

Labor Management Decisions

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Developing Supervisory Skills en Español

More than 80 foremen, farm labor contractors, and other first-line supervisors from agricultural operations throughout California convened in Stockton for an intensive three-day personnel management seminar presented by APMP Farm Advisor Gregory Billikopf. This third annual seminar, conducted entirely in Spanish from December 7 through 9, gave supervisors a chance to develop their skills through active participation in exercises, role plays, and discussion of case and lecture material.

Subjects covered during the first day were employee selection processes, interpersonal relations, pay systems, corrective disciplinary action, and termination. Day two focused on supervisory use and abuse of power, employee counseling, and conflict management. On

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Participants consider whether to discipline the livestock worker who was supposed to notch a pig's ear but got the family dog instead.



Above, left: Jenny Rodriguez, UC Ag Health and Safety Center Representative, demonstrates the use of a game to aid in training workers about motor vehicle and equipment safety.

Right and above right: Supervisors argue the relative advantages of different ways to cope with a problem in the field. Incentive programs work well under certain conditions, including existence of a performance outcome that can be objectively measured. "I smile at my boss every day, but he doesn't pay for the smile."



the final day, attendees earned certification (authorized by the state Department of Pesticide Regulation) to provide field worker training as newly mandated by the EPA Worker Protection Standard.

The seminar was designed to help supervisors both improve effectiveness in their current jobs and prepare for advancement to even more responsibility in the future. Most participants had been informed about the

meeting by managers for whom they work. In the introductory session, their consensus was that they personally, as well as their employers, would benefit.

Attendance this year more than doubled last year's, which in turn was roughly twice as large as in 1992, when Billikopf first offered the seminar. Several participants were sponsored by employers who had appreciated results from previous years. □

Further Reductions in Workers' Compensation Rates

Howard R. Rosenberg

With insurers preparing to establish their own pricing systems in January 1995, unencumbered by the "minimum rate" requirement repealed by reform legislation in 1993 (discussed from various perspectives in the *Labor Management Decisions* Special Report, Spring 1994), standard workers' compensation insurance rates continue to fall. A previous anti-fraud bill effective in 1992, combined with employer and insurer efforts in hazard reduction, safety training, and loss control, appear to be paying off.

The Workers' Compensation Insurance Rating Bureau has issued an amendment to its manual, listing new rates effective October 1, 1994. As shown in the

accompanying table, these rates are down smartly from the January 1, 1994, minimums, nearly all of which were already quite a bit lower than those of 1992.

As directed by the state Insurance Commissioner in Ruling No. 285, the new manual rates apply to (a) all new and renewal policies with anniversary dates on or after October 1, 1994, and (b) the unexpired terms of active policies with anniversary dates between January 1 and September 30, 1994. Therefore, between three and twelve months of any one-year policy written in 1994 are subject to the lower rates — for example, three months for a policy written on January 1, six months for one written on April 1, and twelve months for one written on December 1. □

New Database Catalogs Safety Materials

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The Agricultural Safety Institute at California Polytechnic State University in San Luis Obispo, with funding from the Agricultural Personnel Management Program, has created a database that includes more than 2,300 titles of agricultural safety materials. Designed specifically to meet the needs of farm employers, but also expected to be useful to extension educators, private safety trainers, and others, the database will soon be ready for wide distribution. It provides information on materials ranging from video and audio cassettes to books and pamphlets to decals. About a third of the items listed are also available at the regional Agricultural Safety Library at Cal Poly. The information and materials came from over 100 organizations, such as extension offices, fertilizer companies, and commercial video producers.

The database will eventually be offered by the Agricultural Safety Institute on a high-density computer floppy disk (Macintosh or IBM-compatible) with a

Manual Rates for Workers' Compensation Insurance on Farms			
Classification and Code	Rates (per \$100 Wages)		
	Jan '92	Jan '94	Oct '94
Stock Farms & Feed Yards (0038)	26.38	22.44	18.85
Field Crops (0171)	18.42	16.50	13.86
Orchards—Citrus & Deciduous Fruit (0016)	16.19	15.04	12.63
Sheep and Hog Farms, Poultry (0034)	14.81	12.63	10.61
Orchards—Nut Crops (0045)	14.57	10.48	8.80
Farm Machinery Operation— Contract (0050)	13.92	12.20	10.25
Dairy Farms (0036)	13.02	11.76	9.88
Truck Farms (0172)	12.90	10.68	8.97
Cotton Farms (0044)	10.10	7.63	6.41
Vineyards (0040)	8.74	6.84	5.75
Strawberries & Bush Berry Crops (0079)	7.83	7.86	6.60
Potato Crops (0041)	5.40	5.12	4.30

“smart” user interface to facilitate searching for information. At present, it is on disk only as a 909K text file that can be opened with a word-processing, spreadsheet, or database program. It can be searched by topic (such as dairy, packing house, tractors, chemicals), title, author, format (such as video, audio, or printed materials), size, or location (California or all states).

The disks will be offered at \$10 each, based on costs for time, materials, and the user interface software.

Printouts of the entire 500-page printed list, or of specific parts searched upon request, will also be obtainable at cost. Use of the library is free by appointment, and non-copyrighted material can be copied at cost.

For more information, contact Dr. Richard Cavaletto, Agricultural Safety Institute, Cal Poly State University, San Luis Obispo, CA 93420 (phone: 805/756-2384; e-mail: rcavalet@oboe.aix.calpoly.edu). □

Avoiding Sex Discrimination In and Out of the Packing Industry

Michael J. Hogan

Michael J. Hogan is managing partner in the Fresno office of Littler, Mendelson, Fastiff, Tichy & Mathiason. He has represented agricultural employers in all aspects of labor and employment law for over 19 years.

