

Module Five

Managing Legal and Regulatory Risk



MANAGING LEGAL AND REGULATORY RISK**LEARNING OBJECTIVES:**

Given a discussion of the various forms of business structure, you will be able to discuss with their management team, including their attorney and accountant, the optimal structure for their business and family goals

Given a discussion of contracts and background material, you will read contracts before signing them, request changes with the advise of your management team

Given a broad overview of legal and regulatory impacts on the family farm business plus resource material, you will be able to use the Risk Assessment and Strategy Worksheet to develop tools to manage these risks

Given a template for producing the State required Illness and Injury Prevention Program and a resource for finding legally required employment posters, you will be able to come into compliance with state regulations on areas

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INTRODUCTION TO LEGAL AND REGULATORY RISK

Adapted from Introduction to Risk Management, USDA Risk Management Agency, 1997

Many of the day-to-day activities of farmers and ranchers involve commitments that have legal implications. Understanding these issues can lead to better risk management decisions.

Legal issues cut across other risk areas. For example, acquiring an operating loan has legal implications if not repaid in the specified manner. Production activities involving the use of pesticides have legal implications if appropriate safety precautions are not taken. Marketing of agricultural products involves contract law. Human resource issues associated with agriculture also have legal implications.

The legal issues most commonly associated with agriculture fall into four broad categories: appropriate legal business structure and tax and estate planning, contractual arrangements, tort liability, and statutory compliance, including environmental issues.

STRUCTURAL ISSUES

The first legal issue that many family farms encounter is the nature of the entity under which the business is to be operated. Often, through lack of attention, sole proprietorship is automatically chosen. However, alternatives entities exist including partnerships, limited partnerships, limited-liability companies, and corporations (both Subchapters C and S) as well as a wide variety of trust arrangements. In addition, many States, and the Federal Government, have special statutory provisions for farms meeting certain criteria, such as “family farm” provisions.

Income and property tax consequences at the local, State and Federal level vary significantly, depending upon the legal entity chosen. Some structures lend themselves to the avoidance of

estate tax and the ease of administration during probate. Liability to third parties is also a consideration in structural decisions, as is ease of operation within the chosen structure.

Estate planning considerations may arise in the course of making structural decisions. Estate planning mechanisms range from simple wills to family farm corporations with complex inheritance provisions. Trusts, both living and testamentary, are often included in estate planning.

CONTRACT ARRANGEMENTS

Contractual arrangements in agriculture take many forms. A contract is any agreement (written or verbal) where the parties exchange mutual promises in return for some sort of consideration or benefit.

Contracts include financial arrangements, such as promissory notes and mortgages. Leases and crop share arrangements are contracts. Many State and Federal farm programs are contractual in nature, such as the Conservation Reserve Program. Sale of agricultural products is often accomplished by contracts for future performance. Crop insurance coverage is also based on a contractual agreement. Even employment arrangements, although often not written, are treated as contracts.

A basic legal issue pertaining to contracts is their enforceability. For instance, many States have what is known as “statutes of frauds,” which require that certain types of agreements be in writing before they can be enforced. Examples of contracts which often must be in writing before they are considered valid include agreements for the sale of real estate and agreements which cannot be performed within 1 year.

When entering into any contractual arrangement, either oral or written, you should be concerned about what happens if a disagreement between the parties arises. How will disputes be handled? What is the appropriate jurisdiction if the contracting parties do not reside in the same county or State? Is one party liable for court costs and attorney's fees?

STATUTORY OBLIGATIONS

A huge variety of statutory mandates apply to farmers and ranchers. These include tax reporting and payment obligations, wage and hour and safety requirements, compliance with nondiscrimination statutes, termination of employees, use of pesticides and herbicides, participation in certain farm programs, and many more. Although many in agriculture are not fully aware of their legal obligations, failure to comply may have serious consequences in terms of fines, penalties and abatement.

Human resources are both a source of risk and an important part of the strategy for dealing with risk. At the core of dealing with that risk, and that potential, is your approach to managing people.

Managing People

Most families that successfully work together have evolved a good management system, although they usually don't think about it as a management system. But, even small family farms can benefit as much as large operations from clearly defining how plans and decisions are to be made for the business.

Involving everyone, family and outside employees, in the planning process can create a sense of group ownership of the goals of the organization. Workers who understand why and how decisions are made, and exactly what their responsibilities are, will see opportunities for the organization and for themselves inside the organization. Formalizing planning and management can improve safety performance and reduce legal risks arising from employee relationships.

TORT LIABILITY

Tort liability arises from the negligent or intentional infliction of damage to a person or to property. This type of liability is commonly insured under a general liability insurance policy.

The simplest type of tort arises where someone is injured on a farm or ranch property. In recent years, tort liability has broadened significantly, to include what may be classed as employment torts, such as wrongful discharge. Another area of expansion has been in the so-called "toxic tort" area in which adjacent landowners, public groups, or others assert liability for damage to air and water quality on account of agricultural activity.

ENVIRONMENTAL LIABILITY

Pollution laws are a major concern for farmers. The line between point and no-point pollution is being erased by the courts. Many of the newer liability policies exclude coverage for pollution claims entirely, forcing farmers to purchase special pollution policies. The pollution policies that are available contain unique characteristics that are unfamiliar to farmers. Managing liability risk begins with understanding liability insurance coverage.

Beyond having the proper liability coverage as protection, farmers must be prepared to deal with possible criminal prosecutions by State and Federal agencies for environmental events. Liability insurance affords no protection from criminal penalties assessed against a farmer by a regulatory agency. Farmers can greatly reduce their criminal liability exposure by formulating and following environmental audit procedures.

Many good farmers fail to keep records necessary to prove compliance. Accurate records should be kept on the applications of herbicides, pesticides, and fertilizers.

The United States Department of Agriculture (USDA) prohibits discrimination in its programs on the basis of race, color, national origin, sex, religion, age, disability, political beliefs and marital or familial status. (Not all prohibited bases apply to all programs.)

Persons with disabilities who require alternative means for communication of program information (Braille, large print, audiotape, etc.) should contact USDA's TARGET Center at (202) 720-2600 (voice and TDD).

To file a complaint, write the Secretary of Agriculture, U.S. Department of Agriculture, Washington, D.C., 20250, or call 1-800-245-6340 (voice) or (202) 720 1127 (TDD). USDA is an equal opportunity employer.

