



Tips for Handling Workplace Inspections

- **Before an inspection**
 - Review compliance with workplace laws and regulations. (See “Key Employment Requirements” below.)
 - Educate supervisors on how to respond when enforcers appear at the workplace.
 - Collect documents likely to be inspected into a single location and have them readily available for inspection.
 - Develop and educate employees on your “Visitor Policy.”
 - Designate a point person.
- **Preparing for an ICE inspection**
 - Implement Form I-9 and SSN no-match policies & procedures.
 - Train appropriate employees in your Form I-9 procedures & SSN no-match policies.
 - Periodically perform a Form I-9 self-audit.
 - Use central hiring procedures to avoid mistakes in completing Form I-9 for new employees.
 - Create checks & balances” procedures.
- **During an inspection**
 - Record inspector’s name, agency and check the credentials. Agents should be signed in. If in doubt, call agency’s listed telephone number. (CRLA isn’t a governmental agency with inspection powers.)
- **During an inspection (continued)**
 - Agents should provide a copy of the inspection notice or warrant.
 - Ascertain the purpose of the inspection or search warrant. Limit inspection to stated purpose.
 - Release employees in searched areas; that is, move them to a different area.
 - Accompany agents during inspection. (But agents have the right to interview employees privately.)
 - Request copies of documents seized.
 - Request an inventory of all documents or objects taken.
 - Photograph all areas where they were photographed by agents.
 - Request split samples or samples of any liquid that are taken for evaluation.
 - Request a print out of electronic documents when electronic materials are seized.
- **After an inspection**
 - Request a closing conference.
 - Obtain or copy agents’ notes.
 - Ascertain what violations were observed.
 - Make corrections as soon as possible.

KEY EMPLOYMENT REQUIREMENTS FOR AGRICULTURAL WORK PLACES IN CALIFORNIA (Revised January 2012)

This checklist was created to help agricultural employers prepare for Labor Enforcement Task Force (LETFF) inspections. While covering many laws and regulations governing agricultural employment, this checklist doesn’t cover them all and may include some that do not apply to you. Consult an employment-law attorney or consultant for more details.

Workers' Compensation

- Employer must have a workers' compensation insurance policy or be permissibly self-insured (have proof of coverage readily available to show inspectors)
- Workers' compensation notices (DWC-7 & carrier notice) must be posted and given to employees

Unemployment Insurance/State Disability Insurance/Paid Family Leave

- Employment Development Department registration number
- EDD notice must be posted and given to new employees and discharged employees

Federal Taxes

- Internal Revenue Service employer identification number
- Complete IRS Form W-4 for each employee
- Earned Income Tax Credit - Send EITC Notice with Form W-2 or Form 1099 (California EITC Notice requirement)

Employment Eligibility Verification

- Must verify the eligibility of **every** newly hired employee to work in the United States
- Re-verify eligibility when necessary (e.g., name change, rehire,

impending expiration of work authorization)

- Use CIS Form I-9 (Rev. 08/07/09)N

Child Labor

- Minors below age 12 may neither work in agriculture nor be near moving equipment or unprotected chemicals or water hazards (grower's children excepted)
- Permits to Work and Permits to Employ must be on file for at least 3 years for older minors (grower's children and high school graduates excepted)
- Limits on hours of work must be observed (grower's children excepted, but must attend school when in session)
- Minors below age 18 may not mix or load certain pesticides
- Minors below age 16 may not work in hazardous agricultural occupations (e.g., near moving machinery) (grower's children excepted)
- Minor children notice must be posted
- Property owner who benefits from a minor's employment and who knowingly allows child labor violations to occur is liable for them, even if not the minor's employer

Farm Labor Contractors (FLC)

- Verify FLC is federally registered and, if applicable, authorized

to transport and house employees (photocopy Certificate of Registration recommended)

- Verify FLC is state licensed: (1) See if license looks genuine; (2) Get and keep for 3 years a copy of the license; and (3) Request from Labor Commissioner verification of license's validity
- Keep for at least 3 years a copy of FLC's payroll records for FLC crews supplied to grower
- Grower who is a joint employer of FLC's employees or who uses an unlicensed FLC is liable for FLC's violations
- Recommended: Have FLC direct his workers' compensation carrier to send you a certificate of insurance
- Land management services (such as vineyard & orchard management operators) must obtain state FLC license.
- FLC must disclose to each employee in weekly itemized wage statement the name and address of growers securing the FLC's services.