In recent years several class action sex discrimination complaints have been filed against firms that pack agricultural products in California. Claimants have alleged that employers are violating the 1964 Civil Rights Act, as amended in 1991 (see *Labor Management Decisions*, Summer 1992, for a review of the 1991 legislation), and the California Fair Employment and Housing Act. Some of these lawsuits have resulted in settlements costing in excess of a half million dollars, including back wages and attorney's fees for representation of the women in the class.

A fundamental condition giving rise to these cases is the huge disparity between the proportions of women and men in various job classifications within the industry. For example, nearly all packing and grading positions are occupied by women, whereas nearly all other types of job — including general labor, tailoff, setoff, shipping, receiving, forklift driving — are held predominantly by men. And the “women's jobs” are often paid at lower wage rates than the others. Even when the classifications have comparable hourly wage rates, men tend to earn more on an annual basis, because their jobs

typically require more overtime, are laid off last after a season, and are recalled first when a new season begins.

It is important for employers throughout agriculture, not only in the packing industry, to recognize that gender does not dictate performance potential and to provide job opportunities on a sex-neutral basis. Presumptions that women are only interested and able to perform such work as packing and grading, and that men are best suited for such tasks as machine maintenance and general labor, can lead to inefficient use of personnel, substantial liability, or both.

Employers should consider the following seven steps if they want to provide job opportunities to employees and new applicants in a nondiscriminatory manner.

1. Review your employment application form to ensure that it lists all classifications of available jobs, so that applicants can express their preferences without implicit restriction.
2. Provide applicants with position descriptions that completely describe essential functions as well as the physical, mental, and other requirements for performing them.
3. Allow all applicants the chance to demonstrate ability to perform a job. Do not assume that women are unable to lift heavy objects, operate equipment, or perform other traditionally male-dominated jobs. Allow men the opportunity to apply for and show their skill in such jobs as grading and packing.
4. Provide women with training and informal opportunities to learn “male” jobs.
5. Review jobs in the general labor classification to see if they can be divided or redefined into two groups differentiated by strenuousness of tasks included. Jobs with stringent physical requirements that may

have previously deterred women from seeking general labor positions could fit in one new classification, and other jobs (e.g., forming boxes, picking up fruit) in the second. Since performance of both types of job is needed over similar periods, the ultimate effect would be to increase women's opportunities for overtime work and longer seasonal employment.

6. Maintain copies of completed job applications for at least three years, to substantiate retrospective reviews of nondiscriminatory hiring practices.
7. Offer promotions and transfers on a sex-neutral basis, and keep copies of the announcements that have been posted to inform employees of these opportunities when available.

Violent Incident at Packing Plant

A produce packer walked into a Salinas plant and fired several shots from a .30-caliber, high-powered rifle, killing a forklift driver and wounding another man. It was reported that the packer had been obsessed with a female worker, who had ignored his advances, and that he had been told by other employees to leave the woman alone (*The Packer*, September 26, 1994). The incident provides tragic confirmation of the seriousness of the problem discussed by Scott Wilson in "Preventing and Coping with Workplace Violence" (*Labor Management Decisions*, Summer 1994).

Uncertainties Reign on WPS Implementation

Howard R. Rosenberg

It wasn't enough. Early last spring Congress provided more time for the Environmental Protection Agency (EPA), state enforcement agencies, and agricultural employers to prepare for full implementation of the federal Worker Protection Standard by pushing back the effective date of key provisions from April 1994 to January 1995. As *Labor Management Decisions* goes to press, another official delay appears imminent.

No matter what happens in Washington, D.C., adoption of state regulatory revisions that would achieve California equivalency with the federal requirements is at minimum a few months away. At their December meeting in Sacramento, county Agricultural Commissioners from throughout the state were briefed on WPS developments by staff of the California Department of Pesticide Regulation (CDPR) and the U.S. EPA. They were told that *proposed* state regulations would not be issued for public comment until after resolution of issues pending at the national level plus a few under study within the state agency.

CDPR and Region 9 EPA staff have been discussing potential terms of state equivalency with a number of

federal standards, including those regarding greenhouse ventilation, field signs, definition of a treated field, notification of workers about pesticide applications, and provision of safety information to workers. Representing the first line of pesticide use enforcement and education in California, Agricultural Commissioners have been among the interested parties whose advice CDPR is considering on these matters. As time consuming as it may be for the department to hear and reconcile various points of view on proposed regulations, uncertainty about the shape of the federal WPS promises to be an overriding source of complication and delay. No one can yet say for sure what the state rules will have to be equivalent to.

Basic provisions of the Worker Protection Standard are up for reconsideration. On July 8, the National Association of State Departments of Agriculture (NASDA) petitioned EPA for significant revision of the WPS on several specific points. In brief, NASDA proposed that the agency:

- require that workers receive training within 5 days of beginning work in a treated field (after the entry restriction period), effective January 1995, instead of October 1997,
- reduce the level of personal protective equipment (PPE) required for irrigation work and other low-contact activities,
- establish phased entry restrictions commensurate with chemical toxicity level and actual exposure potential,

- except crop advisors, and other professionals who do not perform production tasks, from requirements of the WPS,
- eliminate the requirement that decontamination facilities be provided after the restricted entry period,
- confirm that employers will not be held liable for employees' failure to follow PPE rules despite being provided proper training and equipment,
- broaden the agency's authority to grant appropriate case-by-case exceptions to aspects of the WPS other than entry restrictions,
- eliminate the requirement to post and train in Spanish in areas where most workers do not speak Spanish, and
- relieve owners of agricultural establishments of responsibilities to workers employed by another entity.

The EPA acknowledged receiving this petition in a September 22 letter to NASDA, and it formally responded in a letter dated October 21. The response expressed commitment to work with NASDA and other stakeholders in WPS implementation. It set forth EPA's plans for dealing with each point. Due process on most would clearly extend beyond January 1, 1995. Although intensive activity has ensued, resolution is not at hand.

