial and, especially, non-judicial — as the third pillar of the UN Guiding Principles on Business and Human Rights. While the first two pillars are important in assigning responsibility for protecting and respecting human rights in corporate supply chains, the third, remedy, puts the focus squarely on the indispensable action of making universal human rights real.

The Fair Food Program, established now in over 90% of Florida’s tomato industry, and in the process of expanding to farms in seven states and two new crops this fall, provides effective remedy for farmworkers through a unique combination of mechanisms, including:

- A worker-drafted code of conduct, including prohibition of the particular abusive practices that workers experience in their workplace that are not covered by existing law and not known by anyone outside the industry;
- Worker-to-worker education on the rights under the code, so that workers can be the informed, frontline monitors of their own rights;
- A 24-hr complaint line for the investigation and resolution of complaints, so that the abuses that

workers identify can be quickly and effectively solved;

- In-depth audits on participating farms, to complement the education and complaint process and uncover abuses workers may not be able to see; and
- Market consequences for human rights violations established in binding legal agreements between the CIW and the brands, whereby companies like Cheryl’s agree to only purchase produce from growers who are in good standing with the Fair Food Program, as determined by the Fair Food Program.

In concert, these mechanisms make enforcement possible in the Fair Food Program, enforcement that is 1) driven by the workers themselves — the very humans whose human rights are in question, and so the stakeholders with the most compelling and abiding interest in seeing those rights protected – and 2) backed by market-based consequences, so that employers know that the failure to comply will result in the swift and certain loss of sales, as is the case with other standards that the market truly cares about, such as food safety standards.

The Fair Food Program also integrates the other pillars of the Guiding Principles. First, though the legally binding agreements with brands, the Program engages corporate buyers in respecting human rights in their supply chains in a concrete and effective way. Those agreements – requiring the brands to purchase only from suppliers in good standing with the Program — provide a meaningful economic incentive to suppliers to value the human rights of their workforce, because their interest in maintaining access to the market of retailers committed to the Fair Food Principles is greater than any incentive for, or even indifference to, the continued exploitation of workers.

And second, the Fair Food Program, though its focus on worker education and participation, has created an army of worker-monitors tens of thousands strong, many of whom have moved on to work in other sectors over the past sever-

al years. Those mobile workers represent an invaluable resource for the monitoring of human rights beyond the four walls of the Program, as they continue to refer complaints from their new places of employment. Because we do not have the same mechanisms for enforcement in those cases, we often share those complaints with the Department of Labor, providing the government with countless new eyes and ears on the ground for the protection of human rights in the broader agricultural industry and allowing our public/private partnership to flourish. By the same token, the success of the FFP on farms where it is in effect serves to free up scarce public resources for enforcement and allows those resources to be directed at sectors where abuses remain common.

I want to stress that none of this is theoretical. We have the proof, out of the very same laboratory dubbed “ground zero for modern-day slavery” in the United States by federal prosecutors just a few short years ago. Since 2011, the Fair Food Program has eliminated, not just addressed, forced labor, sexual assault, and violence against workers in Florida’s tomato industry, eliminating many of the worst actors from the industry in the process. And when lesser but still vexing violations like wage theft or health and safety problems occur, there is a complaint system in place to address them quickly and effectively that has resolved nearly 1,200 complaints in just four seasons. What’s more, nearly \$20 million dollars have been added to farm payrolls in that same period through the Program’s Fair Food Premium, paid by purchasers and passed on to workers by their employers in their weekly paychecks; time clocks and shade are now required in the fields; and worker health and safety committees give workers a much needed voice on the job for communicating and addressing their safety concerns.