EIGHT QUESTIONS TO ASK WHEN CHOOSING A BUSINESS FORM

(adapted from The Legal Guide to Direct Marketing by Neil D. Hamilton)

- 1. How large is the business (or how large do you hope it will become) in terms of sales, employees and capital needs?**

The larger and more complicated a business becomes, the easier it will be to justify the expense of forming a corporation and such a form may be needed to help organize and manage the business.

- 2. How many people are involved in the ownership and management of the business?**

The fewer people involved, the less need there is for a formal business structure beyond a sole proprietorship or partnership. The more people or family members involved in managing or owning the business, the more valuable it may be to use some form of business structure like a corporation, to help allocate ownership interests and decision-making.

- 3. What is the relationship of the people involved? Are they family, unrelated business partners, or employees?**

The number of people involved in the business and their relationship to each other can influence whether some business other than sole proprietor may be needed. If the parties are unrelated and are contributing capital or other assets to the business, then a partnership or some form of corporation may be needed.

- 4. Do you intend to sell or transfer part of the business to family members or employees?**

If the future ownership and existence of the business is a concern, then it is worth considering a business form that may make it easier to transfer interests and continue the life of the enterprise after you retire. One benefit of a corporation is that the assets can be represented by shares that can be divided and transferred among the owners more easily than other assets, such as land and equipment.

- 5. Do you intend to be liable for the debts and obligations of the other owners or do you want to limit each party's risks?**

One main reason to use a business organization is liability. When people are general partners, they not only share the profits and decision making but also the risks and obligations. If you do not want this joint liability, then a business form such as a limited partnership or a corporation may provide for limited liability.

- 6. Do you have the time and money to spend on the legal paperwork and record keeping some business forms require?**

Creating a corporation means decision making and accounting for the business become more complicated. If you want to run the business any way you chose and not worry about holding meetings, keeping minutes, or getting the approval of other owners, then a sole proprietorship or closely held corporation may be attractive.

- 7. What are potential risks and liabilities associated with the business? How serious might they be?**

The greater the potential for large liabilities, such as borrowing a large amount of money, hiring numerous employees, conducting dangerous activities, or creating potential environmental risks, then the more important it may be to choose a business form which offers some limited liability to investors and owners.

- 8. Do you have other businesses or do you have other personal assets you do not want to place at risk?**

If all your assets and efforts are tied up in the farm business, it may not make much difference what form you choose because everything you own may already be at risk. However, if you have separate businesses or have other property or assets you do not want to put at risk, then you should consider choosing and operating in a business form which will limit your potential liability and exposure.

TEN QUESTIONS TO ASK (AND ANSWER) BEFORE YOU SIGN A CONTRACT

BY NEIL D. HAMILTON

(adapted from The Legal Guide to Direct Marketing by Neil D. Hamilton)

1. Do you understand what you are agreeing to do, for example are you selling a particular quantity or quality of product?
2. What is the price you will be paid and how is it determined?
3. When will you be paid or when is payment due if you are buying something?
4. Who will decide if you have satisfied the terms of the contract?
5. What will happen if a dispute arises, will it go to court or does the contract include some form of alternative dispute resolution such as mediation or arbitration?
6. If there is a dispute, where will it be heard and which state's laws will be used?
7. How long will the agreement run and how can it be terminated or extended?
8. Can the agreement be modified once it is signed?
9. Are you considered a merchant under the agreement and held to a higher commercial standard or will you be treated as a farmer?
10. Can the contract be assigned to another person or is it personally to you?

If you cannot answer these questions, consider asking or having your attorney ask a company representative for answers. If you still have concerns, you may not want to enter into the contract. In any case, you should always consider having your attorney review any legal document before you sign it.

HUMAN RESOURCES DOCUMENTS AND SYSTEMS

Before you hire someone

1 Position Analysis

Position description
Wage & salary survey

Federal Employer Identification Number (EIN)
(required by law)

California Employer Account number (required
by law)

Workers compensation insurance (required by
law)

Posting Requirements (State of California are
starred) (required by law)

*State and Federal minimum wage

*Payday and workweek

*Workers comp carrier

*Unemployment Insurance notice

*State Disability Insurance

*Industrial Welfare Commission Industry

Orders poster

Equal Employment Opportunity

Migrant and Seasonal Worker notices

Health and Safety

Toilet and hand washing

Hand washing notice

Drinking water

First aid kit

Recruitment or hire of agency/farm labor
contractor

2 Application

3 Interview

4 Reference checks

At the point of hire - create a personnel file with the following

Hiring

Documentation

Application

Reference checks

Job offer including wages/salary & benefits

I-9 (required by law)

If minor, work permit (required by law)

Consider proof of age

W-4 (required by law)

New Hire Report to EDD DE-54 (required by
law)

Orientation and Training

Documentation

5 Read/reading Employee handbook

(required by law)

6 Safety Training based on written IIPP

(required by law)

Position description/task list received (for each
successive position)

Position specific training received including
safety training (for each successive position)

Equipment received or location of equipment to
be used

On-going documentation

7 Payroll

Documentation (required by law)

Pay stub

Employee name and social security
number

Pay date and period covered

Salary or base wage or piece wage

Hours worked or pieces handled

Total compensation

State and Federal tax deductions

Other deductions (must have written
permission)

Net pay

Receipt of check

Due immediately on termination or layoff;
within 72 hours on quit

Progressive Discipline

Documentation

Verbal warning and re-training employee
signs re-training

Written warning

Discharge

Miscellaneous

Promotion and pay increases

Signed resignation forms for voluntary quits
(can be done with last pay check)

- Unemployment insurance claims
- State Disability insurance claims
- Vacation and leave requests
- Medical release to work
- Annual/seasonal pay summaries

Keep but not in personnel file

- Workers comp claims – these should be kept in workers comp file with annual log to be posted
- Discrimination complaints/actions
- Safety complaints / OSHA actions

(Endnotes)

¹ The preceding check-list of questions about vegetable crop production contracts was developed by Dr. F. W. Simmons, University of Illinois Extension.

RISK ASSESSMENT AND STRATEGY WORKSHEET

Risk Category	Specific Risk within Category	Tolerance for this Risk	
Strategies Available to Manage Risk based on Tolerance	Tool(s)	Resource Contact	Annual Cost
Avoid			
Shift/Transfer			
Reduce			
Retain/Assume			

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RESOURCES

Regulations and Legalities

American Agricultural Law Association. The Association offers information on legal issues to farmers. It publishes a monthly newsletter and hosts annual conferences. For more information call 501-575-7389 or go to www.aglaw-assn.org.