With less than two weeks to go before the rescheduled effective date, NASDA is preparing to ask Congress to again delay WPS implementation until (a) EPA settles the concerns raised in the July petition, and (b) Congress explicitly gives the green light. Thus, despite general agreement with the purpose of the WPS — to reduce pesticide hazards for some 4 million agricultural workers — there have been and will continue to be an interplay of serious differences about the means for pursuing it.

WPS-Forum, an Internet discussion group and reference archive (described in *Labor Management Decisions*, Summer 1994), has been an important vehicle for individuals and organizations across the country who want to stay abreast of these developments. Established last May by the UC Agricultural Personnel Management Program and the Department of Agricultural and Resource Economics at Berkeley, it now includes 280 direct participants from land grant universities and other academia, agricultural firms and associations, pesticide companies, consulting and advocacy groups, business service professions, the industry press, and government.

Participants have been posting questions, answers, announcements, and ideas on a wide range of WPS issues. They have given and received authoritative

clarifications, timely detail on revision proposals, guidance on worker training, copies of compliance resources and reference documents, and answers to nitty-gritty questions about implementation in real world conditions. The archive contains more than 40 files accessible through a simple e-mail command.

Anyone who has access to an Internet-compatible electronic mail system can take advantage of WPS-Forum at no charge. To join the network, send to ListProc@are.berkeley.edu, the message: "SUBSCRIBE WPS-FORUM yourfirstname yourlastname" (for example: subscribe WPS-Forum Carol Browner).

The next issue of *Labor Management Decisions* will present not only further updates on federal and state rulemaking but also a more substantive review of discussion taking place on the forum. □

California Toughens Child Labor Law

Stephen R. Sutter and Howard R. Rosenberg

Federal and state laws regulate the employment of minors. Last year the California legislature enacted the Omnibus Child Labor Reform Act (AB 1900), more closely aligning the state code with federal, effective January 1995. The Labor Commissioner has declared child labor law enforcement a high priority. A total of 213 child labor citations were issued in California last year under state law, according to the Department of Industrial Relations, and 667 under the federal Fair Labor Standards Act.

Child labor laws are intended to ensure that employment of persons younger than 18 is compatible with their age, schooling, and safety. They cover citizens and noncitizens alike who have not graduated from high school or earned equivalency certificates. These laws restrict the types of work that minors may perform and the hours that minors may be employed.

It is generally illegal to employ minors without a valid work permit issued by the local school district, for more hours than permitted, or in dangerous jobs. A significant exception applies to minors employed by

their parents in any agricultural task that is performed (a) when school is not in session or outside school hours, and (b) exclusively on or in connection with premises owned, operated, or controlled by the parent.

Among provisions of AB 1900 relevant to agricultural employment are closer conformance to federal limits on hours, substantial incorporation of the federal list of hazardous occupations, and an increase in state penalties for violation of child labor law.

Permission to Employ a Minor

Before starting work in California, a minor has to obtain an employer-specific work permit, renewable annually. Farm operators are prohibited from hiring minors, except their own children, without a permit to employ, and they are required to keep on file a copy of that document for each minor currently on the payroll.

A work permit shows name of minor, social security number, birth date, address, phone number, current school attended, allowable work hours per day and per week during the school term, and expiration date. The permit is issued by the school district in which the minor resides or is enrolled, after the district receives a parent or legal guardian's written request, evidence of the minor's age, and a prospective employer's statement of intent to hire. It is revokable if the work is harming the child's health or schooling. Children younger than 12 are not eligible for work permits.

Children working for their parents on a farm owned or controlled by their parents may work at any time outside of school hours, in any job, and without a permit. If, however, a parent for which a child works is deemed to be an employee of another entity, then the minor is likewise an employee of that entity and subject to normal child labor limits.

Every owner or operator of a farm in California who employs any parent or guardian with minor children in immediate custody is required to post a notice, in English and Spanish, stating that minors are not allowed to work on the premises unless legally permitted to do so by duly constituted authorities.

Limits on Hours

Agricultural exceptions to the restriction of hours for minors in nonagricultural work have been narrowed. The maximum number of hours a child is permitted to work depends on his or her age.

During the school year, minors aged 16 to 17 generally are limited to 4 hours of work on a school day, 8 hours on a nonschool day, from 5 a.m. to 10 p.m.

(or until 12:30 a.m. on a nonschool day). When school is out, the limits are 8 hours per day and 48 per week. The Labor Commissioner may grant an exception allowing up to 10 hours of work in an agricultural packing shed on nonschool days in the peak harvest season, if it prevents undue hardship for the employer and does not materially affect the safety or welfare of the minor.

Minors 14 to 15 years of age may work up to 3 hours on a school day, 8 hours on a nonschool day, and 18 hours in a week, between 7 a.m. and 7 p.m. when school is in session, until 9 p.m. from June 1st through Labor Day, and as many as 40 hours per week when school is out.

Minors aged 12 to 13 may work only on nonschool days, up to 8 hours per day, and 40 hours per week. It is unlawful to employ minors under age 12.

Hazardous Work

Even during permitted hours, some jobs are out of bounds for minors. California prohibitions now include by reference all the occupations declared in federal regulations as hazardous for minors or detrimental to their health or well-being. The state Division of Labor Standards Enforcement (DSLE, Department of Industrial Relations) may, after a hearing, add occupations to those on the federal list, which itself is subject to revision from time to time.

