



**NCAE News Brief 2010, #52**  
**December 31, 2010, 2010**

**NCAE Executive Vice President's update, week ending 12/31/10.**

- **Next Week is the booking deadline for the Annual Meeting hotel. Please print out the meeting registration form:**  
[http://www.ncaeonline.org/files/2011\\_NCAE\\_Annual\\_Meeting\\_Registration.pdf](http://www.ncaeonline.org/files/2011_NCAE_Annual_Meeting_Registration.pdf)  
**See the bottom of the back page and make your hotel reservations TODAY!**
- **Please note that NCAE's address changed in November 2010. About half the dues checks received to date have been forwarded from the old address despite clear notation on the invoices. Please check your contact files, including in accounting services, and make the address change:**  
**National Council of Agricultural Employers (NCAE)**  
**8322 Old Courthouse Road, Suite 200**  
**Vienna, VA 22182**  
**703-442-6517 (Frank) 202-579-0171 (Frank mobile)**  
**703-790-9039 (Matt) 703-790-0845 (fax)**
- **Matt and I have prepared a Microsoft Excel spreadsheet indexing all of the 2010 News Briefs here:** [http://www.ncaeonline.org/files/2010\\_NCAE\\_NB\\_Index.xls](http://www.ncaeonline.org/files/2010_NCAE_NB_Index.xls)
- **2011 NCAE Annual Meeting SPONSORSHIP Opportunities:** We have sponsors for the Opening Breakfast (Leitz Farms) and for the President's Reception (Monty Lake of CJ-Lake.) Sponsorship opportunities available include:
  1. Four **coffee breaks** (\$1000 to \$1500 each, although these can be shared in \$500 increments.)
  2. Two **lunches** (\$2500 each, can be shared in \$1000 to \$1500 increments.)
  3. Two additional breakfasts (\$2500 each.)
  4. **Fresh fruit for breaks.** For those who are driving to the meeting, or are willing to ship for arrival at the NCAE office no later than Noon

January 31, we have agreement with the hotel to provide our own fresh fruit (apples, citrus, pears, small fruit, etc.) The plan is that we would have these available for participants throughout the day, the hotel would make them available (with note about sponsor) to all guests in the lobby, and the chef will work at least one offering into our luncheon menu. Any fruit provided will have to be ready to use right out of packaging without further preparation. Please coordinate with Matt or

- **Change in I-129 immigration forms with VERY short deadline!**

Despite a spirited effort by NCAE Member Dave Fulton and our contacts at the USCIS Ombudsman, the effort to have CIS extend the 12/22/2010 date on which old I-129 forms could still be used was unsuccessful. **Any I-129 form filed after 12/22/2010 has to be the new form. After 12/22/2010--- you MUST use the form and instructions in this USCIS link--- or your applications WILL BE REJECTED:**

<http://www.uscis.gov/portal/site/uscis/menuitem.5af9bb95919f35e66f614176543f6d1a/?vgnextoid=f56e4154d7b3d010VgnVCM10000048f3d6a1RCRD&vgnextchannel=db029c7755cb9010VgnVCM10000045f3d6a1RCRD>

- **2010 Census figures out, will lead to US Congressional reapportionment among states.**

Generally South & Southwestern states gained population and the Northeast lost. Congressional seat gainers include TX (+4 seats), FL (+2 seats), and GA/SC/AZ/NV (+1 each.) Losers include OH/NY (-2 each) and IL/IA/MA/MI/MO/NJ (-1 each.) This link is to the Wall Street Journal (12/21/2010) and also contains links direct to the census data:

<http://online.wsj.com/article/SB10001424052748703581204576033513727657644.html?mod=djemalertNEWS>

- **Health Care Law Update.** NCAE's Health Care Workgroup, led by Cathy Enright (Western Growers) met with Health and Human Services folks who are working to write regulations for Health Care Act implementation on December 14, 2010. How exemptions for seasonal employees (less than 120 days), the potential 90 day waiting period for enrollment, state-based exchanges for workers who cross state lines, coverage for workers with multiple employers, and what happens to falsely-documented workers are still major questions for HHS to address. We will continue working with them.

As you have certainly read, the Individual Mandate has been found unconstitutional by a federal judge in VA. Despite the initial expectations of the state's attorney generals who filed the suit, this does not strike down the entire legislation--- only the individual mandate. Unless/until the 2011 Congress repeals, or substantially changes, HCA legislation we must still prepare for implementation by 2014. Although we do not know what to expect from the 2011 Congress on this or many other issues, employers must not

bank on expectations of HCA repeal in time to avoid rules taking effect for full implementation in 2014.