National Center for Ag Law Research and Info - <http://law.uark.edu/arklaw/aglaw/about.htm>

New Rules Project - FLAG Farm Legal <http://www.newrules.org/agri/index.html>

The Legal Guide for Direct Farm Marketing by Neil D. Hamilton. Contact Drake University Agricultural Law Center, Des Moines, IA 50311, or call 515-271-2065 for copies at \$20.00 each.

This book is intended for use as educational material to assist farmers, USDA employees, and other advisors in understanding the effect of various laws and regulations on direct farm marketing. The book is intended to provide general information and advice to help direct farm marketers and their advisors understand how the law might apply to a particular situation. It also addresses liability insurance questions.

A Farmer's Legal Guide to Production Contracts by Neil D. Hamilton Contact Drake University Agricultural Law Center, Des Moines, IA 50311, or call 515-271-2065 for copies at \$16.00 each.

Federal Regulations

Federal regulations concerning farmers/ranchers and value-added processors are housed predominantly, but by no means exclusively, in the USDA. FDA is also involved when food labeling is involved. Most federal regulations are enforced at the local level by state agriculture and health departments. The major exception to this is

employment regulations, which are handled by the Department of Labor and the Equal Employment Opportunity Commission, and environmental regulations handled by the Environmental Protection Agency.

USDA – United States Department of Agriculture <http://www.usda.gov>

Most of its regulatory responsibilities are carried out by the State Departments of Agriculture or Resource Conservation Districts. Since 1996, the USDA has worked hard to integrate all its parts. They have gone to a one-stop-shop model with all offices co-located into a single building. County offices may be found at

AMS Agriculture Marketing Service
<http://www.ams.usda.gov/>

Has great stuff on direct marketing at their direct marketing site <http://www.ams.usda.gov:80/directmarketing/>

They also oversee the National Organic Standards that can be found at <http://www.ams.usda.gov/nop/> with links to certifying agencies

NRCS Natural Resources Conservation Service (was Soil Conservation Service) <http://www.nrcs.usda.gov/>

Handles the EQIP program — Environmental Quality Incentives Program.

Works through Resource Conservation Districts at the local level

FS Forest Service - <http://www.fs.fed.us/>

RMA Risk Management Agency (was Federal Crop Insurance Corp)

Uses FSA as their administrative arm
[http://](http://www.act.fcic.usda.gov/)

www.act.fcic.usda.gov/

- FSA Farm Services Agency <http://www.fsa.usda.gov/pas/default.asp>
Now has most of its forms online for downloading and printing
- FAS Foreign Agriculture Service
- RDRural Development (parts of Farm Home Admin. FmHA)
Low-interest loans for rural businesses <http://www.rurdev.usda.gov/>
- REES Research and Education Service - <http://www.reeusda.gov/>
Includes all state Cooperative Extension

FDA Food Inspections Officials. <http://www.fda.gov>

The names and addresses for the state food inspection officials are listed in the FDA web site: <http://www.fda.gov/ora/fed-state/directorytable.htm>

FDA is responsible for labeling laws and advertising claims about food and food products.

You must label packaged and value-added goods and there are legal requirements as to what must be on a label. A good consultant and attorney can save you a lot of grief here.

IRS – Internal Revenue Services – Treasury Department
<http://www.irs.gov>

Every employer must have **every employee** fill out a **W-4** allowing the employer to compute and collect income and social security taxes. You must do this even in the absence of a W-4.

You must also issue a W-2 to every employee by January 31 of the following year.

The agency we all love to hate. Collects income, social security (FICA), and Medicare taxes from you and your employees. Issues Employer Identification Numbers (EIN) an identification number for your business. You need this for a lot of things whether or not you have employees.

Generally, you pay personal or business **income taxes quarterly** and **employment taxes monthly**

EPA – Environmental Protection Agency
<http://www.epa.gov>

Enforces pollution regulations. Especially important to farmers are water quality regulations an, in California, air quality regulations. Generally, these are enforced at the state level through CalEPA, the Department of Pesticide Regulation, Motor Vehicle Department, and CalTrans. If you store chemicals or fuel on your property, you probably know these guys.

Department of Labor
<http://www.labor.gov>

Wage and Hour Laws – minimum wage, overtime, child labor laws, migrant labor laws. This is where rules on independent contractors come into play. Also what is and is not agricultural labor.

You must **post** the legal minimum wage in a place where your employees can see it.

INS – Immigration and Naturalization Service
<http://www.ins.gov>

Who can legal be in the country. Issues visas for various categories. “Green Cards” allow someone who is not a citizen to work here. **Every employer** must look at documentation for **every employee** and state that they have by filling out an **I-9**

OSHA – Occupational Health and Safety Administration
<http://www.osha.gov>

Enforced on the local level by CalOSHA Workplace safety rules.

Material Safety Data Sheets (MSDS)

Protective clothing
Pesticide re-entry times

EEOC – Equal Employment Opportunity Commission - Department of Justice

Enforces non-discrimination statute and regulations including
ADA – Americans with Disabilities Act, which states all facilities open to the general public, shall make reasonable accommodation to allow persons with disabilities, access to the facilities and services.

Army Corps of Engineers – Department of Defense

These guys have jurisdiction over the change to waterways and must issue permits before that can be done legally. Works closely with NRCS from the USDA.

Department of Transportation

<http://www.dot.gov>

Weight limits, speed limits and safety on highways, railways and in the air. If you run your own trucks to haul your product, these guys are involved. If you don't they regulate those you contract with to do it.

State Regulations.

Where do I find out about state regulations? This question is posed at all directing marketing, alternative enterprises and agritourism workshops. The place to start is with your state department of agriculture. Local zonings are found in the General Plan and enforced through building departments. Food handling regulations are enforced by the health department and its inspectors.

Go get a list of all the state agricultural departments of agriculture by going to:<http://www.ink.org/public/kda/stateags.html>
This is important if you ship fresh product, critters, nursery products, seeds, dried plant materials or anything with soil across state lines.

California has set up a “one-stop shop” website to guide you through the regulatory maze at <http://>

www.calgold.ca.gov Sponsored by California Environmental Protection agency
Unfortunately, it doesn't track all the regulations on ag businesses. If we all ask them, they may start.

California Department of Food and Agriculture

<http://www.cdffa.ca.gov>

the following are links off the Programs and Services button

Agricultural Export Program

CAEP is especially suited to assist small or medium-sized companies that cannot afford to send an overseas representative to initiate and maintain export service.