The federal rules generally ban employment of minors in work with dangerous machinery, with hazardous substances, or in dangerous work settings. They specifically prohibit the following for children under age 16:

- Operating tractors over 20 PTO horsepower, or connecting/disconnecting implements to/from such tractors.
- Operating or assisting to operate most heavy equipment (e.g., corn picker, combine, hay mower or baler, auger conveyor, fork lift, power saw).
- Working in a yard, pen, or stall occupied by specified male animals used for breeding or female animals with newborn offspring.
- Felling, bucking, skidding, loading, or unloading timber with butt diameter of more than 6 inches.
- Working on a ladder or scaffold higher than 20 feet.
- Driving a vehicle transporting passengers, or riding on a tractor as a passenger or helper.
- Working inside a manure pit or certain commodity storage units under specified conditions.

- Handling pesticides of toxicity category 1 or 2.
- Handling dynamite or other blasting agents.
- Transporting or handling anhydrous ammonia.

California rules also prohibit minors under age 16 from servicing machinery, working in close proximity to moving machinery, or performing tasks that cause dust in hazardous quantities. State law now bars minors under 12 not only from working in but also from accompanying parents (guardians) employed in a job that has been declared hazardous for minors under 16 or in an agricultural zone of danger — on or about moving equipment, around unprotected chemicals, and around unprotected water hazards.

Enforcement and Penalties

Child labor restrictions apply to all employers hiring minors, except for parents or legal guardians whose children work for them or under their control on property they own or operate. Liability for violations may extend to the owner of a farm on which a minor works under the employ of a third party, if the owner benefits from the minor's work. Even if not the direct employer of a minor, a property owner can be held jointly responsible for a violation that he or she knows about and permits.

The Labor Commissioner (who heads the DLSE) enforces state laws protecting minors. School district attendance officers are authorized to also investigate and report to the Labor Commissioner on violations of work permit requirements. The Wage and Hour Division of the U.S. Department of Labor is responsible for enforcing federal child labor provisions. As a practical matter, state and federal officials now cooperate in enforcing essentially the same set of standards.

State fines for "Class B violations," infractions of work permit or hours requirements, have increased from the former \$100-\$500 range to the federal level of \$500 minimum and \$1,000 maximum per occurrence.

More serious "Class A violations" include employing a minor under 16 in a dangerous occupation, acting unlawfully so as to present an imminent danger to a minor of any age, and violating the permit or hours requirements for a third time or more. The minimum civil money penalty for these offenses has been raised from \$1,000 to \$5,000, the maximum from \$5,000 to \$10,000. Willful violations of this type may also be grounds for imprisonment.

While the Child Labor Reform Act has increased penalties, it also should reduce confusion stemming from differences between federal and state rules.

Commission Reports Findings on Worker-Management Relations

Howard R. Rosenberg

In March 1993 the U.S. Secretaries of Labor and Commerce appointed a group of eleven academic, business, and labor leaders to investigate the current state of worker-management relations in the United States and formulate proposals for future improvements. The Commission on the Future of Worker-Management Relations, chaired by former Secretary of Labor John Dunlop, delivered a Fact Finding Report, dated May 1994, that provides the factual base and background for recommendations expected in a second publication this winter.

During its first year the Commission held several national hearings in Washington and regional hearings across the country, and it received scores of exhibits, letters, papers, articles, and studies that became part of its public record. Though the initial report reflects on workplaces throughout the nation's economy, its wealth of statistics and insights strike many chords familiar to an observer of agricultural operations and labor markets.

The report has four major chapters and a set of general conclusions.

Chapter I describes an economic and social environment markedly different from when the basic structure of laws regulating workplace relations was established. It summarizes the dimensions of and provides data describing the changing economy, workforce, labor market, and employee relations. Among significant trends and factors that the Commission notes are:

- Long-term decline in the rate of productivity growth, measured as output per person-hour.
- Increased globalization of economic life, reflected in trade, capital flows, and immigration.
- Increased ability of U.S. firms to compete in the international marketplace since the late 1980s, due to the declining value of the dollar as well as reductions in unit labor costs.
- Changes in technology altering jobs and the work performed at many workplaces.

- ❑ Occupation shifts away from goods-production, such as manufacturing and agriculture, to service-production industries.
- ❑ Presence of millions of differently sized establishments and firms, whose differing workplace practices and outcomes depend in part on number of employees.
- ❑ A higher proportion of Americans working than ever before, due in large part to movement of women into the workforce.
- ❑ Increased racial diversity, average age, and formal schooling of the workforce.
- ❑ A larger flow of immigrants from developing countries into U.S. labor markets, disproportionately employed in low-wage import-competing industries.
- ❑ Substantial creation of jobs, but high unemployment for the less skilled and considerable insecurity about jobs.
- ❑ Stagnant value of hourly earnings for the overall workforce, and falling pay for male workers, both unprecedented in the United States since 1920.
- ❑ Expanding gap in earnings between more and less educated or skilled workers, bifurcating the U.S. labor market.
- ❑ A sizable and growing number of low-wage, fully employed workers with total earnings lower than those of comparable workers in other advanced countries.
- ❑ Narrowing of pay differentials between men and women, but still a considerable gender-based gap.
- ❑ Annual hours of work exceeding those in other advanced countries except Japan.
- ❑ Growing number of “contingent” and other jobs that are not continuing, full-time positions with a single employer.
- ❑ Fairly constant rates of occupational injury and illness, and increased workdays lost per full-time worker, with increased workers’ compensation costs.



- ❑ Decline in the prevalence of collective bargaining.
- ❑ Greatly expanded government regulation of the workplace.

The overall picture is one of dramatic changes that affect the working lives of nearly all Americans and pose major challenges to worker-management relations. The Commission expresses serious concern about whether existing institutions and the web of regulations fit the needs of employers and employees.

Chapter II discusses employee participation and labor-management cooperation. It recognizes substantial growth in employee participation, which takes such various forms as quality circles, self-managed teams, safety and health committees, gain sharing plans, total quality management programs, information sharing forums, and employee ownership plans. Programs to involve workers in decision making have arisen in response to market competition pressures, technological changes, company restructuring, and needs to better utilize worker potential.