Deductions

- All wage deductions not mandated by law require employee's written authorization
- Government-mandated deductions do not require employee's written authorization
- May not take a "balloon payment" from final paycheck
- Generally may not deduct for lost or damaged items (e.g., uniforms, tools, equipment)

Housing and Meals Credited Against Minimum Wage

- Employee must authorize in writing
- IWC orders limit credit amounts

Posters and Notices

- Federal
 - Minimum Wage
 - Employee Polygraph Protection Act
 - Migrant & Seasonal Agricultural Worker Protection Act (MSPA) (see below)
 - MSPA Housing
 - Equal Employment Opportunity Is the Law
 - Family and Medical Leave Act
 - Uniformed Services Employment and Reemployment Rights Act
- Cal/OSHA
 - Safety and Health Protection on the Job
 - Form 300A (each 2/1 to 4/30)
 - Industrial Trucks (forklifts)
 - Access to Medical Records
 - Location of MSDSs
 - Tractor Safety
 - Field Sanitation
- Industrial Welfare Commission (IWC)
 - Order 14 (agricultural occupations)
- Other IWC orders as applicable
 - Order 4 (clericals, salespersons)
 - Order 8 (post-harvest handling of commodities not produced by the employer)
 - Order 13 (post-harvest handling of only the employer's own commodities)
- Other California Notices
 - Written notice of wages, etc. given to each new employee
 - Payday Notice
 - Discrimination & Harassment
 - Minor Children Notice
 - Time Off to Vote
 - Whistleblower Protection
 - Prop. 65
 - Workers' Compensation Notice
 - Notice to Employees - Injuries Caused By Work - DWC 7
 - UI-SDI-PFL Notice
 - Pesticide Safety Information Sheets - Field Workers & Handlers
 - Emergency Numbers
 - Pregnancy Disability Leave Act

- California Family Rights Act

Minimum Wage

- In general, all nonexempt employees must be paid at least \$8/hr., no matter whether wages are earned on an hourly, piece-rate, commission or salary basis
- In addition to his piece-rate earnings, an employee must be paid at least the minimum wage for "non-productive" time worked (e.g., travel time, waiting time, training time)
- An employee working a split shift must be paid for 1 hour at the minimum wage in addition to the minimum wage for that day, except where the employee resides at the place of employment

Overtime Premium Pay

- Almost all nonexempt employees—even those paid a salary or by piece rate—must receive overtime premium pay
 - IWC Order 14 - Agricultural Occupations
 - Hours over 10 in a workday and first 8 hours on 7th day of work in a workweek: 1½ times regular pay rate (RPR)
 - Hours over 8 on 7th day of work in a workweek: 2 times RPR
 - IWC Orders 4*, 8* and 13* (and most others)
 - 9th-12th hours in a workday, hours over 40 in a workweek, and first 8 hours on 7th day of work in a workweek: 1½ times RPR
 - Hours over 12 in a workday and over 8 on 7th day of work in a workweek: 2 times RPR
 - Exceptions
 - Employees performing an irrigator's duties for more than ½ of their working time in a workweek)
 - Drivers of certain large trucks (generally, weighing at least 10,000 lbs. with 3 or more axles)
 - Certain part-time agricultural employees (up to 6 hours in a workday and 30 hours in a workweek)
 - **Caution:** An employee who during a workweek processes, packs or otherwise handles after harvest any amount of any commodity not produced by his employer must be paid 1½ times RPR for all hours worked over 40 in that workweek, even if most of the employee's work is agricultural
- * See www.dir.ca.gov/iwc for IWC Order titles

Payment of Wages

- Generally: At least semimonthly
 - Exceptions
 - Boarded & lodged employees: at least monthly
 - FLC employees: at least weekly
- Immediately upon discharge or layoff
- Within 72 hours after voluntary quit
- Notice of regular paydays, time and place posted

Itemized Wage-Payment Statement

- Employee name and the last four digits of social security number or an employee identification number
- Basis on which wages are paid (e.g., "\$8/hr."; "\$.20/vine pruned")
- Total hours worked
- Number of piecework units produced (if applicable)
- Total pay period earnings
- Purpose and amount of any sum withheld
- Net pay
- Employer's name, address and IRS employer ID number
- Inclusive dates of pay period
- FLC must include name and address of each grower who secured FLC's services

Employer Records

- Employer's name and address
- Employee's name, record identifier (if any), permanent address, sex, occupation, social security number and, if under age 19, birth date, and designation as minor if under age 18
- Day and time when workweek starts