The Program has been an unmatched success, making the limits on its expansion, which are due primarily to a lack of resources, the most important ongoing challenge we face today. Many of the brands already partnering with the Program are eager to see it expand to cover more of their supply chains, including Cheryl’s company, Compass Group,

which voluntarily committed earlier this year to support that expansion. But there is a fundamental tension between expansion and the integrity of the Fair Food Program, a tension caused by the Program’s resource-intensive focus on enforcement. In short, real human rights protections can be achieved efficiently, but they cannot be achieved on the cheap. We are working diligently today on developing alternative sources of revenue that will allow the Program to grow and expand its protections to, potentially, millions of workers in new crops, new states and even new countries.

Finally, tensions between the CIW and the corporate purchasers, on the other hand, are an issue only for those buyers who remain outside the program, and that tension is also being increasingly relieved as the Program continues to operate and prove its effectiveness. Many of the companies that have come on board since the Program was implemented in 2011 have done so voluntarily, including Walmart, drawn by the proven ability of the Program to actually eliminate human rights abuses, not just provide a public relations fig leaf when unaddressed abuses inevitably come to light.

So, to wrap up, the Fair Food Program, and the Worker-driven Social Responsibility (or WSR) model of which it is a proven example, are distinguished by their laser focus on enforcement, an approach we affectionately call “enforcement obsessed” inside the Program. That enforcement is driven by the informed participation of workers themselves, whose role as frontline defenders of their own rights ensures wall-to-wall monitoring of the Program’s human rights based code of conduct, and is reinforced by the market power of the participating buyers, whose commitment to only purchase from growers in good standing with the program gives the model its teeth.

In short, the Fair Food Program works in American agriculture and it can work in many of the low-wage industries where now only the workers know the true extent of the human rights abuses they suffer every day. The goal, which is eminently achievable, for us, and the world, is to channel the necessary resources to expand the WSR model without diluting its unique effectiveness.

Appendix D

Fair Food Code of Conduct

Overview

The Fair Food Code has been shaped over time 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 agriculture industry.

Because the Fair Food Code establishes mostly broad principles, the Provisions of the Code that follow have been augmented by more detailed Policies, Examples and Audit Measures that together constitute a Guidance Manual to assist Participating Growers in implementing the Code. The Guidance Manual and its appendices is not at this time a public document.

Introduction

The Policies, Examples and Audit Requirements provided in this Code and Guidance Manual are designed to illustrate, clarify and make operative the Provisions of the Code and Guidance Manual. Additional guidance that has been developed periodically is found in Appendix G.

Like the Code Provisions and the Appendices, the Policies, Examples and Audit Requirements will be reviewed periodically and may be amended as circumstances suggest or require.

Participating Buyers (i.e., potential customers of Participating Growers in the Fair Food Program) will give purchase preference within the Participating Buyer's supply chain to tomatoes that meet its specifications supplied by Participating Growers who can demonstrate socially responsible practices that meet or exceed the standards of the Fair Food Program as set forth here, although a Participating Buyer is not obligated to purchase tomatoes from every Participating Grower that meets or exceeds these standards.

Part I: Employment Practices and Minimum Requirements

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.

3. If paying by the piece, Participating Growers will pay Qualifying Workers for all tomatoes picked, 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.
4. All compensable hours shall be recorded, and Participating Growers will keep accurate hours through a system (time clock punch, card swipe or other method) in which Qualifying Workers control their time cards or other time registration device used by the Participating Grower.