The Commission found both support and criticism of such efforts among managers and labor representatives. Where sustained and integrated with other practices, employee participation has

generally improved economic performance, but it does not function well in all workplaces. Some programs are of quite limited duration, their viability thwarted by a variety of risks and obstacles. Many small firms have informal processes for employee participation that serve purposes similar to those of more structured arrangements in larger organizations.

Survey data suggest that 40 to 50 million workers would like to participate in decisions on their jobs but lack opportunity to do so. The Commission suggests four reasons why it is difficult to sustain and diffuse participation and cooperation efforts: insufficient trust; inability of employees to participate; economic pressures on employers; and government policies and legal constraints.

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The Commission particularly notes that Section 8(a)(2) of the National Labor Relations Act (NLRA), which was designed to prohibit company unions, may critically impede growth of some employee involvement programs and give rise to challenges against joint worker-management committees. It suggests that consideration be given to revising or reinterpreting the NLRA to more clearly permit forms of labor-management cooperation that may be inconsistent with Section 8(a)(2). (A discussion of this issue, as applied to safety committees encouraged under other law, appeared in *Labor Management Decisions*, Fall 1993: "Might Your Farm Safety Committee Be a 'Labor Organization'?")

Chapter III has two parts. Part A reviews worker representation and collective bargaining under the NLRA. The Commission finds that representation elections have been highly conflictive, that the numbers of elections and certifications have diminished, that unfair reprisals against workers who organize have increased, and that a first contract is not achieved in roughly one-third of workplaces where unions win representation rights.

In Part B the Commission observes significant growth in contingent work arrangements, jobs that are not full-time and continuous with a single employer. Although various arrangements have long existed to match worker qualifications and availability with fluctuating demand for labor in certain industries, contingent work relations now encompass many more workers and take ever more forms. The term "contingent workers" includes part-time employees, some of whom are voluntarily part-time, some of whom would like full-time work, and some of whom hold multiple jobs. It also includes employees of temporary help agencies and some self-employed independent contractors. The growth of this sector poses a number of complex questions about the application and enforcement of employment laws.

Chapter IV examines employment regulation, litigation, and dispute resolution. The NLRA was the pioneering form of federal regulation of workplace relations. By the 1990s, however, a very different model of legal intervention, "employment law," has come to play a much more prominent role both on the job and in the courts. Employment laws and regulations have expanded at an especially rapid rate since 1960, creating a complex and expensive set of requirements for employers to administer.

American employees have been promised many legal rights and protections by both federal and state lawmakers. These include minimum wages, a safe and healthy workplace, security and accessibility of pen-

sions and health benefits if they are provided, advance notice of plant closings and mass layoffs, unpaid family and medical leave, bans on wrongful dismissal, and employment opportunities and conditions unaffected by discrimination on account of race, gender, religion, age, or disability. Implementation and enforcement of these legal rights requires litigation in the ordinary courts or administrative proceedings before specialized agencies.

The United States relies on the civil court system to litigate employment disputes, while many other nations use specialized employment courts. Workplace litigation caseloads in the federal courts rose four-fold from 1971 to 1991, faster than in other areas of law. Administrative procedures for resolving employment cases are complicated by (1) the large number of agencies, enforcement regimes, and remedies available under the different statutes and (2) the varying scope of judicial review accorded agency decisions. Neither mediation and arbitration nor the newer, less formal systems of alternative dispute resolution are being used to their potential for dealing with issues that are now regulated by law.

General observations in the final chapter revisit the theme of diversity in worker-management relations across firms and industries, and emphasize the interdependence of the issues addressed in the report. The Commission concludes there is mismatch between parts of the legal framework regulating employment and the emerging workplace practices necessary for employers to be competitive and to meet workers' needs. It strongly suggests that reduction of workplace conflicts will be a primary aim of recommendations to be offered in the forthcoming second report.

Interested readers can obtain a free copy of the full report by sending a written request to the U.S. Department of Labor, 200 Constitution Avenue, N.W. — Room C2318, Washington, D.C. 20210. Members of the Commission on the Future of Worker-Management Relations are: Paul A. Allaire, Xerox Corporation; John T. Dunlop, Chair, Harvard University, and former Secretary of Labor; Douglas A. Fraser, Wayne State University, and former President, United Auto Workers; Richard B. Freeman, Harvard University, and National Bureau of Economic Research; F. Ray Marshall, University of Texas, and former Secretary of Labor; Thomas A. Kochan, Massachusetts Institute of Technology; Juanita M. Kreps, Duke University, and former Secretary of Commerce; Kathryn C. Turner, Standard Technology, Inc.; William J. Usery, Usery Associates, and former Secretary of Labor; and Paula B. Voos, University of Wisconsin. □

Immigration and Farm Worker Unions

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In September the United Farm Workers (UFW) union held its 12th constitutional convention in Fresno. Perhaps more than those of any other U.S. union, the UFW's fortunes have mirrored the trends in illegal immigration. The union burst onto the national scene with a grape boycott in the late 1960s, after the Bracero Program terminated in 1964 and before illegal immigration surged. A total of "only" 212,000 illegal aliens were apprehended nationwide in 1969.

By 1970, the UFW had contracts with most major producers of table grapes, and in 1975 California enacted the Agricultural Labor Relations Act, which granted organizing and bargaining rights to farm workers. The UFW won 200 representation elections on California farms in the fall of 1975 and by 1978 had over 100 contracts. The number of contracts slid to about 60 in 1982 and has remained at 25 to 30 since 1983.

Four types of reasons have been advanced to explain the current situation. First, the low current rate of UFW representation has been attributed to previous internal leadership and strategy decisions that led the union to quit organizing and to isolate itself from farm workers. Second, some have charged that Republican governors have since 1982 failed to properly enforce the farm labor relations law.

