

# Hot Topics

November 13, 2008

## Sustainable Ag Expo

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Farm Employers Labor Service

# 2008

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## A Very Hot Year!

- EEEEC Inspections
  - Economic and Employment Enforcement Coalition
  - Replaced TIPS (Targeted Partnership Program)
    - Labor Commissioner
    - Cal/OSHA
    - And other labor agencies

# EEEC Statistics

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EEEC Violation Summary July through September 2008	
Item - Description	Amount
Total EE's #	7377
Notice to Discontinue #	94
Total # of DLSE Citations	21
Total \$ Assements	<b>\$55,500</b>
Workers' Comp Citations #	5
Workers' Comp Penalty Amt\$	<b>\$40,000</b>
Itemize Deductions Citations#	4
Itemize Deductions Penalty Amt.\$	<b>\$6,000</b>
Child Labor Citations #	12
Child Labor Penalty Amt\$	<b>\$9,500</b>
Wages	1
Tools	1
Meals	0
Other types	1
Total (Serious/Willful/Repeat and General)	184
Injury and Illness Program 3203	7
Heat Illness Prevention 3395	42
Drinking Water 3395	5
Toilets 3457	12
Sanitation Hand washing/towels/soap 3457	22
First Aid Kit 3439	3
Operation of Agricultural Equipment 3441	4
Electrical 2300	1
Self-Propelled Vehicles 3441	1
Other (Title 8 Ref)	35

# Labor Commissioner

## Examples of Issues



- Workers' Compensation Insurance
- Cash wage payments
  - Must have itemization of payroll
- Child labor violations
  - Children of employer
  - Under age children in field
- Deductions
  - Must have written authorization
  - Itemized on paycheck stub
- Land Management Services

## Examples of Issues

- Heat-Illness Prevention
  - Shade not readily available
  - No written emergency plan
- Field Sanitation
  - Drinking water immediately available
  - Hand washing
- Injury and Illness Prevention Program (IIPP)
- First aid kits
  - Consulting physician's approval

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## A Very Hot Year

- Immigration Inspections
  - ICE (Immigration & Customs Enforcement)
  - Over 1,000 aliens appended in California
  - Sun Valley Floral Farms suspended 283 employees
  - ICE Targets HR, supervisors and high level management
  - Farm Labor Contractors refuse to provide employees
- Support Immigration Reform through NCAE (National Council of Ag Employers)

# 2008

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## A Very Hot Year

- **DHS Reissues SSA No-Match Letter Rule**
  - Published without “substantive changes”
  - Court’s injunction remains in effect
  - Likely to be reviewed by higher court
- **In light of ICE inspections**
  - Make sure your Form I-9’s are up to date
  - Implement company policy regarding employment records
  - Educate employees regarding company policies
  - Implement “Inspection Procedures”

# Other Labor Issues

- California Supreme Court Grants Review of Brinker
  - Meal & rest periods
    - Must provide
    - Employee option to take
  - Labor Commissioner rescinds instruction memo
  - Regardless – employers should require employees to take meal & rest period

# Other Labor Issues

- New - Updated Labor Posters
  - EEOC
  - FMLA for Military Families – Insert
- ADA Amendments
  - Reverses Supreme Court rulings
  - California employers need not worry
    - FEHA is more restrictive

# Other Labor Issues

- New Form I-9 Must Be Used
  - Look for expiration date
  - Upper right-hand corner - June 30, 2009

OMB No. 1615-0047; Expires 06/30/09  
**Form I-9, Employment  
Eligibility Verification**

# Preparing for ICE And other types of inspections

- Assign a “Point Person”
- Implement Form I-9/No-Match Letter policies & procedures
- Train Employees (Form I-9 & No-Match)
- I-9 “Self Audit”
- Central Hiring
- Checks & Balances
- E-Verify – NO!

# Preparing for an Inspection

- Before an inspection
  - Review compliance with workplace laws and regulations
  - Educate employees how to respond when enforcers appear at the workplace
  - Collect documents likely to be inspected into a single location, have readily available for inspection
  - Develop and education workers to your “Visitor Policy.”
  - Designated a “Point Person.”

# Preparing for an Inspection



- During an Inspection
  - Record inspector's name, agency and check the credentials.
  - Agents should be signed in.
  - If in doubt, call phone number listed in phone book.
  - CRLA isn't a governmental agency with inspection powers
  - 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.

# Preparing for an Inspection



- During an Inspection
  - Release employees in searched areas -- move the employees to a different area.
  - Accompany agents during inspection. (Agents have the right to privately interview workers)
  - Request copies of all documents seized.
  - Request an inventory of all documents or objects taken.
  - Photograph all areas where they were photographed by agents.

# Preparing for an Inspection



- During an Inspection
  - 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.

# Preparing for an Inspection



- Following an Inspection
  - Request a closing conference.
  - Obtain or copy notes of agents.
  - Ascertain what violations were observed.
  - Make corrections as soon as possible.
  - .

*Thank you!*

**FELS<sup>®</sup>**

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**[www.fels.org](http://www.fels.org)**