



ARE YOU READY FOR COMPLIANCE ENFORCEMENT IN 2025?

- Presented by:
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- Formerly DOL Wage and Hour- 30 Years Retired
- H-2A Consultant/Coach
- Impact Ag Labor LLC-owner

Thank you APMA
for recognizing my
efforts educate
employers
on the H-2A
program



Overwhelmed With Regulation Overload

OSHA Safety regs
Field Sanitation
Heat Stress
Workplace violence

Pesticide Regulations
Applicator requirements
Notification Requirements
Food safety requirements

Wage & Hour regulations
H-2A Regulations
Housing & Transportation
Safety, FMLA, FLC
registration requirements

State Regulations that vary
-Overtime, non-productive
time pay, breaks and rest
periods, sick days, FLC
licensing



Filing 790 with the SWA
Filing with NPC-9142
Responding to NODs
U.S worker & foreign
worker recruitment.
Filing I-129 with USCIS

Consulate appts, onboarding,
Disclosure, Inbound- travel
arrangements, Orientation,
Scheduling meals, Social security
Cards, housing to worksite
Transportation,


Securing Housing
Securing Transportation
Securing a Caterer
Updating your FLC cert
To be HA and TA. Secure
Drivers with FLCE DA &
Medical Cert

Even more so with all the H-2A Requirements

Pay, rest and lunch breaks,
Employee discipline, daily
meals, Laundry, housing upkeep
absconders, Injuries,
³/₄ Guarantee, Offboarding,
Outbound and so much
more



WHO MIGHT BE KNOCKING AT YOUR DOOR IN 2025?

- USDOL Wage and Hour
- USCIS Investigations
- PAGA Attorneys 
- State of CA Labor Commissioner
- Cal OSHA
- State of CA ALRB
- SWA Outreach workers
- EDD Tax???
- CRLA/Farmworker Advocacy Groups
- UFW
- ICE/DHS/Border Protection Raids?????



WHO GETS SELECTED TO
BE INVESTIGATED?



Strategic Enforcement

Who are most likely to be investigated?

All H-2A Employers

DOL uses data to target those crops with a higher propensity of having violations

- Hand Harvest Crops
- Piece Rate
- Farm Labor Contractors and Growers who use them
- Those employers who house or transport their agricultural employees



What if DOL
shows up?

Are we ready?



Is this what you imagine happens when
DOL shows up in your fields?





HOW ABOUT THIS?

THE BEST
OFFENSE IS A
GOOD DEFENSE



SUPPORT YOUR COMPLIANCE LEVELS

WHAT CAN YOU DO?



Learn all H-2A & MSPA requirements



Have sufficient support/admin staff



Train first-line supervisors



Monitor your compliance with housing, transportation safety, and meals on a daily basis



Keep good records



Conduct Mock Audits/Investigations



Learning to think like an investigator can help you refine your skills on conducting your own mock audits and investigations

Pull out your clipboards, pencils, cameras and be ready to identify possible violations and red flags.

Don't forget to consider all federal and state requirements

FLSA

MSPA

H-2A

<p>Recordkeeping/ Poster Wages -Deductions -Hours Worked Overtime Child Labor</p>	<p>Poster Disclosure Breach of Arrangement Recordkeeping Wage Statement Wages -Deductions -Hours Worked Safe Transportation Transportation Insurance Safe Housing FLC Registration</p>	<p>Poster Disclosure Misrepresentation Recordkeeping Wage Statement Wages -Deductions -Hours Worked Safe Transportation Transportation Insurance Safe Housing H-2A LC –Registration</p>
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Roberto is a crew leader for La Mejor Contracting (FLC) and has a crew of workers picking blueberries by piece rate near Stockton, CA. On May 7, 2024, four investigators from the U.S. Department of Labor arrived unannounced at the blueberry field at 8:30am. The lead investigator-Abel, informed Roberto they were there to conduct a compliance investigation on his crew. Abel explained the steps they were going to take during the field inspection. Roberto mentioned to Abel that most of the workers were from Stockton, CA. He also mentioned you might see my assistant-Raul and the grower field rep out in the field. Raul is wearing an orange safety vest.





While Abel interviewed Roberto, one investigator walked into the rows and appeared to be counting the number of workers in the field. Roberto also saw that same investigator take pictures of two young workers. Roberto appeared nervous. While taking pictures, the investigator noticed a man wearing a safety vest walking to different workers and telling them something with a stern face. The investigator was suspicious of what he was telling the workers.