5. Participating Growers will hire Qualifying Workers as employees.
6. Participating Growers will pay wages and benefits directly to Qualifying Workers.
7. Participating Growers, without cost to the Qualifying Workers, will provide Qualifying Workers with protective equipment adequate for its intended purpose, including shade to avoid danger from excessive heat, and provide training on company time on the use of such equipment.
8. Participating Growers will take all necessary steps to avoid endangering the safety of Qualifying Workers including, but not limited to:
 - Permitting individual Qualifying Workers who feel threatened or in danger for their health or safety to cease working (without pay) without consequences or retaliation. Participating Growers will clearly and unequivocally educate Qualifying Workers that in the event a Qualifying Worker feels threatened or in danger for his or her health or safety, he or she has 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 Qualifying Workers present where the potential danger exists. Calling a work stoppage shall be at the discretion of the Participating Grower, but the reasonableness with which the Participating Grower exercises this discretion shall be subject to the Audit and Complaint Processes.
9. Participating Growers will provide a safe and healthy working environment for their Qualifying Workers and, working with the Coalition of Immokalee Workers (CIW), develop and implement a Worker Health and Safety process through which Qualifying Workers are able to offer the Participating Grower their input and perspective on health and safety issues in a regular and structured manner.
10. Participating Growers will develop and implement 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 Participating Grower's property.
11. Participating Growers will develop and implement plans and procedures to insure that Qualifying Workers have sufficient breaks during the day, including adequate time for lunch, without unreasonably compromising the ability to earn wages.
12. Participating Growers will provide opportunity for advancement, including the ability for Qualifying Workers to move from fields to other types of employment with the Participating Grower, including management positions, and will regularly communicate these opportunities to Qualifying Workers.
13. If housing is provided by a Participating Grower, it must be voluntary and comply with the law, and the cost for such housing to the Qualifying Worker cannot reduce the Qualifying Worker's net wages below the minimum wage or be increased other than to reflect increases in the cost or quality of the housing.
14. Participating Growers will verify and provide transparency to their practices, including the pass through of the appropriate FFP Premium payments, by permitting and fully cooperating with third party monitoring by the FFSC.
15. Each Participating Grower will inform Qualifying Workers of their right to use the complaint resolution process operated by the FFSC, and may also establish a complaint resolution process of its own that is acceptable to the FFSC. Participating Growers will not attempt to impede in any way the investigation of a complaint by the FFSC on behalf of a Qualifying Worker, and will not engage in or permit retribution or retaliation of any kind against a Qualifying Worker for seeking to file or having filed a complaint.
16. Participating Growers will implement a system acceptable to the CIW for informing and educating their Qualifying Workers, on the Participating Grower's premises and on company time, of the Qualifying Workers' rights under all applicable laws, codes and regulations, including this Code.

Part II: Violations

A: Types of Violations

Violations shall be divided into three categories – “Article I Violations,” “Article II Violations” and “Article III Violations.” Article I Violations result in automatic suspension of a Participating Grower from the FFP for the designated time period. Article II Violations require specified remedial action by the Participating Grower to avoid suspension from the FFP for the designated time period and/or may result in probation for the Participating Grower. Article III violations do not trigger specified remedial action, but the Corrective Action Plan approved to address Article III violations may include one or more of the remedies associated with Article II violations. Pursuant to the procedures in Appendices B and E, failure to comply with an approved Corrective Action Plan or Complaint Resolution for any category of violation will result in suspension of a Participating Grower from the FFP for the designated time period. A finding of a violation, whether contained in a Corrective Action Plan or a Complaint Resolution, may be appealed pursuant to the procedures set forth in Appendix F.

Article I Violations

1. Use of forced labor of any kind.
2. Systemic use of illegal child labor as defined by any applicable law.

Article II Violations

1. Use or threat of physical violence against Qualifying Worker(s) by or at the direction of supervisor(s) of a Participating Grower, whether or not employed directly by the Participating Grower.
2. Use or display of weapons of any kind (including firearms, knives, bats, etc.) at any point for the explicit or implicit purpose of intimidation.
3. Sexual harassment that involves physical contact, unless the offending person(s) are fired and any other necessary corrective action is taken immediately upon confirmation of the incident.
4. Firing or threatening to fire or otherwise prevent Qualifying Worker(s) from continuing to work

for the Participating Grower for defending or asserting any protections under this Code, or encouraging, assisting or directing others to do so.

