

DEPARTMENT OF INDUSTRIAL RELATIONS

Headquarters Office

455 Golden Gate Avenue, 9th Floor
San Francisco, CA 94102
Tel: (415) 703-4810 Fax: (415) 703-4807

MAILING ADDRESS:
P. O. Box 420603
San Francisco, CA 94142-0603

**Julie A. Su**

California Labor Commissioner
Division of Labor Standards Enforcement

December 21, 2011

Dear Farm Labor Contractor:

I wanted to introduce myself to those of you I have not met and state to you directly my commitment to the important industry you make up and its critical role in making California the great state it is. In my seven months so far as California Labor Commissioner, I have met and spoken to many of you and to industry associations, and I have shared my desire to ensure effective, smart, and fair enforcement as well as strong partnerships with all of you. I believe that good communication is key to our success and streamlining processes so that you can get the licenses you need in a timely manner is one of my top goals for improving services to you and other law-abiding FLCs in the state. This letter shares with you some of the changes in the works and also alerts you to some new legislation that goes into effect January 1.

Improved Communication. We have enhanced our website to now provide a page just for the agriculture industry. There, you will find the information you need in one place. Portions of the page, including the application form for registrations, instructions and FLC study guide have been translated into Spanish. Other translations are in process. Application forms can now be filled in online and printed out. Also new are links to the approved vendors providing continuing education classes. The dedicated FLC page is <http://www.dir.ca.gov/DLSE/FLC.htm> . Watch for future improvements to the website.

Streamlining the Licensing & Registration Process. I have heard you loudly and clearly that our process for you to get registered as required by law is too onerous and slow. I am working on more on-line capabilities that I hope to announce to you in the next few months. I am hopeful that this will address many of the issues you face. In the meantime, please note the following changes:

- For renewal applicants, you no longer need to re-submit the Personal Record, Affidavits of Character, or Declaration Form *as long as all of the information you provided in your initial application is still current.*
- Many of you have already taken advantage of this new feature, but for those of you who do not yet know, you can now pay your application fees and exam fees online with a credit card. You can find the link on our website at: http://www.dir.ca.gov/dlse/Online_Payment.html
- For all applicants, you will now get *up to two defect letters* when your application is missing any required documents or clearances. Upon initial review, we will mail you a First Defect letter. You will have 30 days to respond to that letter. If you do not respond within 30 days, or if your response is still incomplete, a Final Notice letter will be sent to you and you will have 30 days to respond with the missing items. If your application is not complete after that time, your application will be closed and your application fee forfeited.

Easy one-step FLC verification. Beginning December 28, 2011, anyone seeking to verify an FLC license to comply with Labor Code 1695.7 can do so on-line. This replaces the manual method that was in place before that required growers to call our office and wait to receive a fax or mail verification. This often resulted in delays. As of December 28, FLC verification can be requested, viewed and printed through this link at our website: <http://www.dir.ca.gov/databases/dlseir/farmlic.html>

New legislation. As of January 1, a number of new laws will go into effect that impact the rights and responsibilities of employers and employees in California. A few that may be of special interest to you (though I urge you to familiarize yourself with all the legislation that was passed and signed this past year) are the following:

- AB 243 amends Labor Code section 226 and requires an employer who is a farm labor contractor to provide the name and address of the legal entity that secured the services of the farm labor contractor on the required itemized wage statement (pay stub) furnished to each employee. Some of you have asked me what to do if you use a payroll service or other outside vendor to generate your paychecks and itemized wage statements. As you know, the obligation to comply with Labor Code section 226 falls on you as the employer. For your convenience, enclosed with this letter is a template which serves as an example of a wage statement that is in compliance with this new provision. Although it is not required that you use this template exactly, you must provide all the information that is contained in the template on the wage statement you provide your employee. ←
- AB 240 amends Labor Code sections 98 and 1194.2 and
 - specifically permits an employee to recover liquidated damages in an amount equal to unpaid minimum wages in a complaint brought before the Labor Commissioner;
 - provides that if an order to post a bond issued against an employer remains unsatisfied for a period of 10 days after the time to appeal has expired, and no appeal from the order is then pending, the Labor Commissioner may require the employer to provide an accounting of assets of the employer, including a list of all bank accounts, accounts receivable, personal property, real property, automobiles or other vehicles, and any other assets, in a form and manner as prescribed by the Labor Commissioner.
 - Failure to provide an accounting as requested is subject to a civil penalty not to exceed \$10,000.
- Wage Theft Protection Act (AB 469)
 - requires that an employer who has been convicted of a wage violation or has failed to satisfy a judgment must post a bond in order to continue doing business for two years (rather than the current six months) and
 - requires an employer to provide each employee, at the time of hiring, in the language the employer normally uses to communicate employment-related information to the employee, a notice of specified information; a template will be made available to you and to all employers before January 1.
- SB 459 prohibits the willful misclassification of an individual as an independent contractor rather than as an employee. Persons or employers violating the prohibition are subject to specified civil penalties and shall be ordered to post a notice of violation.

See below*

I hope this information is helpful. Thank you for your continued support and cooperation.

Very truly yours,



Julie A. Su
State Labor Commissioner

* Labor Code section 226 lists the required items for an itemized wage statement. Providing all of the information contained in the template will more fully itemize the payment of wages for employees as a best practice. (Added 9/1/15)

Sample Fictional Itemized Wage Statement Demonstrating Compliance with AB 243 (Alejo)

AAA FLC Services, Inc. 2210 K Street, Farm City, CA 93245

DOE, JOSEPH xxx-xx-7239 Pay Period: 1/2/12 to 1/6/2012

Check Date: 1/7/11

Date	PayType	Entity Name and Business Address	Field	Job	Hours	Units	Rate	Total		This Check	Yr to Date
2	Piece rate	ABC Specialty Farms 1510 Yosemite Ave. Madera CA 94123	172	CITRUS	6.00	4.0	27.00	108.00	Gross Wages	554.00	554.00
3	Piece rate	ABC Specialty Farms 1510 Yosemite Ave. Madera CA 94123	171	CITRUS	6.00	4.0	27.00	108.00	State Wthldg.	25.60	25.60
4	Hourly	DEF Specialty Farms 4444 Buchanan Ave. Merced CA 95706	2A	THINNING	10.00		8.00	80.00	Fed. Wthldg.	54.40	54.40
4	Hourly	DEF Specialty Farms 4444 Buchanan Ave. Merced CA 95706	2A	THINNING	2.50		12.00	30.00			
5	Piece rate	ABC Specialty Farms 1510 Yosemite Ave. Madera CA 94123	174	CITRUS	6.00	6.0	18.00	108.00	Medicare	4.94	4.94
5	Piece rate	GHI Specialty Farms 7500 Solano Ave. Fresno CA 94123	173	CITRUS	3.00	3.0	18.00	54.00	SDI	4.09	4.09
6	Hourly	BBB FLC, Inc. 2000 W. 8 Mile Ave. Madera CA 95346	3-5	WEEDING	1.50		8.00	12.00	Social Sec.	14.32	14.32
6	Piece rate	ABC Specialty Farms 1510 Yosemite Ave. Madera CA 94123	173	CITRUS	3.00	3.0	18.00	54.00	Net Check	450.65	450.65
Total Hours:					38.00						
Total Hours paid by Hourly rate:					14.00			122.00			
Total Piece rate Hours, Units and Piece rate Earnings:					24.00	20.0		432.00			

LC Section 226 (a), in pertinent part, requires...an accurate itemized statement in writing showing:

- (1) gross wages earned
- (2) total hours worked by the employee
- (3) the number of piece rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis
- (4) all deductions
- (5) net wages earned
- (6) the inclusive dates of the period for which the employee is paid
- (7) the name of the employee and his or her social security number, except that by January 1, 2008, only the last four digits of his or her social security number or an employee identification number other than a social security number may be shown on the itemized statement
- (8) the name and address of the legal entity that is the employer, and, if the employer is a farm labor contractor...the name and address of the legal entity that secured the services of the employer during the pay period
- (9) all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee