

## What to do if the Department of Labor visits your farm this summer?

Last year the U.S. Department of Labor visited several farms in Marion County to inspect labor conditions and to check for labor violations. These farm visits took place during peak harvest time. Unless you live in a bubble, you have probably heard about the supposed violations and hefty fines that were imposed in a heavy handed way, most farmers simply refer to this as the “Hot Goods” issue. Please check out the following web link <http://www.oregonfb.org/usdol/>. It is very likely that the DOL will be back this summer visiting more farms. Before last year, it was recommended that you allow the DOL onto your farm, and show them the documents that they request. This is no longer the recommended course of action.

If the U.S. Department of Labor shows up on your farm **know your legal rights**, and what you can do. MCFB is not offering legal counsel, but can share the following suggested course of action:

### Prepare for Possible USDOL Inspection

#### Items to be completed to prepare for possible inspection:

Post “No Trespassing” signs at all entry points and along open fields next to public roads. Include information on where your office is for visitors to check in (as an alternative to an office location, provide a phone number for appropriate management personnel).

Train supervisors/ crew leaders to be on the lookout for trespassers (people in fields without permission). Trespassers should be confronted and reminded of policy to check in at office. If trespasser is USDOL investigator, supervisor/ crew leaders should not answer any questions or allow any inspection to occur before checking in at office or through a phone conversation with management. Train supervisors/ crew leaders on how to best video record (with smartphone) any trespassers who do not comply.

Have “audit” of operation done by Roberta Gruber with FEELDS (or other consultant if you are not a FEELDS member) to insure policies and procedures comply with state and federal wage/hour laws, civil rights laws, migrant worker protection laws, and child labor laws.

#### What to do when USDOL inspectors demand to conduct an inspection at your operation:

You have the right to have your attorney present. Contact Legal Counsel immediately before inspection begins and before you answer any questions. Request a 24 hour delay of the inspection, unless they have an administrative warrant, in which case you will need to grant them access.

Does the inspector have a warrant? If so, what are the limits of the inspection?

If the agent does not have a warrant, is there an exception that applies that will allow a warrantless inspection?

Have you granted Consent?

Is there an emergency posing an immediate threat to health and safety?

Does the “open fields” exception to requiring a warrant apply?

Are you engaged in a highly regulated industry where a warrant is not required?

***Your lawyer should be able to help you with these issues and should be the one to directly communicate with inspectors.***

Count the number of workers in the fields where inspection is to occur. Count number of vehicles parked in/around any of these fields.

Use consent to allow inspection without a warrant as leverage for reasonable limits to the scope of the inspection.

If interviewed, only answer the questions that are asked. Be brief.

If the inspection involves a review of records, only provide the records requested and nothing else.

Don't appear defensive. If you have done a good job with policies, procedures, and documentation, then you have nothing to hide.

We recommend that if the DOL visits your farm, the first call you make is to your attorney. We recommend that the second call is to Oregon Farm Bureau. Roberta Gruber can be contacted at 503 399 1701 ext.316, she is the ag labor specialist who runs FEELDS, OFB's ag employer consulting service program. She is an excellent resource on compliance and what other growers have seen in USDOL visits to their farms. OFB was actively engaged last summer in Marion County, this past winter in The Dalles and continues working to find solutions to this issue. If you have policy questions or information to share and are not in imminent need of counsel, please call Executive Vice President Dave Dillon 503 399 1701 ext. 302, or Director of National Affairs Gail Greenman, 503.931.3398 (cell) [gail@oregonfb.org](mailto:gail@oregonfb.org). If you are in imminent need of counsel and don't know who to contact, Dave and Gail can offer references.