The other two investigators started observe the vehicles parked next to the blueberry field. The investigators saw four vehicles: a 5 passenger Chevy Impala, a 5 passenger Honda Accord, an 8 passenger Chevy Suburban and a 5 passenger Chevy Silverado truck with a cab. As Abel interviewed Roberto, he asked what kind of vehicle you drive to work. Roberto stated he drove the Silverado truck that was parked in the field. Then Abel asked if he transported any workers and he said he brought his wife, mother-in-law and his primo.



Abel and Roberto then walked toward Roberto's truck and Abel noticed there were 12-14 backpacks in the back of his pickup truck bed and 4 lunch boxes/backpacks inside of the truck. Abel asked why so many backpacks and Roberto said they belonged to workers who were dropped off at 8 am in a van driven by Felipe. The workers store their lunches in their backpacks. He stated that Felipe also works for the same FLC and left as soon as he dropped off the workers. Roberto stated his crew was short workers and he asked the general supervisor to send some of the strawberry crew to his blueberry crew.





While Abel continued to interview Roberto, the 3 DOL investigators started to interview workers. One of them interviewed Ramiro who was one of the workers who were dropped off by Felipe. Ramiro stated he came from Mexico to work for La Mejor Contracting on an H-2A contract to pick strawberries. His supervisor sent him and other H-2A workers from the strawberry fields to help out the blueberry crew for a few days because they were short workers. Ramiro stated they worked 1 hour picking strawberries that morning before were pulled out of the field and asked to get into the van so they could be taken to help the blueberry crew.



The other DOL investigator started to interview Edgar who identified himself as an H-2A worker. Edgar stated the H-2A workers were housed at Motel 6 and the rooms had no kitchen. He stated they typically receive their breakfast and lunch at 5:00am from a food truck. Edgar stated Felipe told the H-2A workers to wait outside of the motel by 5:30 am so he and the other van drivers could pick them up. Edgar stated the vans usually picked them up at 6:00am. They usually arrive at the strawberry field at 6:30am and immediately start to pick strawberries. Edgar stated that today, they were pulled out of the strawberry field at 7:30am so they could be transported to help the blueberry crew. They arrived at the blueberry field at 8:00am and started working by 8:10am.



The investigator asked Edgar about his wages and if he was deducted any money from his check. He said the H-2A's were paid by piece rate for the strawberry harvest and he averaged \$19 an hour. He said this was his first time harvesting blueberries and thought he would not earn very much. He said he was deducted \$25 a day for his meals. Edgar was asked how he was transported. Edgar stated Felipe drove them to work everyday at no cost but on Saturday's Felipe drove them to the laundromat to wash clothes. He said he paid \$6 to wash and dry his clothes and stated the H-2A workers gave Felipe \$3 each for the ride to laundromat. Edgar stated the motel did not have a way for them to wash their clothes.



After the interviews, one of the investigators called his supervisor and asked him to check if La Mejor Contracting had any H-2A contracts to harvest blueberries. The supervisor confirmed La Mejor Contracting only had one H-2A contract to harvest strawberries and not blueberries. The DOL supervisor also mentioned the H-2A workers were supposed to be provided with three meals a day and should be staying at the Days Inn. The investigator also asked his supervisor to check if La Mejor Contracting was registered as an FLC with transportation and housing authorization, and if Roberto and Felipe were registered as FLCs with driving authorization.

U.S. Department of Labor Amended: 01/29/2010
Wage and Hour Division

Farm Labor Contractor Certificate of Registration
No. [REDACTED]
Expires: 01/31/2012

Name: [REDACTED]

Authorized Not Authorized
Transportation
 Authorized Not Authorized
Housing
 Authorized Not Authorized

Approved: George Frady, Jr. (Regional Administrator) Date: 01/01/2010
Form WH-511 (8/99)

Social Security Account No. [REDACTED]
Permanent Home Address: [REDACTED]
City/Town: [REDACTED] State: CA Zip Code: 95209
Date of Birth: [REDACTED] Height: [REDACTED] Weight: [REDACTED]
(Month) (Day) (Year)

This certificate is based on the Migrant and Seasonal Agricultural Worker Protection Act and regulations issued thereunder, and on my application for registration. It may be revoked or suspended, or its renewal denied, for noncompliance with the Act or regulations, including applicable requirements for transporting and housing migrant workers. Such noncompliance may constitute a criminal offense.

