

Worker Welfare: Summary report of relevant findings from UL's Good Agricultural Practices Assessment of North Carolina growers under contract to RAI Operating Companies



Introduction

UL's Responsible Sourcing (henceforth UL) was contracted by RAI Services Company (henceforth the Client) to examine the general labor conditions and assess the use of Good Agricultural Practices (GAP) for contract growers in the state of North Carolina. The assessments consisted of a review of methods and procedures related to labor issues and agricultural practices with farm managers. The information was later compiled into a database that allowed the UL team to analyze the findings in greater detail.

This report presents a summary of the findings on labor conditions observed during the 2011 and 2012 assessments as they relate to worker protection and farm safety, worker housing, employment of minors, and treatment of workers. The assessments also evaluated growers' implementation (crop protection, agents and positive environmental management, integrated pest Management, and traceability and contract compliance), but these findings are excluded for the purpose of this summary report.

The methodology of the assessments included a triangulation of the data collected through employee and management interviews, document reviews, and walkthroughs of the farms to identify gaps and non-compliances, as well as best practices. The interviews with workers were conducted in private and their answers were kept confidential (see Appendix). The UL team conducted the assessments between September 2011 and September 2012. A total of 408 growers were assessed in various distribution centers (DCs) and a total of 922 workers—about 22% of the workforce—was interviewed as part of the project.¹

Table 1. Overview of Assessments 2011-2012

| Issue / Year | Total |
|--|-------|
| Total # of growers assessed | 408 |
| Total # of workers interviewed | 922 |
| Percentage of workforce interviewed | 22% |
| Average number of full-time workers (family and non-family) per grower | 4 |
| Average number of seasonal workers (H2A and non-H2A) per grower | 11 |
| Total number of average workers (full-time and seasonal) per grower | 15 |

¹ In order to streamline the presentation of the report, the methodology and tools for the assessments were included in the Appendix. The Client has agreed to take the following steps before any external distribution of the report: a) the methodological appendix will always be included in the public version; and b) UL must approve the final public version of the report prior to its release.



Worker Protection and Farm Safety

Overall, the assessments found that most growers maintain their facilities and equipment in good working conditions. UL auditors reported that 95% of growers provide a safe environment for tobacco workers and nearly 70% of growers had established and documented a program to ensure safe working conditions for all employees.

Seventy-three percent (73%) of growers provided documented health and safety trainings to workers. UL auditors reported that the training provided to H2A workers is importantly different than the training provided to non-H2A workers. Most growers relied on the training to H2A workers provided by the North Carolina Growers Association (NCGA) that consists of watching a video only, not providing to this group of workers the more comprehensive training that non-H2A workers may receive. More comprehensive trainings may include extended and/or hands-on guidance on the GAP manual, farm safety and equipment hazards, the use of personal protective equipment, and worker protections standards, among others.

Regarding the use of Personal Protective Equipment (PPE), UL auditors reported that PPE is available for workers who handle, mix, and/or apply agrochemicals in 90% of the growers visited. The most frequently provided PPEs are safety gloves, safety eyewear, dust masks, and safety footwear. In most cases where employers are not providing PPE, the workers have their own equipment.

Table 2. Work Protection and Farm Safety

| Issue / Year | Total |
|---|-------|
| Percentage of growers providing a safe environment for tobacco workers | 95% |
| Percentage of growers providing documented health and safety trainings to workers | 73% |
| Percentage of growers providing Personal Protective Equipment (PPE) to workers | 90% |

The majority of growers (86%) post and make workers aware of required safety and labor placards and information. Most of these growers use the OSHA 3165 poster, information on Green Tobacco Sickness (GTS), the Fair Labor Standards Act poster, and the Migrant and Seasonal Worker Protection Act poster.

Workforce Housing and Employment of Minors

Of the 257 growers who provide housing for their employees, all growers visited had up-to-date NC DOL housing certificates at the time of the assessment, with the exception of three growers whose certifications had expired.²

Overall, workers are satisfied with the housing conditions provided by growers. However, workers employed at one of the visited growers reported not having an indoor bathroom and complained about the unsanitary conditions of the portable toilets. UL auditors reviewed the NC DOL housing

² The Client informed UL that since the assessments were conducted, the growers in question obtained the updated housing certifications. UL has not independently verified this information.



certificate of this grower and verified that it was in fact in compliance with regulations. Auditors still communicated the complaints to the grower for remediation.³

Among all the growers assessed, there were three instances in which non-family minors were working on the farm. The minors were not migrant laborers. For these cases, UL auditors reviewed the procedures followed by the grower to hire these minors and verified that all procedures were in compliance with the minimum age regulations with respect to two of the minors. In the third case, the grower lacked written parental consent to employ a friend of his grandson. Since the time the case was observed, management at the farm in question obtained the appropriate parental permission and UL verified that the letter indeed provided parental consent for the minor to work at the farm. Therefore, all non-family minors were employed in compliance with youth employment laws.

Table 3. Workforce Housing and Employment of Minors

| Issue | Total |
|--|---------------------------|
| Percentage of growers providing housing for employees | 60% |
| Percentage of growers that provide housing and have update NC DOL housing certifications | 99% |
| Percentage of growers employing non-family minors | 1% (3 cases) ⁴ |

Worker-Employer Relationship

UL auditors conducted interviews with a total of 922 workers. The majority of interviewed workers had worked for the same grower in the past. Workers that had previously worked with their current employer reported they had, on average, been working on the same farm for 6 years.

