

## **Governor's Council on Migrant Labor Minutes**

Wednesday, January 19, 2022

10:00 AM – 12:00 PM/Noon

Via MS Teams

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Call to order: 10:04 AM CST

Roll Call

### **MEMBERS PRESENT:**

Lupe Martinez, John Bauknecht, Erica Sweitzer-Beckman, Laura Waldvogel, Erica Kunze, Kate Lambert

Jose Martinez, arrived at 10:30 AM

### **MEMBERS ABSENT:**

Guadalupe "Wally" Rendon, Jeanine M. McCain, Senator Jerry Petrowski, Senator Bob Wirsch, Aimee Jo Castleberry

### **DWD STAFF PRESENT:**

Katie Mueller (Section Chief – BJS), Dom Tervalon (Program & Policy Analyst – BJS), and Jennifer Wakerhauser (DWD Chief Legal Counsel), Theresa (Terry) Scheurman (Employment and Training Specialist – BJS), Pedro Albiter (Employment and Training Specialist – BJS), Caitlin Madden, Beatriz Contreras (Employment and Training Specialist – BJS)

### **OTHERS IN ATTENDANCE:**

Mariah Hennen, Gabriel Manzano, Ashley Semington, Priscilla Trevino, Roderick Ritchson, Ben Obergon, BJ Dernbach (Office of Rep. Petryk), Matt Archambo (Office of Senator Bob Wirsch)

## **AGENDA ITEMS**

### **1. Call to Order:**

**Lupe Martinez** called the meeting to order at 10:04 AM CST. The roll was taken By **Katie Mueller** and there were 6 members present, no quorum at this point.

**Lupe** asked **Katie** for about update on Migrant Labor Council Member vacancies. **Katie** reported that there were no Migrant Labor Advocate vacancies at the moment but two vacancies in employers.

**Katie Mueller** mentioned that Andy Janssen going to review what members had not been attending and reach out to them but that had not happened at this time. **Katie** brought up that Wally's Rendon term would be ending on July 1, 2022.

**Lupe** said that due to Wally not attending in a while that he may have no interest due to his term ending soon.

**Lupe** suggested that **Ben Obergon** should fill in for Wally when the opportunity occurs. This is due to **Ben** experience as a former attorney for Legal Action of Wisconsin.

Katie suggested Lupe email her with Ben's information.

#### **5. Migrant Seasonal Farmworker Updates**

**Katie Mueller (Bureau of Job Service Section Chief)** gave the **Migrant and Seasonal Farmworker Status Report** (as of 01/18/2022) to the Council members.

#### **MIGRANT HOUSING APPLICATIONS - 2022**

- 86 Migrant Camp Applications received
  - 2 Migrant Workers Only
  - 76 H2A Visa Workers Only
  - 8 Both

#### **MIGRANT HOUSING CERTIFICATIONS - 2022**

- 36 Camps certified
  - 32 H2A Visa Workers Only
  - 4 Both

#### **MIGRANT LABOR CONTRACTORS/CREW LEADERS**

2021: 46 Contractors and 48 Agents certified  
2022: 3 Contractors and 11 Agents certified

#### **MIGRANT AND SEASONAL FARMWORKER OUTREACH:**

2021: 2,995  
2022: N/A

#### **FOREIGN LABOR CERTIFICATION (Program year: October 1 to September 30)**

Year End Report for Federal Fiscal Year 2020 (October 1, 2019 – September 30, 2020)

H-2A (Temporary Agricultural Workers):

- 109 applications received since October 1, 2019
- 2,022 workers requested; 2,007 workers approved

Year End Federal Fiscal Year 2021(October 1, 2020 – September 30, 2021)

H-2A (Temporary Agricultural Workers):

- 137 applications received
- 2,405 workers requested; 2,317 workers approved

Federal Fiscal Year 2021(October 1, 2021 – September 30, 2022)

H-2A (Temporary Agricultural Workers):

- 56 applications received
- 737 workers requested; 190 workers approved

## **MIGRANT LABOR POPULATION REPORT**

**Katie Mueller** noted that this is an annual report. It hadn't been shared previously presented to the Council but posted online each year. The report was had been shared with members with the meeting materials. She stated that the report surveyed employers to provide Migrant and Seasonal Farmworker and H2A worker numbers from the previous year. Katie stated that the numbers are not statistically significant because it is not required for employer to responds and as migrant workers travel from worksite to worksite, they may be counted more than once by varying employers statewide. She mentioned that the report is available on the DWD MSFW homepage and that reports from the last 5 years are also available.