Animal Health and Food Safety Services

Animal Health

Livestock Identification

Meat and Poultry Inspection

Milk and Dairy Foods Control

California Veterinary Diagnostic Laboratory System

Annual County Statistical Data – Crop Reports and Ag Census data

Biological Control Program

The Biological Control Program is an integral component of the Plant Health and Pest Prevention Service's (PHPPS) Pest Prevention Program. The program helps to minimize the economic and environmental impact of noxious weed and insect species through the implementation of biological control programs throughout the state. Implementation requires the rearing of appropriate natural enemies and their release and evaluation in agricultural, natural and urban environments.

California Food & Agriculture Code (see below)

California's Noxious Weed Encyclo-Weedia

Joint venture with UC Davis great pictures and eradication recommendations on weeds

CDFFA Publications

County Agricultural Commissioners/Sealers
With a link to data and addresses for each county

Dairy Programs

Disaster Preparedness

Fairs and Expositions

Inspection Services - www.cdfa.ca.gov/inspection

CDFA Inspection Services provides consumer protection, grading services and regulation of a wide variety of agricultural commodities, fertilizing materials, commercial feed, and livestock drugs. Inspections make certain that conditions are met for compliance with standards for maturity, grade, size, weight, pack and labeling to prevent the marketing of substandard commodities.

Inspection Services is comprised of four teams:

Agricultural Commodities & Regulatory Service Consists of three program elements:

Feed, Fertilizer & Livestock Drug Program (FFLD) • Ensures that feed, fertilizer and livestock drugs are safe, effective and meet the quality guaranteed by the manufacturer.

Fertilizer Research & Education Program (FREP) • Works with growers, businesses and public agencies to protect ground water from nitrate contamination, and each year provides grants to conduct research and provide educational programs.

Grain & Commodity Inspection Program (GCI) • Inspects and certifies grains, rice, beans and other commodities in accordance with federal and state regulations. All inspectors, samplers, weighers and technicians are licensed by the federal government, which monitors licensed personnel to assure uniform inspection.

Shipping Point Inspection

Operates under a Federal-State Cooperative Agreement with USDA that authorizes CDFA inspectors to use federal grade standards for fruits, vegetables, and nuts, and issue federal-state inspection certificates. Provides optional third party grading and certification service to the fruit, nut and vegetable industries at all points of origin and most receiving points in the state.

Official certifier of all commodities required to meet export specifications.

Center for Analytical Chemistry

Provides analyses of pesticide residues in fresh fruits, vegetables, dairy products, animal feeds and fertilizer products.

This team also operates California's Export Laboratory Services, which is designed to provide analytical services to agribusiness exporting commodities to Asian markets.

Fruit, Vegetable & Egg Quality Control Branch (FVEQC)

Contains seven distinct program elements:

Standardization • Responsible for the enforcement and maintenance of minimum standards for quality, maturity, container, marking size and packing requirements.

Avocado Certification • CDFA inspects avocados at the point of packing to ensure compliance with maturity, quality, size and weight standards.

Egg Quality Control • Ensures that healthful and wholesome eggs of known quality are marketed in California.

California Organic Program • Responsible for enforcing provisions of the law which governs the sale of foods labeled as organic. <http://www.cdfa.ca.gov/inspection/fve/organic.html>

Processing Tomato Inspection Program • Provides training & oversight of a program which inspects processing tomatoes for defects, color and soluble solids or sugars.

Wine Grape Inspection Program • Provides training & oversight in the inspection of wine grapes and by-products.

Garlic & Onion Dehydrator Inspection Program • Inspects garlic and onions to be dehydrated. Inspectors grade for defects, size, dirt, foreign material and moisture.

Marketing Services

Dairy Marketing Branch

The Dairy Marketing Branch oversees intelligent production and orderly marketing of milk and dairy products to ensure adequate supply and reasonable prices to consumers. The Program administers the Milk Producer Security Trust Fund Act, which helps to ensure full payment to dairy farmers, and limits their losses from payment defaults by milk buyers. The program also licenses milk handlers in the state.

Market Enforcement Branch

The Market Enforcement Branch licenses and regulates produce dealers and food processors to maintain orderly marketing of California farm commodities.

Marketing Branch

The Marketing Branch provides administrative guidance to 50 agricultural commodity programs that have the authority to conduct promotion, research, and quality standard activities.

Milk Pooling Branch

The program administers the Pooling Plan for fluid milk, which together with the Dairy Marketing Branch, promotes, fosters and encourages the intelligent production and orderly marketing of milk. Through the statewide pooling of revenue and distribution to producers, gradual

equalization of Class 1 usage is achieved. These activities maintain satisfactory marketing conditions and a reasonable amount of stability and prosperity in the production of milk.

Marketing Boards & Commissions

Measurement Standards

Enforcement of California Weights and Measures laws and regulations is the responsibility of the Division of Measurement Standards. The Division's activities are designed to (1) ensure the accuracy of commercial weighing and measuring devices; (2) verify the quantity of both bulk and packaged commodities; and (3) enforce quality, advertising and labeling standards for most petroleum products. The Division works closely with county sealers of weights and measures who, under the supervision and direction of the Secretary of Food and Agriculture, carry out the vast majority of weights and measures enforcement activities at the local level. The Division of Measurement Standards is comprised of three branches and maintains offices in Sacramento, Anaheim, Fresno and Redding.

Plant Health and Pest Prevention Services

Plant Health and Pest Prevention Services is comprised of four teams:

Pest Exclusion—Keeps serious plant pests out of the State and stops or minimizes the spread of newly arrived pests or diseases. Plant quarantines are enforced within the state by investigators, inspectors, and biologists, with the help of dog teams trained to sniff out unauthorized agricultural commodities. A program for nursery, cotton and seed ensures the highest quality planting materials and fiber.

Pest Detection/ Emergency Projects—Responsible for quickly detecting and eradicating serious exotic pests that may enter the state.

Integrated Pest Control—Directs seven pest control and eradication programs

and one pest control research program. Efforts to combat the pink bollworm, cotton boll weevil, and curly top virus, are directed by this program. Responsible for protecting rangeland, waterways, crops and urban areas through the weed and vertebrate pest programs. California's largest biological control program is managed from this area.

Plant Pest Diagnostics Lab—More than 35 scientists and support staff; state-of-the-art diagnostic facility houses the state's largest insect collection and a herbarium containing 20,000 plant specimens. Experts from this team also assist California's agricultural export market by determining whether certain agricultural products can be certified as free of serious pests and diseases.