Almost all interviewed workers (99%) reported being paid at or above minimum wage.⁵ In general, workers were satisfied about working with their current employer. On average, workers rate the treatment they receive at the farm as good. In a 4-point scale⁶, where 4 is the best possible answer, interviewed workers rated the way they are treated by their employers as a 3.3 or good. In one case, a worker reported being unhappy with the farm management because of the low number of hours he worked. The reduced work hours appear to have resulted from the grower’s policy against permitting workers to work in the tobacco field when it was raining.

Over 94% of workers reported knowing who to contact if they had a complaint about their treatment at work and all of them reported never having a reason to file a complaint. Most workers interviewed

³ The Client has informed UL that, although this grower was compliant with NC DOL regulations, he agreed to install and has installed indoor toilet facilities. UL has not independently verified this information.

⁴ The three minors and their parents were not migrant workers.

⁵ The remaining 1% corresponds to five workers who initially claimed to be paid below the minimum wage (2011). The Client informed UL that since these assessments were conducted, the Client made visits to the farms in question and verified that these workers’ wages were above the minimum wage. The workers appear to have misunderstood tax withholdings from wages, thus stating that they did not receive the minimum wage. UL did not conduct follow-up on-site assessments to verify this information.

⁶ Scale: 1 for POOR; 2 for FAIR; 3 for GOOD; 4 for VERY GOOD.



felt they were treated fairly and said that, if given a choice to work at their current farm next year, they would return.

Regarding worker documents, four workers (0.4%) reported that their employers keep their personal documents (passport, identification card, or related documents), but workers explained that they themselves requested employers to do so for the security of the documents. Most growers maintained in their files either completed I-9 forms (67% of those that directly hire workers) or USDOL contractor's certificates (the majority of those that obtain workers from labor contractors.)

Table 4. Average Scores for Worker Treatment

| Issue | Total |
|--|--------------|
| Percentage of workers who reported being paid at or above the minimum wage | 99% |
| Average score for workers' rating of their treatment at the farm (scale 1-4) | 3.3 (= good) |
| Percentage of workers that know who to contact if they have a complaint | 94% |
| Percentage of workers ever having a reason to file a complaint | 0% |
| Percentage of workers that consider they are treated fairly and that would return to work at the same farm | 99% |

Recommendations

In order to address and improve the most relevant findings of this summary report, UL recommends that the Client:

- Ensure that growers, the NCGA, or the NC DOL provide all workers with comprehensive health and safety training, as there was an important gap between the health and safety training received by H2A and non-H2A workers (mostly in 2012). Training should focus on machine safety, including tractor, baler, forklift, and harvester handling. Additionally, it is recommended that all growers be provided a safety guide and outline of desired requirements and safety protocol.
- Emphasize the importance of PPE and ensure growers make PPE available to all workers. Although most growers (90%) provided personal protective equipment and among the remaining growers that did not workers had their own PPE, the Client should emphasize the importance of providing PPE to all workers, regardless if workers have their own PPE. It is also recommended that the Client follow up with growers who did not have PPE at the time of the assessment to ensure that PPE is now available.
- Although there was only one case of a non-family minor working at a farm without the proper parental consent, it is important to remind growers that they must obtain proper documentation and permission to employ non-family workers under the age of 18.



Appendix: Assessment Methodology

The assessment aimed at communicating learnings to growers and facilitating improvements in GAP compliance amongst them. Auditors reviewed methods and procedures with contractors and farm managers, and were particularly sensitive in cases where this was the first GAP assessment experience for the growers.

All assessments began with an opening meeting between the auditors and the grower's management. The goal of this meeting was to introduce the auditor, review the scope and objectives of the assessment, and provide a summary of the methods and procedures to be used during the audit. This initial meeting also aimed at confirming that the resources and facilities needed by the auditor were available. UL auditors also presented the grower with the letter from the Client and an authorization letter showing that UL was acting on behalf of the Client.

After the opening meeting, the assessment proceeded with the documentation and record review which included but was not limited to hiring and recruitment policies and practices, occupational health and safety policies and procedures, chemicals list, among others. These documents were not available in all cases. UL auditors assessed working conditions by conducting a walk-through of the field and by visiting any other production locations or areas that employees have access to, such as eating or rest areas, housing, and restrooms.

During this walk-through process, auditors also interviewed the grower's employees when possible. A sample of employees was selected for interviews from different areas of the farm and from different labor pools, if workers were separated according to task. Workers were interviewed in private. UL auditors gave workers the option of conducting interviews while the worker was harvesting (or conducting other work related tasks), provided that their safety and welfare were not compromised. The information disclosed in worker interviews is strictly confidential to the extent that the information was shared only in aggregate with facility management. Interviews were conducted in the native language of employees.

At the end of each site assessment, UL auditors reviewed the preliminary findings with management during a closing meeting. Both positive findings and areas of non-conformity were reviewed, as well as recommendations for improvement.

UL auditors used the "2012 Domestic Tobacco Third-Party Audit Form" to conduct the assessments. The audit form was developed based on Good Agricultural Practices, national and local labor laws and regulations, occupational health and safety standards, and any other regulations relevant to the agriculture industry in the United States. The information was later compiled into a database that allowed the UL team to analyze the findings in greater detail.