**Lupe Martinez** noticed that food processing workers increased while agriculture workers decreased. **Katie Mueller** brought up that overall there was an increase of about 1,000 workers from last year.

## **EMERGENCY RULES UPDATE**

**Katie Mueller** stated that the Department is working to process and promulgate a new Emergency Rule, a new rule needed to create protections for migrant workers from the spread of COVID-19. She stated that Emergency Rule 2109 (EmR2109) expired on 12/13/2021 and currently there is no emergency rule in place to protect against COVID-19. The Department is also working on a permanent rule that would explore protections that cover broader safety measures to include situations like we had with COVID-19. Scope statements for the new permanent and emergency rule were published yesterday, January 18, 2022.

### **Next Steps:**

#### **Emergency Rule:**

- Preliminary hearing on Wednesday, January 26, 2022.
- Friday, January 28, 2022: DWD Secretary will review information from hearing and comments
  - After approval is received, a draft can be developed.

- Draft is then sent to Governor to submit for publication in the Wisconsin State Journal.
- Katie stated that it would be ideal to have March 1<sup>st</sup> effective date. If approved, rule could be extended to the end of November 2022.

**Erica Sweitzer-Beckman** had questions:

1. If the hearing on the 26<sup>th</sup> would be in-person or virtual?
2. Clarity on what the procedure for submitting written comments is?

**Katie Mueller** answered that the hearing would be virtual. **Jennifer Wakerhauser** clarified that written comments can be submitted on the Council's website and/or DWD's website.

**Erica Kunze** wanted clarity on if the focus of the Emergency Rule is on camps or worksites. **Katie Mueller** clarified that the rule only affects the regulatory authority of Wis Admin Code Chapter DWD 301 which doesn't include worksites. Field sanitation does fall within DWD § 301.

Permanent Rule:

- **Katie Mueller** stated that the Permanent Rule had a more flexible timeline to work under.
- 10 day wait period following publication of scope statement for Joint Committee on Review of Administrative Rules (JCRAR) to review and let DWD know if a public hearing is necessary.
- After 10 days if there's no need for a hearing then DWD Secretary can approve statement and work can begin on drafting Permanent Rule.
- If there's a requirement for a hearing the earliest date to hold a hearing would be Thursday, February 10, 2022.
  - Secretary would review comments from hearing for statement approval.
  - Once statement is approved then work can begin on Permanent Rule.
- There's a deadline of July 18, 2024 to submit the Permanent Rule for legislative review.

## BYLAWS CHANGES

**Lupe Martinez** asked **Erica Sweitzer-Beckman** if she had some suggestions for Bylaws changes to committees.

**Erica Sweitzer-Beckman** stated that the Bylaws focus structure that allows for committee to be approved is suggested to be updated so that they can be approved at one meeting instead of waiting until the council meets twice to approve. She mentioned it's an action item that requires a vote. There are only 6 members present so a quorum is not present and cannot vote on the proposed bylaw changes.

**Lupe Martinez** agreed that action and votes are required due to Bylaws needing some clean up language and edits. **Erica Sweitzer-Beckman** noted that after approval that Bylaws changes would streamline the formation of sub committees.

**Lupe Martinez** asked **Katie Mueller** if action on the Bylaws changes can move forward without a quorum. Katie said nothing can take place without a quorum.

#### **AD HOC COMMITTEE ON MIGRANT LABOR UPDATES**

**Erica Sweitzer-Beckman** was willing to provide more background information on the committee. Report and Preliminary draft were shared with group yesterday. **Katie Mueller** shared in meeting.