Public Affairs

State Board of Food & Agriculture

California Food And Agricultural Code (yep, that's right, the real legal deal)

<http://www.leginfo.ca.gov/cgi-bin/calawquery?codesection=fac&codebody=>

California Environmental Protection Agency (CalEPA)

The California adjunct to the federal folks. Enforces state and federal EPA regulations and

Department of Pesticide Regulation (DPR)

Under the CalEPA handles all pesticide regulations and renewals in the state. Issues PCA licenses and sets standards for continuing education. Collects and reviews pesticide usage reports. Uses Ag Commissioner at the local level.

The Employer in California

The **California Farm Bureau** has a comprehensive Farm Employers Labor Service (FELS®) with an extensive website as well as fee-for-service areas <http://208.186.125.6/fels.htm>

UC Berkeley two more extensive site dedicated to agricultural labor, Agricultural Personnel Management Program, <http://are.berkeley.edu/APMP> and Ag Labor - <http://www.cnr.berkeley.edu/ucce50/ag-labor/7article/articles.htm>

Employment Development Department (EDD)-

Issues State Employer Numbers

Collects State employment taxes, withheld State Income Tax, State Disability Insurance (SDI), and Unemployment Insurance (UI) You may calculate this using the Federal W-4, but the State also has a form that the employee may fill out separately requesting a different withholding schedule.

*Requires reports to be filed within 15 days of paying anyone more than \$100 in salary or wages

Requires **postings** for UI and SDI

Department of Industrial Relations

Division of Labor Standards Enforcement

<http://www.dir.ca.gov/DLSE/dlse.html> -

Enforces the States minimum wage, overtime laws, pay schedule, and child labor laws

Enforces the carrying of Workers' Comp Insurance

Licenses Farm Labor Contractors – downloadable databases current and denied

Requires **posting** of Industrial Welfare Commission Wage Orders - downloadable

Division of Occupational Health and Safety – Cal OSHA -

<http://www.dir.ca.gov/DOSH/aboutus.htm>

The State's parallel to OSHA on workplace safety

Conducts workplace safety inspections based on workers' complaints

Offers free workplace consultation visits and Voluntary Protection Programs

Conducts Special Emphasis Program for industries with highest reported claims

<http://www.dir.ca.gov/sep/sep.html>

to see if your business is impacted
Requires **permits** for certain activities,
notably excavation

Enforces **SB198** which requires **Safety Training for all employees and a written Illness and Injury Prevention Program (IIPP)**

Guide to developing your own program

http://www.dir.ca.gov/dosh/dosh_publications/iipp.html

Model programs of seasonal ag workers in English and Spanish

[http://www.dir.ca.gov/dosh/dosh_publications/](http://www.dir.ca.gov/dosh/dosh_publications/AgSafety_En.pdf)

[AgSafety_En.pdf](http://www.dir.ca.gov/dosh/dosh_publications/AgSafety_En.pdf)

[http://www.dir.ca.gov/dosh/dosh_publications/](http://www.dir.ca.gov/dosh/dosh_publications/AgSafety_Sp.pdf)

[AgSafety_Sp.pdf](http://www.dir.ca.gov/dosh/dosh_publications/AgSafety_Sp.pdf)

Division of Workers' Compensation

[http://www.dir.ca.gov/DWC/](http://www.dir.ca.gov/DWC/dwc_home_page.htm)

[dwc_home_page.htm](http://www.dir.ca.gov/DWC/dwc_home_page.htm)

Every employer must carry Workers' Compensation insurance either through a private carrier, self-insured bond, or the State Compensation Insurance Fund (State Fund)

Requires **posting** of where to get health care in case of an injury and who the Comp carrier is

Requires **reporting** of all injuries requiring more than first aid within 10 days

Requires **annual reporting and posting** of previous year's claims

Fair Employment Practices Agency – Department of Fair Employment and Housing

Enforces the State's non-discrimination policy.

Requires certain notices be **posted** where employees can see them. Generally, only applies to employers of 5 or more.

Franchise Tax Board

This is the State's version of the IRS. Collects income taxes from businesses and individuals.

State Board of Equalization

Issues Seller Permits

Collects and redistributes sales taxes for the state, counties and local entities.

If you sell anything other than food products or annual plants, you'll be talking to these folks and collecting sales tax. This includes flowers and perennial nursery stock.

LOCAL AND COUNTY OFFICIALS.

Agricultural Commissioners and Sealer of Weights and Measures

The County Agricultural Commissioner system was first established by the California State Legislature in March, 1881. Under the original Act, the position was referred to as County Horticultural Commissioner and charged with protecting and promoting the horticultural interests in the state. Since that time, not only has the name changed, but the duties and responsibilities have greatly expanded. Today, the County Agricultural Commissioner is the local enforcement agent for CDEA and the Department of Pesticide Regulation (DPR).

Commissioners manage programs and agricultural enforcement activities at the county level as mandated by the California Food and Agricultural Code with its ever-increasing laws and regulations they are charged with enforcing. Some of these laws and regulations include, pest prevention and plant quarantine, insect, disease and vertebrate pest management, noxious weed control and pesticide use enforcement for DPR.

Inspection is provided for fruit, vegetable and egg quality control, nursery stock and seed, and apiary regulation.

In addition to those functions, most Agricultural Commissioners also serve as a Sealer of Weights and Measures and many have the added responsibilities of animal control, air

pollution control, underground storage tank inspection, as well as working on land use, planning issues and right to farm ordinances.

There are Agricultural Commissioners in just about all of California's 58 counties.

Summary of Responsibilities

Prepared by Mark A. Tognazzini, San Benito
County Agricultural Commissioner & Sealer of Weights and Measures

County Agricultural Commissioners

Local enforcement agent for CDFA and DPR.

Manage programs and agricultural enforcement activities at the county level.

Authority comes from the California Food and Agricultural Code
Activities include: pest prevention and plant quarantine, insect, disease and vertebrate pest management, noxious weed control and pesticide use enforcement for DPR

Sealers of Weights & Measures

Administer and enforce the Business and Professions Code
Ensure full weight and measure or count at all levels of the marketing chain.

Tests measuring and weighing devices, electricity and measuring devices, and compressed gas measuring devices to ensure their accuracy.

Perform quantity control of packaged commodities by inspecting and testing packaged goods of all sorts for proper weight, measure, count and method of sale.

In California, the counties handle **food preparation and service permits**, usually under the auspices of the county **Health Department**. Food sold or given away to the general public must be prepared in a Health Department certified

commercial facility. It is illegal to use your home kitchen for this purpose.

Farmstands and farmers markets are covered by special sections of the law that exempts them from some specific regulations. Start with the Ag Commissioner first.