- Starting and ending times of each work period (meal periods in which operations stop and mandatory rest periods excluded)
- Number of piecework units produced, if applicable
- Total hours worked each workday, workweek and payroll period
- Date, purpose and amount of any sum withheld from or added to wages
- Net pay
- Total pay period earnings, including value of board, lodging or other compensation
- Total daily or weekly straight-time wages due, including such wages for overtime work, but excluding overtime premiums
- Total overtime compensation for the workweek (exclusive of straight-time wages)
- Regular hourly pay rate for any workweek in which overtime pay is due
- Basis on which wages are paid (e.g., "\$8/hr."; "\$.20/vine pruned")
- Amount and nature of each payment excluded from the regular pay rate
- Pay date and period payment covers
- Keep records for at least 3 years; but it's prudent to keep them for 4 years to defend claims under California's Unfair Competition Law (Business & Professions Code sections 17200-17208)

Reporting-Time Pay

- Employee who reports for work as required but who is not put to work or is given less than ½ of the employee's usual or scheduled day's work must be paid at the employee's regular pay rate for ½ (at least 2 but not more than 4 hours) of the usual or scheduled day's work
- An employee who, as required, reports for work a second time in a workday and is furnished less than 2 hours of work on the second reporting must be paid for 2 hours at the employee's regular pay rate
- **Exceptions:** Reporting-time pay does not apply where work does not start or continue due to: threats to employees or property; civil authorities' recommendation; public-utility failure; an Act of God or other cause beyond employer's control (e.g., rain)

Tools and Equipment

- Employer must provide and maintain required or necessary tools and equipment for employees earning less than twice the minimum wage
- Funds securing return of equipment must be deposited in a joint bank savings account

Meal Periods

- Allow a 30-minute off-duty unpaid meal period after a 5-hour work period
- Employer and employee may agree to waive meal period if a work period of 6 or fewer hours will complete day's work
- Employer and employee may agree to on-duty paid meal period if task requires it
- After 10 hours of work, allow a 2nd meal period, which employer and employee may agree to waive if employee will not work more than 12 hours and 1st meal period was not waived (IWC orders other than Order 14)
- An employee not provided a required meal period must be paid for that workday 1 hour of additional pay at the employee's regular pay rate

Rest Periods

- Allow 10 minutes of paid rest period per 4 hours of work or major fraction thereof, based on total workday hours
- None required if employee works fewer than 3½ hours in a workday
- An employee not provided a required rest period must be paid for that workday 1 hour of additional pay at the

employee's regular pay rate

Transportation of Workers

- Licensing of drivers
- Vehicle safety standards and inspection stickers
- Insurance

Housing

- Inspections and permits under state Employee Housing Act if 5 or more employees are housed
- Comply with federal housing standards for migrant agricultural workers
- Federal migrant agricultural worker housing poster

Field Sanitation in Hand-Labor Operations

- Toilet Facilities
 - Crew with 1-4 employees: 1 toilet, even if a mixed-sex crew
 - Crew with 5 or more employees: 1 toilet per 20 employees of each sex, or fraction thereof
 - Toilet paper in suitable holder
 - Screened
 - Chemical toilet waste water tank must be able to hold at least 40 gallons and must contain effective odor-control and solid-liquefying chemicals
 - Keep service & maintenance records for at least 2 years
- Handwashing Facilities
 - 1 per 20 employees or fraction thereof
 - Water tank must be able to hold at least 15 gallons and be refilled with potable water as necessary
 - Soap and single-use towels provided
 - Sign posted stating: This water is for handwashing only.
- Toilet and Handwashing Facilities
 - Located near each other
 - Within a ¼-mile or 5-minute walk of employees, whichever is shorter; where terrain prevents this, then at the point closest to vehicular access
 - Ventilated and rigidly constructed, with self-closing doors, lockable from inside
 - Inside surfaces must be nonabsorbent, smooth, readily cleanable, and light-colored
 - Clean and sanitary
 - Alternative compliance: May provide transportation to facilities if: (1) employees are performing fieldwork for under 2 hours (including transportation time) or (2) 4 or fewer employees are engaged in hand-labor operations on a given day
- Drinking Water
 - Fresh, pure, suitably cool water always readily available
 - Dispensed by fountain or single-use cups
 - Container must be provided with a faucet, fountain or other device suitable for drawing the water; constructed of materials that maintain water quality; kept covered and protected; refilled as necessary; regularly cleaned
- Good hygiene practices notice

Heat-Illness Prevention for Outdoor Employees

- Drinking Water
 - Have either
 - ▶ One quart of drinking water per hour per employee on hand at a shift's start or
 - ▶ Effective procedures to replenish the supply so each employee can drink one quart per hour
 - Drinking water must be as close to employees as practicable
 - Employees must be encouraged to drink water frequently
- Shade
 - Temperature > 85 °F: Shade must be present for at least 25% of crew's employees so they can sit fully in shade in a normal posture without touching each other
 - Temperature ≤ 85 °F: Timely access to shade must be provided upon employee's request
 - As close as practicable to work areas