**Jose Martinez** joined the meeting 10:30 AM CST. The meeting now has a quorum.

**Lupe Martinez** asked about taking action on items that could not be addressed prior to quorum.

- **Lupe Martinez** brought out the motion to approve the meeting agenda. **Laura Waldvogel** motioned to approve. **Jose Martinez** seconded. Motion passes
- Approval of the meeting minutes from the August 26<sup>th</sup>, 2021, meeting was motioned by **Erica Kunze**. Seconded by **Laura Waldvogel**. Motion passes
- Approval of the meeting minutes from October 20<sup>th</sup>, 2021 was motioned by **Jose Martinez**. Seconded by **Kate Lambert**. Motion passes.
- **Erica Sweitzer-Beckman** motioned to amend Article II Section 4 of the bylaws to:

#### Article II Section 4: Committees

The Council may designate ad hoc committees, whose members shall be appointed by the Council Chairperson, with the approval and confirmation of the Council. The Council Chairperson shall designate one of the committee members as chairperson thereof. Committees shall make recommendations to the Council on specific tasks assigned to them.

- Seconded by **Laura Waldvogel**. Motion to amend the bylaws was approved.

#### **AD HOC COMMITTEE CONTINUES**

**Erica Sweitzer-Beckman** brought up the report. **Katie Mueller** reshared it.

**Erica Sweitzer-Beckman** gave thanks and appreciation to those who attended the ad hoc committee meeting. She stated that the committee is working to identify concerns of some migrant workers like economic security and access to unemployment insurance. These were

also concerns among employers regarding workers' access to UI. Work search requirements were also a concern among workers, farmers and employers.

**Erica Kunze** noted that season plays a role in affecting workers participation in completing or not completing work search requirements. She stated that recommendations regarding law changes like eliminating work search requirements for farm workers and having a waiver would be helpful. Suggestion that DWD should work with workers home states to find programs that would assist farm workers in job search compliance.

There was a question regarding issues with geographic location and how it affects work search as well as the lack of opportunities available. One suggestion was to reduce the number of work search requirements.

**Lupe Martinez** suggested giving members time to review document highlighting work search requirement changes. **Erica Sweitzer-Beckman** suggested approving the document be sent to DWD; several members of the council are on the committee and were already able to provide input

**Katie Mueller** recommended approval of recommendations requirement document as whole instead of approving parts or sections of the document.

**Erica Sweitzer-Beckman** reviewed the remainder of the report.

**Lupe Martinez** asked for motion on the report. **Jose Martinez** motioned. Seconded by **Erica Kunze**.

**Erica Kunze** wanted clarification on the signature. **Lupe Martinez** said to send to him for signature, and he'll forward it on to **Katie Mueller**.

**Katie Mueller** recommended adding any interested council members to the Ad Hoc Committee on Migrant Labor now that the bylaws were updated.

**Lupe Martinez** asked if anyone was interested joining the Ad Hoc Committee on Migrant Labor. **Erica Sweitzer-Beckman, John Bauknecht** and **Erica Kunze** are already members. **Laura Waldvogel, Kate Lambert** and **Aimee Jo Castleberry** (not present expressed interest in participating previously).

Council approved adding **Laura Waldvogel, Kate Lambert** and **Aimee Jo Castleberry** to the Ad Hoc Committee on Migrant Labor.

Katie Mueller reminded the council that they still need to approve the Ad Hoc Committee on the Minimum Guarantee. The approval started under the old bylaws so the council still needs to approve it.

Council approved the Ad Hoc Committee on the Minimum Guarantee with members **Erica Sweitzer-Beckman, Kate Lambert and Aimee Jo Castleberry.**

#### **OLD BUSINESS**

**Lupe Martinez** asked for approval of Annual Report. **Kate Lambert** motioned. **Jose Martinez** seconded.

#### **NEW BUSINESS**

**John Bauknecht** said there was legislation introduced that has an impact on unemployment insurance benefits. He requested that DWD provide an analysis at the next meeting.

#### **PUBLIC COMMENTS**

**Lupe Martinez** asked for any public comments.

#### **ANNOUNCEMENTS**

**Andy Janssen's** departure was brought up by **Lupe Martinez.**

**Katie Mueller** mentioned end of terms for Council for **Lupe Martinez, Wally Rendon, Erica Sweitzer-Beckman, Jeanine M. McCain** and **Kate Lambert** on **July 1, 2022.** **Lupe** noted that unless you're asked to step down then you can renew to stay on Council. **Kate Mueller** would provide **Lupe** with term renewal information.

#### **NEXT MEETING**

Next meeting will be held on **Wednesday, April 20<sup>th</sup>, 2022**

**MEETING ADJOURNED AT 11:10 AM CST**