Location of Facility or Real Properties:
1) New Meadows, one Corner Building 5 11 & 6A, 95400 Palmyra Rd, District A2, 95533
Type of Construction: Motel Name: [REDACTED] No. of Units: [REDACTED]

Yr.	Make and Model	Serial or Motor No.	No. of Seats in Vehicle	Authorization Ending
1994	International	14	45	01/31/2012
1995	Intl Ford	34	45	01/31/2012
1994	International	22	42	01/31/2012
1987	International	04	47	01/31/2012
1997	FAC	04	42	01/31/2012
1997	FAC	04	47	01/31/2012
1995	FAC	02	45	01/31/2012
1995	International	08	45	01/31/2012

Worker's Compensation Insurance Holder (if applicable):
Zenith Insurance Co.
Name: [REDACTED] Date: 11/21/2011

Based on the contractor's submission, housing is authorized at the above locations unless such authorization is otherwise terminated.
Name: [REDACTED] Date: 01/01/2010

U.S. Department of Labor Amended: 01/27/2011 4:47:35 PM
Wage and Hour Division

FLCE Certificate of Registration
No. [REDACTED]
Expires: 12/31/2011

Name: [REDACTED]

Authorized Not Authorized
Driving

Approved: George Frady, Jr. (Regional Administrator) Date: 01/27/2011
Form WH-513 (8/04)

Social Security Account No. [REDACTED]
Permanent Home Address: [REDACTED]
City/Town: [REDACTED] State: [REDACTED] Zip Code: [REDACTED]
Date of Birth: 08/10/1973 Height: 5' 8"
(Month/Day/Year)

This certificate is based on the Migrant and Seasonal Agricultural Worker Protection Act and regulations issued thereunder, and on my application for registration. It may be revoked or suspended, or its renewal denied, for noncompliance with the Act or regulations, including applicable requirements for transporting and housing migrant workers. Such noncompliance may constitute a criminal offense.

Driving Authorization is valid only on the condition that the person issued this certificate of registration maintains a current valid driver's license for the type of vehicle being driven.



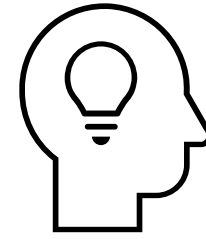
Abel requested to see the daily time sheet for that day. Abel only saw 35 names on the daily time list with a start time of 8:10am. The investigator who was counting the number of blueberry harvesters counted 37 workers. The investigators who were interviewing workers found out the blueberry crew had been waiting since 7 am for the H-2A workers to arrive before Roberto allowed them to start harvesting blueberries. The crew finally started to harvest blueberries at 8:10 am. The investigators also noticed that throughout the day there was a long line of workers that waited to be scanned when they brought their buckets to be tallied. By 12:30pm, the DOL investigators observed the crew had not taken a break or a lunch since arriving at 8:15 am.

POTENTIAL ISSUES SO FAR.....



- Child labor- two young workers
- 2 workers not on payroll- MW issues
- Failure to record accurate start and end times
- Unpaid hours worked issues- waiting time
- Non-productive time issues
- Pay rate issues- Should be averaging \$19.75 an hour.
- No rest period and lunch breaks
- Possible interference with a federal investigation
- Corresponding employee misclassification
- Housing safety/No preoccupancy inspection
- Working outside of the scope of work and area listed on the H-2A contract-H-2A contract is for strawberries not blueberries
- Transportation fees-\$3 given to Felipe & driver issues
- FLC and FLCE registration-Roberto, Felipe & Raul?
- Meal/Food safety and deduction amount-more than \$15.88
- Laundry issues and reimbursement- should be provided at no cost.

What Did We Learn?



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- What you don't know is what will create compliance liability issues for the FLC and the grower.
 - You might know as much as you thought you knew about compliance. Learning compliance strategies is a continuous learning process.
 - The devil is in the details- follow-up work is required in certain aspects of the scenario to determine if there are truly a violations/issues. Once violations are validated, take immediate action to correct.
 - Field operation managers, supervisors, crew leads and transporters must be trained on H-2A basic requirements. Every decision that is made out in the field can have implications on your company's compliance.
 - Compliance is a team effort. Field Operations needs to communicate and be on the same page with HR/H2A Management, Safety, and Payroll.

Ag Labor
compliance is a
Team Effort

Every Department
Must be Engaged



You need ownership and management support

ENFORCEMENT AGENCIES

BRING IT ON BABY- I AM
READY FOR YOU





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