5. Systemic failure to pay all wages earned, or to record all compensable hours of Qualifying Workers through a timekeeping system in which workers control their registration device, and/or to use the hours recorded by that system to calculate payroll for Qualifying Workers.
6. Using Qualifying Workers in the field who are not treated as employees and placed on the company payroll of the Participating Grower on whose property they are working within the first pay period of work.
7. Sexual discrimination or harassment not involving physical contact, as established by a finding of the FFSC.
8. Racial, national origin, gender, religious or sexual preference discrimination or harassment, as established by a finding of the FFSC.
9. Failing to cooperate fully and transparently with any monitoring, auditing or complaint resolution procedure established under this Code.
10. Negligent endangerment, which shall include but not be limited to pesticide violations, the failure or negligent use of equipment that harms or threatens Qualifying Worker(s), or lightning exposure in violation of the Code.

Article III Violations

Any violation of the Code that is not an Article I or Article II Violation is an Article III Violation. Without limitation, Article III Violations include:

1. Non-systemic use of illegal child labor as defined by any applicable law.
2. Non-systemic wage violations.
3. Retaliation for defending or asserting any protections under this Code, or encouraging, assisting or directing others to do so, through act(s) other than those prohibited under Article II, Provision 4.
4. Failure to comply with Appendix A.

5. Failure to implement a Health and Safety Committee process in compliance with Appendix C.
6. Failure to afford Qualifying Workers rest breaks, reasonable days off, access to shade structures, adequate drinking water, field toilets or other hygiene facilities required by the Code or any applicable laws or standards.

B: Remedying Violations

Corrective Action Plans

A Participating Grower shall address to the satisfaction of the FFSC every Code violation identified in the course of an audit through an approved Corrective Action Plan and/or Complaint Resolution. *See Appendix E for the procedures governing the Corrective Action Plans.*

Complaint Resolution

A Participating Grower shall address to the satisfaction of the FFSC every complaint brought to its attention by the FFSC or a Qualifying Worker through an approved Complaint Resolution. See Appendix B for the procedures governing Complaint Resolution.

See Appendix F for the rules governing a Participating Grower's right to appeal a Corrective Action Plan or a Complaint Resolution.

Part III: Consequences of Violations

A: Participating Growers – Suspension from the Fair Food Program

All suspensions of a Participating Grower from the FFP pursuant to the rules and procedures set forth in this Code and Guidance Manual shall be implemented pursuant to the following schedule.

1. The first suspension of a Participating Grower shall be for a period of 90 days from the effective date of the suspension or until the Participating Grower can demonstrate to the satisfaction of the FFSC that it has remedied all outstanding violations, whichever occurs later.
2. The second suspension of a Participating Grower shall be for a period of 180 days from

the effective date of the suspension or until the Participating Grower can demonstrate to the satisfaction of the FFSC that it has remedied all outstanding violations, whichever occurs later.

3. The third and any subsequent suspension of a Participating Grower shall be for a period of one calendar year from the effective date of the suspension or until the Participating Grower can demonstrate to the satisfaction of the FFSC that it has remedied all outstanding violations, whichever occurs later.
4. Any suspension of a Participating Grower shall fall between October 15 and the following June 15 unless the Participating Grower grows and sells FFP tomatoes during the other months and the FFSC determines that the best interests of the FFP will be served by permitting some or all of the suspension to be served during those other months. If a 90 day suspension would otherwise run past June 15 of a given year, the FFSC may delay implementation of the suspension until October 15 of that year if it determines that the best interests of the FFP will be served by the delay.

A: Crewleaders or other supervisory personnel of Participating Growers

1. If a crewleader or other supervisory person is found to have committed an Article I Violation, he or she must be fired and shall not be eligible to work for any Participating Grower for a period of five years. In addition, such person shall be required to complete such training as may be deemed appropriate by the FFSC before beginning to work again for any Participating Grower.
2. A second Article I Violation by a crewleader or other supervisory person shall result in a lifetime ban from working for any Participating Grower.
3. If a crewleader or other supervisory person is fired for having committed an Article II or Article III Violation, except as provided in 4, immediately below, he or she shall be suspended and not eligible to work for any Participating Grower for a period of 90 days, with any days falling between June 15th and October 15th of any given year not counting toward the required 90 days of suspension unless the person fired would otherwise have worked for the

Participating Grower on a Fair Food Program farm outside of Florida during that time. In addition, the person shall be required to complete such training as may be deemed appropriate by the FFSC before beginning to work again for any Participating Grower.