Building permits are handled by either the county, in unincorporated areas, or the city/town of jurisdiction

The **County Assessor's** office handles **property taxes** – both real property and business property

The **County Recorder/Clerk's office** usually handles **business licenses and fictitious name** filings for the unincorporated areas; also changes in ownership of real property. City Clerks usually handle business licenses for incorporated areas.

The **Fire Department** is generally in charge of **building inspections** beyond the final sign-off by the Building Department.

Several legal formats have been adopted by most states. These are:

Statutes of Frauds

Basis of most modern laws requiring that certain promises must be in writing in order to be enforceable; it was passed by the English Parliament in 1677. In the United States, although state laws vary, most require written agreements in these types of contracts:

- sales of real property;
- promises to pay someone's debt obligations;
- a contract that takes longer than one year to complete;
- real property leases that run for more than a year;
- contracts for an amount or other consideration that exceeds the state's threshold;
- a contract that will go beyond the lifetime of the one performing the contract;
- the transfer of property upon the death of the party performing the contract...

Uniform Commercial Codes

The Uniform Commercial Code was one of the first widely accepted “model laws”. This act was originally written by the National Conference of Commissioners on Uniform State Laws. Each state is then free to review the model law and adopt it as written, adopt it with amendments, or write some other law. The idea is to bring uniformity to state laws on a variety of subjects.

The Uniform Commercial Code, commonly referred to as the “UCC”, has been passed in one form or another in all 50 states. The UCC is divided into “articles”, most of which address a specific kind of commercial transaction.

Article 1 - General Provisions—It specifically provides that where not changed by the UCC, the general principles of law and equity still apply. For example, with a very few exceptions, any agreement covered by the UCC must still meet the common law tests to be a valid, binding legal contract. For example, the elements of offer, acceptance and consideration must be present. This article also includes definitions of many terms that are used throughout the remainder of the act.

Article 2 – Sales — This article is applicable to any transaction involving the sale of goods. Goods include tangible personal property items only, not intangible property (like copyrights), nor real estate. This article does not apply to any transaction that is a security transaction or a lease. This article makes a distinction between the obligations of a “merchant”, that is someone who regularly deals in the goods in question, as opposed to others. This article includes the requirement that any contract involving the sale of goods in excess of \$500 must be in writing to be enforceable.

The article also establishes rules for construing and enforcing any contract involving the sale of goods. It covers matters price terms, deliveries, warranties (both express and implied), shipping terms, sales on approval and sale by auction. It also establishes uniform rules for determining the

rights and remedies of both buyers and sellers in the event of a breach of contract.

Remedies include rejection of the nonconforming goods, revocation of acceptance of nonconforming goods, deduction of damages from the unpaid balance of the purchase price, and recovery of incidental and consequential damages (i.e., repairs, towing, loss of use, loss of business, rentals, etc.)

Article 2A – Leases —This relatively new article, which is not yet adopted in all states, is designed to provide rules of formation, construction and enforcement of any lease of goods in the same way that Article 2 covers sales. For example, Article 2A provides that a lease of goods may be subject to the implied warranties of merchantability and fitness for a particular purpose. Like Article 2, Article 2A also permits lessors to disclaim these implied warranties in many transactions. This article also provides that any lease that involves over \$1,000 in payments must be in writing to be enforceable.

Article 3 - Commercial Paper —This article deals exclusively with transactions involving commercial paper, that is, negotiable instruments such as drafts, checks, notes and certificates of deposits. Perhaps most importantly, it establishes clear standards for determining when someone that has acquired a negotiable instrument in the course of commerce takes that instrument with certainty that its ownership is valid. The so called “holder in due course” may be assured that upon receiving a negotiable instrument, that instrument can be enforced with all the rights as if the holder had been the original party to receive the negotiable instrument. This Article 3 has helped to bring great uniformity to, and consequently helped facilitate, commercial transactions involving these instruments.

Article 4 - Bank Deposits and Collections —This article establishes rules for transactions between banks and their customers and also transactions between banks.

Article 5 - Letters of Credit — This article, which provides companion rules to Article 4, covers situations involving credit issued by a bank if the credit requires a documentary draft or a documentary demand for payment, with or without a document of title.

Article 6 - Bulk Transfers — This article establishes rules for completing “bulk transfers”, that is the transfer of substantially all of the products or inventory of a business to a new owner. This article serves the interest of buyers by providing a mechanism that assures that after the sale is completed, they will be free from claims by creditors of the old business owner. Likewise, it also protects creditors of the business by assuring that they receive notice of the sale and an opportunity to assert their claims. If there is no notice, those claims may be asserted against the new owner.

Article 7 - Warehouse Receipts, Bills of Lading and Other Documents of Title

This article establishes rules and standards for handling many different kinds of documents used to reflect ownership of, or the right to control, goods. Article 7 helps to bring some certainty into the rules regarding the handing of documents of title, and facilitates the transfer of these documents, and therefore the underlying goods, among buyers and sellers.

Article 8 - Investment Securities — This article covers certain aspects of transactions in investment securities, that is, shares of stock and the like.

Uniform Building Codes

There are several model code models but none is actually “uniform” consult your local building department.

This list, while it endeavors to be thorough, is by no means comprehensive. Other rules and regulations may very well apply to your ag business. Consult your attorney, Ag Commissioner, UCCE Farm Advisor, USDA NRCS office and anyone else you feel would be appropriate. Ignorance of the law will not get you off-the-hook if you break the law.

KEY EMPLOYMENT REQUIREMENTS FOR AGRICULTURAL WORKPLACES IN CALIFORNIA

(Revised January 2001)

From the Farm Employers Labor Service (FELS) website <http://208.186.125.6/fels.htm>

Federal and state laws and regulations set minimum employment standards for California’s agricultural workplaces. Those standards are numerous and complex. This checklist covers many of them. It does not list every rule and may include some that do not apply to you, however; you should therefore consult an employment law attorney or consultant for more details.