Explanations based on two other factors — the changing structure of farm employment and escalating illegal immigration — are probably closer to the mark. A growing number of farm businesses have insulated themselves somewhat from union organizing by leasing rather than owning land and by relying on farm labor contractors and custom harvesters to provide workers when needed. Illegal immigration is greater than ever, even after provisions of the 1986 Immigration Reform and Control Act (IRCA) enabled about one-sixth of the adult men in rural Mexico to become legal U.S. residents.

Farm wages have been falling since the early 1980s, along with the UFW's diminishing statewide influence, as many growers with contracts went out of business or bargained to an impasse on renewal agreements. The UFW's most significant recent victory was with Dole's Fresh Vegetable Oceanview Produce Company division. Dole is California's largest agricultural employer — with as many as 25,000 farm workers at times during a typical year. Its Oceanview division grows strawberries and vegetables during the spring and summer with 800 farm workers in Oxnard, north of Los Angeles. The UFW won a May 12, 1994, election, but Oceanview announced in August that it would stop growing strawberries, thus eliminating 450 of the jobs in the bargaining unit. Because it leases all of its 2,000 acres of farmland in the area, Dole had more flexibility to make this production decision than if it owned the land. The UFW has threatened a boycott of Dole products if the company in fact eliminates this strawberry operation.

Although many workers have been receptive to union organizers, less than 10 percent of the farm workforce has been covered by collective bargaining agreements at any time. UFW's quest to organize a substantially greater portion of the state's 900,000 farm workers will probably be limited for some time by the changing structure of farm employment and continuing illegal immigration. □

Green Card Deadline Is March 20, 1995

Validity of "green cards" (Form I-151) issued before 1979 to permanent legal resident aliens was extended to March 20, 1995, by the Immigration and Naturalization Service (INS). I-151 cards were to expire on September 20, 1994, unless replaced by a new green card (Form I-551). A Federal Register notice to this effect was issued September 14, 1994 (p- 47063).

The INS urges anyone holding an I-151 card to apply for an I-551 replacement card as soon as possible. Information on how and where to apply for a card may be obtained from the INS toll-free number: 800/755-0777.

Possession of an I-551 green card is one of the means by which a permanent legal resident alien in the United States may indicate whether he or she is eligible for employment or certain types of public assistance. □

Labor Officers See Improvement in Fresno Area

Stephen R. Sutter

Teams of investigators again visited Fresno area fields and sheds in the second summer of the Targeted Industries Partnership Program (TIPP). Their basic aim was to ensure that employers competed on a level field, and that workers were paid at least legal minimums and worked under safe and healthful conditions. Although no action can be expected to fully achieve these objectives, agency officials as well as employers I have spoken with say that things have changed.

The TIPP is a multi-agency, labor law enforcement and education program currently dedicated to work in the agricultural and garment industries. (See "Labor Law Enforcement Targets Agriculture" in *Labor Management Decisions*, Fall 1992.) Bilingual officers from the U.S. Department of Labor, the California Department of Industrial Relations (Division of Labor Standards Enforcement and Division of Occupational Safety and Health), and the Department of Housing and Community Development "swept through" agricultural counties throughout the state this year. They involve other agencies on a case by case basis.

Inspectors in the program have referred apparent pesticide rule violations to county agricultural commissioners. The California Highway Patrol has participated by writing citations for violation of farm worker transportation standards. The U.S. Internal Revenue Service is a TIPP "cooperator," and it also has its own Fresno-based "Agricultural Design Team" focusing on education of farm labor contractors and strategies to collect an estimated \$200 million in unpaid agricultural employment taxes. The Immigration and Naturalization Service is not included in TIPP.

Officers have traveled to farms of all sizes. While most growers, packers, and labor contractors who are audited are specifically selected for attention, some are chosen at random. The official report of TIPP's first year shows that inspectors assessed penalties totaling \$2,401,524 based on 1,353 inspections in California agriculture. In the garment industry, \$4,092,453 was assessed after 753 inspections. Cited violations that grow-

ers have told me about involved child labor, documentation of safety programs, posters about workers' compensation or other required information, expired first aid cards, overtime premium pay for field workers and packers, field sanitation, and unlicensed day hauling and labor contracting activity.

This year's TIPP push in Fresno ran from late August through mid-September, coinciding with a perceived local shortage of workers. Labor contractors I spoke with at the time said that pay levels and reduced availability of legal workers accounted for much of the deficit. Expanded demand for labor, however, may also have contributed. Employment of San Joaquin Valley grape production workers in September 1994 was up 7 percent over a year ago, according to a recent estimate from the Employment Development Department. Conjecture among some growers is that a shortage of workers is more likely in coming years, partly because of difficulties in finding seasonal housing.

Agricultural employers were better prepared in this second year. Seminars sponsored by various industry and educational organizations seemed to help lower the sum of penalties assessed around Fresno more significantly than other regions. After the sweep in their community last year, Southeast Asian farmers attended meetings to learn more about record-keeping, workers' compensation, and wage-hour rules.

Enforcement stirrings may have spawned profitable consulting. In one seminar, a Cal/OSHA officer commended a one-page fill-in-the-blank safety program description from Cooperative Extension, evidently favoring it over some of the \$400 to \$600 ring-binder systems he had seen locally. I saw such a binder on a farm visit following a TIPP inspection. The entrepreneur who produced it had copied my tractor artwork on the binder cover.

For a free bilingual TIPP checklist and list of other available publications, call me at 209/456-7560. □

Safety Tips

Raisin Trailer Retrofit Can Improve Safety

Fitting raisin-harvest bin trailers with fenders could eliminate one source of severe injury to workers, according to Steve Sutter, APMP Farm Advisor in Fresno.