The following summary of 12/2010 state-of-play from the Society for Human Resources Management (SHRM) provides a timely update of what we know versus all the speculation around the issue. Many issues remain unresolved and we will not know the answers until regulations are proposed. Until we know what we are dealing with and how our unique issues will be addressed the important points are to be in compliance with the few provisions that took effect in 2010 to 2012--- begin to prepare your business model to comply as early as we see directions--- remain engaged with NCAE and allied group efforts to mitigate (and then comment on) the regulatory process--- and be nimble and prepared to act as soon as concrete requirements are announced. <http://www.shrm.org/hrdisciplines/benefits/Articles/Pages/Ambiguities.aspx>

- Form I-9 documentation--- The following Department of Justice Daily Update indicates the potential cost of an employer improperly specifying documents for the I-9 (<http://www.justice.gov/opa/pr/2010/December/10-crt-1483.html> .) Remember, the employee can offer ANY of the required documents from among the groups listed. If the documents offered appear valid (and are not expired) then you must not ask for an alternate document--- or specify which documents you want. Requiring a specific document cost the Oregon employer over \$15,000. Here is the USCIS direction sheet for I-9 compliance <http://www.uscis.gov/files/form/i-9.pdf>
- **The following link from New Zealand on how to find the right farm employer is so quaint we almost passed on it.** It sounds like it comes from a kinder-gentler era--- perhaps early 1900s America. We include it however for those NCAE Members and allies who are very small employers as we recognize that your hiring decisions must be considerably more personal than for larger employers, and the personal effects (on both you and the employee) have the potential to be more disruptive and less easily repaired if the wrong choice is made. Employers can benefit from reading this employee perspective on how to choose the best employer: <http://hubpages.com/hub/Choosing-the-Best-Farm-Employer>

#### **Agricultural Quote of the week:**

From an article about "Immigration in the Mountain West":

*"No regulation or law should be allowed if it results in crops rotting in the fields for lack of harvesters."*

*Ronald Reagan, 1977*

Until Next Week,  
*Frank*

## **News articles and citations of interest for week ending 12/31/10:**

**December 28, 2010.** Keyword: Agricultural Labor.

Sacramento Bee. *A somewhat grim picture for agriculture the next ten years in this article, but a good article. "The challenge of growing real food is hard work. The economic rewards will not always justify the efforts. There are and will be easier ways to making a living." This statement may be true, but emphasizes the need for our legislators and policy makers to put real thought into modern agricultural policy to America's food security for the future by assuring adequate and able labor, market parities, and trade policies to keep our food production onshore, where it belongs.*  
<http://www.sacbee.com/2010/12/28/3284041/farmers-face-tough-row-to-hoe.html>

**December 28, 2010.** Keyword: Illegal Alien.

American Independent. Regardless of anyone's personal feelings about AX 1070 and similar state legislation, a patchwork of similar (but slightly different) state laws on immigration will make the agricultural labor issue even more difficult, confusing, and risky for growers. Issues like immigration, defense, major science-based regulations, etc must ultimately be governed by federal laws & regulations or America will "balkanize" into a collection of unequal and squabbling states/regions. *"State legislators in 25 states (see list below) planned to introduce SB 1070 clones in upcoming legislative sessions, according to Immigration Impact. Of course, not all — or even most — of these laws will pass."*  
<http://www.aginfo.net/index.cfm/event/report/id/Fruit-Grower-Report-18007>

**December 28, 2010.** Keyword: Immigration.

Bloomberg. Representative Peter King (R, Seaford, NY) who will chair House Homeland Security Committee will continue emphasis on enforcement. Cites need for completely locked-down border before other reforms can progress, and--- *"That goal, he said, is "at least several years off."*  
<http://www.bloomberg.com/news/2010-12-28/more-states-seeking-to-follow-arizona-s-push-for-tougher-immigration-rules.html>

**December 23, 2010.** Keyword: Agricultural Labor.

The World. American food production does not move offshore by choice!  
<http://www.theworld.org/2010/12/23/an-american-farmer-in-mexico/>

**December 22, 2010.** Keyword: Agricultural Labor.

California Farm Bureau. let us all hope that the CA Ag Vision is successful. Among the many good statements in the plan are--- *"assure a strong labor force through fairness to agricultural workers and employers;---*" Note that Luawanna Hallstrom is on the team along with other NCAE Member group representatives.  
<http://www.cfbf.com/aqalert/AgAlertStory.cfm?ID=1654&ck=9D2682367C3935DEFCB1F9E247A97C0D>

**December 21, 2010.** Keyword: Agricultural Labor.

Bovine Veterinarian. This article particularly appropriate for our animal agriculture and other longer term employer Members.  
[http://bovinevetonline.com/directories.asp?pgID=677&ed\\_id=5710](http://bovinevetonline.com/directories.asp?pgID=677&ed_id=5710)

**December 16, 2010.** Keyword: Agricultural Labor.

The Economist. Unfortunately this bleak article does not offer any potential solutions.  
[http://www.economist.com/node/17722932?story\\_id=17722932](http://www.economist.com/node/17722932?story_id=17722932)

**Keywords searched:** “Immigration”, “Border Health Care Relief”, “H2A” “E-Verify”, “Undocumented Worker”, “Agricultural labor”, “Agricultural Employer”, “illegal alien”, “farm worker”, “NCAE”, “NCAEonline”, “NCAEonline.org”

Completed 12/30: MCoffindaffer