- Employer must have a workers’ compensation insurance policy or be permissibly self-insured
Workers’ compensation notice must be posted and given to employees
- Unemployment Insurance
Employment Development Department registration number
- Federal Taxes
Internal Revenue Service employer identification number
- Employment Eligibility Verification
Must verify on INS Form I-9 the eligibility of every newly hired employee to work in the United States

Child Labor

Minors below age 12 may neither work in agriculture nor be near moving equipment or unprotected chemicals or water hazards (grower's children excepted)

- Permits to Work and Permits to Employ must be on file for at least 3 years for older minors (grower's children and high school graduates excepted)
- Limits on hours of work must be observed (grower's children excepted, but must attend school when in session)
- Minors below age 18 may not mix or load certain pesticides
- Minors below age 16 may not work in hazardous agricultural occupations (example: near moving machinery) (grower's children excepted)
- Minor children notice must be posted
- Property owner who benefits from a minor's employment and who knowingly allows child labor violations to occur is liable for them, even if not the minor's employer

Farm Labor Contractors (FLC)

- Verify that FLC is federally registered and state licensed (best way: get and keep a photocopy of each document)

AB 423 requires, among other things, that farmers verify a farm labor contractor's license and, perhaps as soon as July 1, 2002, keep a "receipt" of such verification for a period of three years following termination of the contract or agreement. (Note: California farm labor contractor license numbers have 4 digits.) The California Division of Labor Standards

Enforcement maintains a database of licensed farm labor contractors at <http://www.dir.ca.gov/databases/dlse/r/Farmlic.html>

If your search "comes up empty," say for the 4-digit license number you key in, call (559) 248-1893 (Fresno) to see what the situation is. For more information check out <http://are.berkeley.edu/APMP/pubs/flc/calflcs.html>

- Keep for at least 3 years a copy of FLC's payroll records for FLC crews supplied to grower
- Grower who is a joint employer of FLC's employees or who uses an unlicensed FLC is liable for FLC's violations
- Recommended: Have FLC direct his workers' compensation carrier to send you a certificate of insurance
- And starting April 1, 2002, all "farm labor vehicles" in California (that are vans) must have (factory-installed) forward facing seats. (AB 602)

Other Posters and Notices

- Other IWC orders as applicable
 - 4 (e.g., clericals of an employer whose only other employees are covered by Order 14)
 - 8 (post-harvest handling of commodities not produced by the employer, usually including its clericals)
 - 13 (post-harvest handling of commodities produced only by the employer, usually including its clericals)
- Migrant and Seasonal Agricultural Worker Protection Act poster
- Employee Polygraph Protection Act poster
- California nondiscrimination poster (5 or more employees)

- Federal nondiscrimination poster (15 or more employees)
- Federal Minimum Wage poster
- Cal/OSHA: Safety and Health Protection on the Job; Form No. 200; others as applicable, based on activities
- Industrial Welfare Commission (IWC) Order 14 (ag occupations)

Minimum Wage

- In general, all nonexempt employees must be paid at least \$6.75/hr no matter whether wages are earned on an hourly, piece-rate, commission or salary basis

Piece-rate earnings are averaged over a workweek to determine whether minimum wage is achieved
- Housing and Meals Credited Against Minimum Wage
- Employee must authorize in writing
- IWC orders limit credit amounts
- Overtime Premium Pay
- Almost all nonexempt employees—even those paid a salary or by piece rate—must receive overtime premium pay
- IWC Order 14
 - Hours over 10 in a workday and first 8 hours on 7th day of work in a workweek: 1* times regular pay rate (RPR)
 - Hours over 8 on 7th day of work in a workweek: 2 times RPR
- IWC Orders 4, 8 and 13 (and most others)
 - 9th—12th hours in a workday, hours over 40 in a workweek, and first 8 hours on 7th day of work in a workweek: 1* times RPR

- Hours over 12 in a workday and over 8 on 7th day of work in a workweek: 2 times RPR

- Exceptions to overtime premium pay
 - Irrigators (over 1/2 of time worked in a workweek)
 - Drivers of certain large trucks (generally, weighing at least 6,000 lbs. with 3 or more axles)
 - Certain part—time agricultural employees (up to 6 hours in a workday and 30 hours in a workweek)
- Caution: An employee who during a workweek processes, packs or otherwise handles after harvest any amount of any commodity not produced by his employer must be paid 1* times RPR for all hours worked over 40 in that workweek, even if most of the employee's work is agricultural
- Deductions not mandated by law require employee's written authorization

Payment of Wages

- At least semimonthly (exception: at least weekly for FLC employees)
- Immediately upon discharge or layoff
- Within 72 hours after voluntary quit
- Itemized Statement given to employee with wage payment
- Employee name and social security number
- Basis on which wages are paid (for example, "\$5.75/hr." or "\$.20/vine pruned")
- Total hours worked
- Number of piece work units produced (if applicable)

- Total pay period earnings
- Purpose and amount of any sum withheld
- Net pay
- Employer's name, address and IRS employer ID number
- Inclusive dates of pay period
- Employer Records
- Employer's name and address
- Employee's name, record identifier (if any), permanent address, sex, occupation, social security number and, if under age 18, birth date and designation as minor
- Day and time when workweek starts
- Starting and ending times of each work period (meal periods in which operations stop and mandatory rest periods excluded)
- Number of piece work units produced, if applicable
- Total hours worked each workday, workweek and payroll period
- Date, purpose and amount of any sum withheld from or added to wages
- Net pay
- Total pay period earnings, including value of board, lodging or other compensation
- Basis on which wages are paid (for example, "\$5.75/hr." or "\$.20/vine pruned")
- Pay date and period payment covers
- Keep records for at least 3 years; but it's prudent to keep them for 4 years to defend claims under state's unfair competition laws (Business & Professions Code sections 17200—17209)

Reporting Time Pay

** of usual day's pay (at least 2 but not more than 4 hours) for employee who

reports for work but is given less than * of usual day's work; most typical exception is for an Act of God or other cause beyond employer's control

Tools and Equipment

- Employer must provide and maintain required or necessary tools and equipment for employees earning less than twice the minimum wage
- Funds securing return of equipment deposited in a joint bank savings account
- Deduction from employee's final pay for lost equipment allowed only upon employee's prior written authorization and only where loss is due to employee's dishonest, willful or grossly—negligent act

Meal Periods

* Allow a 30—minute unpaid meal period in a 5—hour work period; employer and employee may waive it if a work period of 6 or fewer hours will complete day's work; employer and employee may agree to on—duty paid meal period if task requires it. If a meal period is not provided, the employer must pay the employee one hour of pay at the employee's regular rate of pay each day a meal period is not provided.

Rest Periods

Allow a 10—minute paid rest period per 4 hours of work or major fraction thereof, based on total workday hours; none required if employee works under 3* hours in a workday. If a rest period(s) is(are) not provided, the employer must pay the employee one hour of pay at the employee's regular rate of pay each day a rest period(s) is(are) not provided.