Reports from the California Occupational Health Program have identified several crushing injuries and one death in 1994 resulting from the worker's leg being pulled into the gap between the tire and edge of a moving bin trailer. Estimated cost of adding fenders is about \$100 per trailer.

Post-Harvest Suggestions from Richard Bruce

The end of the season is a good time to review any problems that took place during harvest.

- ❑ Particularly review management problems. Workers usually want to do a good job, but without adequate planning, there may be a lot of needless rush.
- ❑ Go over equipment with operators and list mechanical problems so they can be repaired off-season.
- ❑ Make sure all equipment starts easily. Equipment that will not start may be left running during repairs or maintenance and can cause serious injuries. ❑

Resources

AG-HRnet, an electronic forum, was begun recently by APMP Farm Advisor Gregory Billikopf to facilitate the exchange of ideas and information on all aspects of agricultural labor management. The network, which is open to anyone who would like to participate actively or just "listen in," now has more than 100 subscribers. There is no charge to join AG-HRnet. Those with access to an Internet e-mail system may subscribe by sending a message to: Listproc@ucdavis.edu. Leave subject line blank; in the body of the message type "Subscribe ag-hrnet" followed by your first name and last name (no quotes in actual message). For more information, phone Gregory at 209/525-6654 or send an e-mail message to: gebillikopf@ucdavis.edu.

Labor Management in Ag: Cultivating Personnel Productivity. The 170-page, soft-cover manual, written by Gregory Billikopf and published in Stanislaus County, is directed primarily to farmers and farm labor contractors. The book emphasizes labor management principles related to the selection, promotion, motivation, pay, and supervision of agricultural personnel, from field worker to farm manager. To order, send a check

for \$10 (includes tax and mailing) payable to Farm Advisors' Trust Fund, to Gregory at UC Cooperative Extension, 733 County Center III Court, Modesto, CA 95355 (phone: 209/525-6654).

Safety training packets. The Ag Health and Safety Center and Ag Health Promotion project at the University of California, Davis, have produced three bilingual training packets under the direction of Dr. James Grieshop: (1) Farm Safety Training: Field Sanitation and Worker Personal Cleanliness; (2) Tractor Safety; and (3) A Driver Safety Training Tool: *La Lotería del Manejo Seguro*, Publication 3363. The first two include such training aids as instructor's guides, audio cassettes, brochures, and photographs; the third, a training game similar to bingo, includes 54 "playing cards," 16 "bingo cards," and a bilingual instruction booklet. (1) and (2) are available at \$15 per packet from University of California, Department of Applied Behavioral Sciences, Cooperative Extension, Davis, CA 95616 (phone: 916/752-2606 or 916/752-3007). (3), Publication 3363, at \$10 per copy, can be ordered from ANR Publications, University of California, 6701 San Pablo Ave., Oakland, CA 94608-1239 (phone: 800/994-8849 within California, 510/642-2431 outside California; fax: 510/643-5470. Make checks payable to *UC Regents*.

Bailando con Peligro/Dancing with Danger. North Carolina Cooperative Extension Service has published a Spanish/English fotonovela, "a pesticide worker protection story," to be given to agricultural workers as a supplement to the pesticide safety training required by the EPA Worker Protection Standard. With photographs and dialogue, the booklet tells the story of a tobacco harvest worker who becomes ill from pesticides and learns how to protect himself in the future. Discussion questions and an exercise are included. The booklet, AG509, can be ordered for \$1.00 per copy (make check payable to *N.C. State University*) from: Publications, Campus Box 7603, N.C. State University, Raleigh, NC 27695-7603.

Ag safety supply catalog. In addition to its regular stock of safety products, the 1994-95 Gempler's Safety Catalog contains a special section on posters, signs, training materials, reproductions of official Environmental Protection Agency (EPA) publications, decontamination supplies and equipment, and personal protective equipment needed for compliance with the Worker Protection Standard (WPS). Among its WPS materials, the catalog lists the complete, 144-page, official EPA *How to Comply* manual on a scale from \$1.50 each for 1 to 11 copies, to \$.55 each for orders of 1000 or more. For more information, phone Gempler's at 800/382-8473.

Two ERS reports analyze farm data. The reports by the Economic Research Service, U.S. Department of Agriculture, are available from ERS-NASS, 341 Victory Dr., Herndon, VA 22072 (phone: 800/999-6779). Make checks or money orders payable to ERS-NASS; telephone orders paid by Visa or MasterCard are also accepted.

A Profile of Hired Farmworkers, 1992 Annual Averages. AER-693, 15 pages, \$9.00. An Agricultural Economic Report (September 1994) by Jack L. Runyan, of the ERS Rural Economy Division, examines demographic and employment characteristics, using data from the Current Population Survey earnings microdata file. According to the report, an average of 848,000 persons 15 years of age and older did hired farm work each week in 1992 in the United States. Farm workers continued to have lower median weekly earnings (\$200) than all wage and salary workers (\$380), and their earnings appeared to fall farther behind all wage and salary workers between 1990 and 1992. The Pacific region (Alaska, California, Hawaii, Oregon, and Washington) employed 26 percent of all U.S. hired farm workers.

Women Farm Landlords in the United States. AIB-681, 11 pages, \$7.50. Denise M. Rogers and Ann M. Vandeman examine the extent of women's involvement in agricultural leasing, the characteristics of women landlords, and their participation in management decisions on their leased land. The Agriculture Information Bulletin (November 1993) reports that 40 percent of private (noncorporate and nonpublic) agricultural landlords are women, and they control 40 percent of the privately held farmland rented out. The information is based on the 1988 Agricultural Economics and Land Ownership Survey, a follow-on to the 1987 Census of Agriculture.