- Employees feeling they need to cool down to protect themselves from overheating must be allowed and encouraged to rest in shade for no less than 5 minutes
- By showing it is infeasible or unsafe to have shade continuously present, an employer may use alternative procedures for providing access to shade that provide equivalent protection
- Cal/OSHA enforcement policy: Must provide a soil barrier (e.g., tarp, chair, buckets) where shade is provided by artificial means, except over a lawn
- High-Heat Procedures (when temperature ≥ 95 °F)
 - An employer must implement high-heat procedures, including to the extent practicable
 - ▶ Ensuring effective communication so employees can contact their supervisor when necessary
 - ▶ Observing employees for alertness and signs or symptoms of heat illness
 - ▶ Reminding employees throughout the work shift to drink plenty of water
 - ▶ Closely supervising a new employee for the first 14 days of employment
 - ◆ Not required if the employee when hired indicates he had been doing similar outdoor work for at least 10 of the past 30 days for 4 or more hours per day
- Training
 - Before starting work that should reasonably be anticipated to result in exposure to the risk of heat illness, employees (including supervisors) must be provided with effective training in required topics on ways to avoid heat illness and steps to take if it occurs
 - Before supervising employees performing work that should reasonably be anticipated to result in exposure to the risk of heat illness, a supervisor must be provided with effective training in required topics
- Written Compliance and Emergency Procedures
 - Must be available upon request to employees and Cal/OSHA inspectors

Weeding, Thinning and Hot-Capping

- Employees may not weed, thin or hot-cap in a stooped, kneeling or squatting position using either a short-handled tool (*i.e.*, one with handles less than 48 inches long) or a long-handled tool
- Employees may not hand weed, hand thin or hand hot-cap in a stooped, kneeling or squatting position unless under specified conditions. See Cal/OSHA [General Industry Safety Order §3456](#) for more details.
- Employees engaged in hand weeding, hand thinning or hand hot-capping that is not occasional or intermittent get another 5 minutes on top of the 10-minute rest period they are allowed by law for every 4 hours worked or major fraction thereof (*i.e.*, their rest-break time is 15 minutes instead of 10 minutes)
- Employees engaged in hand weeding, hand thinning or hand hot-capping must be supplied with gloves and kneepads as may be necessary and with training in accordance with existing Injury and Illness Protection Program guidelines

Respiratory Protection - Pesticide Handlers

- Agricultural employers must follow respiratory procedures when pesticide handlers are required to use respirators
 - Identify a physician or other professional licensed health

- care provider (PLHCP) to perform a medical evaluation
- Establish a written respiratory protection program
- Designate a respirator "program administrator" to administer the respiratory protection program
- Provide training on various kinds of personal protective equipment

Other Safety and Health Requirements

- Written Injury and Illness Prevention Program
- Written Hazard Communication Program
- First-aid kit and person trained in its use
- Lockout/Tagout
- Emergency Action Plan
- Fire Prevention Plan
- Access to Medical and Exposure Information
- Personal Protective Equipment
- Respiratory Protection
- Storage of Hazardous Substances
- Driverless Self-Propelled Equipment
- Machine Guarding and Power Take-Off (PTO) Shafts
- Forklifts, Industrial Tow Tractors, and Agricultural Tractors
- Reporting Serious Accidents Within 8 Hours
- Tractor Roll Over Protection (ROP)
- Pressure vessel permits and inspections

Migrant & Seasonal Agricultural Worker Protection Act Disclosure

- Disclose this information in writing to a recruited migrant or seasonal day-haul agricultural worker when the worker is recruited and to a seasonal agricultural worker upon the worker's request when the worker is offered employment:
 - Place of employment, including employer's name and address
 - Wage rates (including piece rates) to be paid
 - Crops and activities the worker may be employed in
 - Period of employment
 - Any transportation, housing and other benefit to be provided, and any cost to be charged for them
 - Workers' compensation and unemployment insurance
 - Existence of any strike or other concerted work stoppage
 - Existence of any arrangement under which the grower or FLC receives a commission or other benefit from sales to workers
 - Workers' compensation carrier and policyholder information
- May use form WH-516 to disclose above information

Sexual-Harassment Training for Supervisors

- Required for employers with 50 or more employees in each of 20 consecutive weeks during the current or prior year
- Current supervisors must have been trained by now
- New supervisors must get 2 hours of training within 6 months after becoming supervisor
- Supervisors must be re-trained every 2 years
- Instructor must have knowledge & expertise in the prevention of harassment, discrimination & retaliation
- Compliance does not insulate employer from harassment liability but helps show employer took reasonable steps to stop harassment
- Failure to comply may result in an order to comply (no fine); lack of training could be used against an employer in a harassment action