4. If a crewleader or other supervisory person has been fired for a violation of Article II, provisions 1, 2 or 3, or for a second violation of any other Article II or Article III provision that occurred within five years of the first violation, the person shall be suspended and not eligible to work for any Participating Grower for the remainder of the season in which he or she is fired and for the entirety of the next season. In addition, he or she shall be required to complete such training as may be deemed appropriate by the FFSC before beginning to work again for any Participating Grower. A second violation of Article II, provisions 1, 2, or 3 by a crewleader or other supervisory person shall be treated in the same manner as a second violation of an Article I provision.
5. If a crewleader or other supervisory person is fired for a third time for having violated an Article II and/or Article III provision, he or she shall be subject to a lifetime ban from working for any Participating Grower.
6. The FFSC shall maintain and make available to Participating Growers a list of crewleaders or other supervisory personnel who are suspended from employment on Fair Food Program farms. Once a person on that list has regained eligibility for employment on Fair Food Program farms, the FFSC shall promptly remove his or her name from the list of suspended personnel.
7. The FFSC will maintain a list of approved vendors qualified to provide the appropriate training that must be completed by any person fired or suspended from the Program for having violated any provision of the Code. Upon proof that the person has completed the required training provided by an approved vendor, the FFSC will inform the Participating Growers that the person is again eligible to work in the Fair Food Program.

Part IV: Joining the Fair Food Program

A: Initial Entry

Growers seeking to enter the Fair Food Program must pass an entry audit, which will be conducted by the FFSC when it is able to do so without negatively impacting its responsibilities with regard to Participating Growers. Passing the entry audit requires the following findings of compliance with the Code and Guidance Manual by the FFSC:

1. The grower has started to implement a system in which all Qualifying Workers are placed on the grower's payroll and receive all benefits to which they are entitled under the law and the Code directly from the grower;
2. The grower has started to implement a timekeeping system in which Qualifying Workers control their registration device and which is used to calculate payroll for workers;
3. The grower's supervisors have been trained on FFP policies, by the company and the FFSC;
4. Qualifying Workers have been provided with an education session by the CIW Education Committee;
5. The grower has purchased or ordered adequate shade structures; and
6. The grower has resolved to the satisfaction of the FFSC all outstanding complaints known to the
7. FFSC or the CIW at the time of the entry audit.

Once having gained entry into the Fair Food Program, a new Participating Grower will be expected to be in full compliance with the Code and Guidance Manual by the beginning of the growing season immediately following the season in which the entry audit is conducted or by the time of the next audit of the Participating Grower conducted by the FFSC following the Participating Grower's entry audit, whichever is later.

B: Reentry

A grower seeking reentry to the Fair Food Program, whether following a suspension or voluntary withdrawal, must prior to resuming its status as a Participating Grower, pass a reentry audit, which will be conducted by the FFSC

when it is able to do so without negatively impacting its responsibilities with regard to Participating Growers. Passing a reentry audit requires that:

1. The company is in full compliance with all requirements of the Code and Guidance Manual;
2. There is an approved Corrective Action Plan in place relating to any unresolved issues pending at the time the company left the FFP;
3. The company has paid any costs associated with any unsuccessful appeal filed by the company before it left the FFP;
4. The company has resolved to the satisfaction of the FFSC all outstanding complaints known to the FFSC or the CIW at the time of the reentry audit; and
5. Depending on the length of time since the company was last in the FFP, and at the sole discretion of the FFSC, Qualifying Workers have been provided with an education session by the CIW Education Committee or such a session has been scheduled with the CIW.

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