Controlling Immigration: A Global Perspective. Wayne A. Cornelius, Philip Martin, James F. Hollifield, editors. The book presents results of a three-year comparative study of immigration policy and policy outcomes in nine industrialized countries by a team of researchers. The project was led by Wayne Cornelius, Director of the Center for U.S.-Mexican Studies. Published in association with Stanford University Press, the book is available for \$17.95 (paper) or \$49.50 (hard cover). Further information can be obtained from the Center's Publications Department, University of California, San Diego, 9500 Gilman Drive, Dept. 0510, La Jolla, CA 92093-0510 (phone: 619/534-1160; fax: 619/534-6447).

Comparison of Immigration and Refugee Policy Regimes Among Major Western Nations: A Documented Briefing. Publication DRU-757-FF/CC (72 pages), by

Georges Vernez, of the RAND Center for Research on Immigration Policy, was prepared as a working draft for a three-day seminar held in Russia last May. The "overview briefing" discusses key components of immigration and refugee policy, presents the main differences in policies of seven major countries, considers selected outcomes of these policy regimes, and looks ahead to future migration pressures and the changes in policies they may generate. For further information on the publication, contact Distribution Services, RAND, 1700 Main St., P.O. Box 2138, Santa Monica, CA 90407-2138 (phone: 310/451-7002; fax: 310/451-6915; Internet: order@rand.org).

Surveying Immigrant Communities: Policy Imperatives and Technical Challenges. Also published by RAND (see listing above), Report MR-247-FF (178 pages), by Julie DaVanzo, Jennifer Hawes-Dawson, R. Burciaga Valdez, and Georges Vernez, describes in detail a 1991 pilot study — the Los Angeles Community Survey of Salvadorans and Filipinos. Results of the study suggest that a large-scale, national survey designed specifically to provide useful data on immigrant families and their adaptation processes would be feasible. □

Events

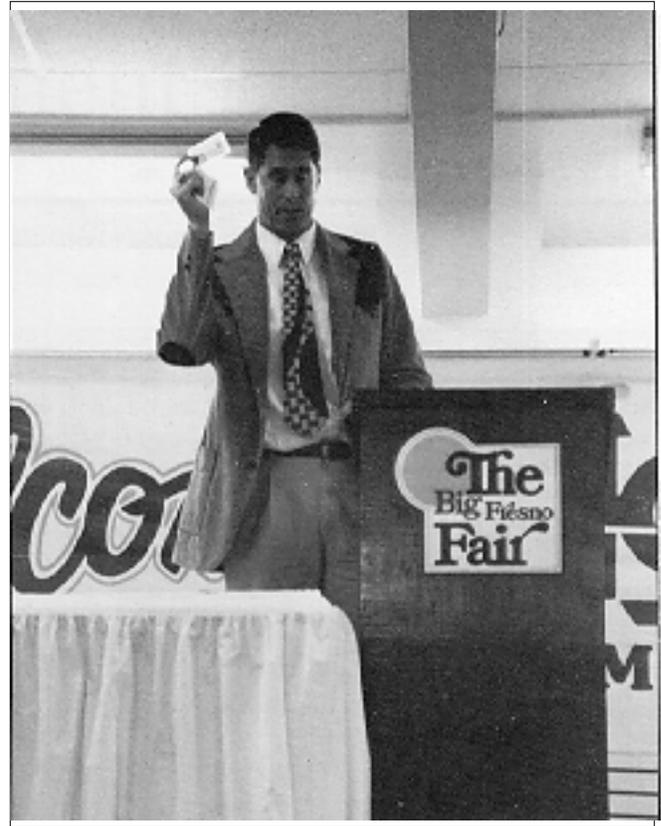
WPS Field Worker Training for Workers. Tuesday, January 17, 8:30 to 11:00 a.m. Modesto: UC Cooperative Extension, 733 County Center III Court, Scenic Dr. and Oakdale Rd. Workers will earn a certificate showing they have received training as required by the EPA Worker Protection Standard. To preregister for this free meeting, phone Melynda Ange at 209/525-6654.

Meeting for Farm Labor Contractors, in Spanish. Tuesday, February 28. To be co-sponsored with the California Employment Development Department. For more information, contact Gregory Billikopf at 209/525-6654.

Ag Employers' Seminar. Wednesday, April 5, 9:00 a.m. to noon. Madera: Madera County Fairgrounds. Mike Hogan, agricultural labor attorney, will give a practical guide to the Agricultural Labor Relations Act and will discuss sex discrimination in agriculture. Presentations will also be made by representatives of the INS Border



Labor contractors and farm operators attending the Ag Employers' Seminar raise topics for speakers to clarify. The seminar, co-sponsored by the UC Agricultural Personnel Management Program and area Employment Development Department offices, took place November 18 as part of the AgFresno farm equipment show.



Border Patrol officer Steve Borup describes a few sure signs of fraudulence in a "green card" presented to prove employment eligibility: a photo that is raised or otherwise not integrated with the rest of the card; a serial number in the 50, 60, or 80 million series; and any obvious alteration.



Gil Molina, U.S. Department of Labor, reviews MSAWPA provisions for safe transportation of farm workers, as Steve Sutter contemplates the plane ride to another Christmas in Hilo.

Patrol, Internal Revenue Service, and Cal/OSHA. For information, call Steve Sutter at 209/456-7560.

Seminar Series UC Agricultural Health and Safety Center. *Fridays, at 12:10 p.m.* UC Davis: Conference Room Institute of Toxicology and Environmental Health (ITEH), Old Davis Road. Phone 916/752-5253 for Seminar Information. Programs held on the first Friday of the month will include the following in the late spring:

May 5. "Agricultural Ergonomics Case Studies from the Nursery Industry," Ira Janowitz, M.P.S., P.T., Ergonomics Program, UC Riverside.

June 2. "The Farm Bureau Approach to Agricultural Health and Safety," Pene Wilson, Program Director of Rural Health and Safety, and Donna Mast, Rural Health and Safety Chair, California Farm Bureau Federation. □



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