Transportation of Workers

- Licensing of drivers

- Vehicle safety standards and inspection stickers

HOUSING

- Inspections and permits under state Employee Housing Act if 5 or more employees are housed
- Compliance with federal housing standards for migrant agricultural workers
- Federal migrant agricultural worker housing poster

FIELD SANITATION IN HAND—LABOR OPERATIONS

- Toilet Facilities
 - Crew with 1—4 employees: one toilet, even if a mixed—sex crew
 - Crew with 5 or more employees: one toilet per 20 employees of each sex, or fraction thereof
 - Toilet paper in suitable holder
 - Screened
 - Chemical toilet wastewater tank must be able to hold at least 40 gallons and must contain effective odor—control and solid—liquefying chemicals
 - Keep service & maintenance records for at least 2 years
- Handwashing Facilities
 - One per 20 employees or fraction thereof
 - Water tank must be able to hold at least 15 gallons and be refilled with potable water as necessary
 - Soap and single—use towels provided
 - Sign posted stating: This water is for handwashing only

- Toilet and Handwashing Facilities
 - Located near each other
 - Within a *—mile or 5—minute walk of employees, whichever is shorter; where terrain prevents this, then at the point closest to vehicular access
 - Ventilated and rigidly—constructed, with self—closing doors, lockable from inside
 - Inside surfaces must be nonabsorbent, smooth, readily—cleanable, and light—colored
 - Clean and sanitary
 - Alternative compliance: May provide transportation to facilities if:
 - (1) employees are performing fieldwork for under 2 hours (including transportation time) or
 - (2) 4 or fewer employees are engaged in hand—labor operations on a given day
- Drinking Water
 - Pure, cool water must always be readily available
 - Dispensed by fountain or single—use cups
 - Container must be covered, protected and kept clean
- Good hygiene practices notice

OTHER SAFETY AND HEALTH REQUIREMENTS

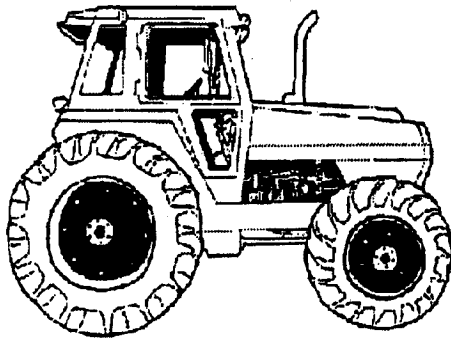
- Written Injury and Illness Prevention Program
- Written Hazard Communication Program
- First—aid kit and person trained in its use

MIGRANT AND SEASONAL AG WORKER PROTECTION ACT DISCLOSURE

Disclose this information in writing to a recruited migrant or seasonal day—haul agricultural worker when the worker is recruited and to a seasonal agricultural worker upon the worker's request when the worker is offered employment:

- Place of employment, including employer's name and address
- Wage rates (including piece rates) to be paid
- Crops and activities the worker may be employed in
- Period of employment
- Any transportation, housing and other benefit to be provided, and any cost to be charged for them
- Workers' compensation and unemployment insurance
- Existence of any strike or other concerted work stoppage
- Existence of any arrangement under which the grower or FLC receives a commission or other benefit from sales to workers
- Workers' compensation carrier and policyholder information

Workplace
Injury & Illness
Prevention
M O D E L
Program



for employers with
intermittent
workers in
agriculture



CS-1CS Ag

Cal/OSHA Consultation Service
6 E&T January 1997

State of California—Department of Industrial Relations—Division of Occupational Safety & Health

ABOUT THIS MODEL PROGRAM

Every California employer must establish, implement and maintain a written Injury and Illness Prevention (IIP) Program and a copy must be maintained at each workplace or at a central worksite if the employer has non-fixed worksites. The requirements for establishing, implementing and maintaining an effective written Injury and Illness Prevention Program are contained in Title 8 of the California Code of Regulations, Section 3203 (T8 CCR 3203) and consist of the following eight elements:

- Responsibility
- Compliance
- Communication
- Hazard Assessment
- Accident/Exposure Investigation
- Hazard Correction
- Training and Instruction
- Recordkeeping

This model program has been prepared for use by employers in industries which have been determined by Cal/OSHA to historically utilize intermittent or seasonal workers. Intermittent or seasonal employment refers to controlling, directing, or directly supervising any worker other than permanent workers. You are not required to use this program. However, any employer in an industry which has been determined by Cal/OSHA as historically utilizing intermittent or seasonal workers and who adopts and implements this model program in good faith shall be deemed in compliance with IIP Program requirements.

Proper use of this model program requires the IIP Program administrator of your establishment to carefully review the requirements for each of the eight IIP Program elements found in this model program, fill in the appropriate blank spaces and check those items that are applicable to your workplace. The recordkeeping section requires that the IIP Program administrator select and implement the category appropriate for your establishment. Sample forms for hazard assessment and correction, accident/exposure investigation, and worker training and instruction are provided with this model program.

This model program must be maintained by the employer in order to be effective.

RESPONSIBILITY

The Injury and Illness Prevention Program (IIP Program) administrator,

Program Administrator

has the authority and the responsibility for implementing and maintaining this IIP Program for

Establishment Name

Managers and supervisors are responsible for implementing and maintaining the IIP Program in their work areas and for answering worker questions about the IIP Program. A copy of this IIP Program is available from each manager and supervisor.

COMPLIANCE

All permanent and intermittent workers, including managers and supervisors, are responsible for complying with safe and healthful work practices. Our system of ensuring that all workers comply with these practices include one or more of the following checked practices:

- Informing workers of the provisions of our IIP Program.
- Evaluating the safety performance of all workers.
- Recognizing workers who perform safe and healthful work practices.
- Providing training to workers whose safety performance is deficient.
- Disciplining workers for failure to comply with safe and healthful work practices.

COMMUNICATION

All managers and supervisors are responsible for communicating with all permanent and intermittent workers about occupational safety and health in a form readily understandable by all workers. Our communication system encourages all workers to inform their managers and supervisors about workplace hazards without fear of reprisal.

Upon hiring, management will identify any intermittent workers with special communication needs. Management will ensure that such a worker understands the safety and health requirements before being assigned to duties exposing them to workplace hazards.

Our communication system includes one or more of the following checked items:

- New worker orientation including a discussion of safety and health policies and procedures.
- Review of our IIP Program.
- Workplace safety and health training programs.
- Regularly scheduled safety meetings.
- Effective communication of safety and health concerns between workers and supervisors, including translation where appropriate.
- Posted or distributed safety information.
- A system for workers to anonymously inform management about workplace hazards.
- Our establishment has less than ten workers and communicates with and instructs workers orally about general safe work practices and with respect to hazards unique to each worker's job assignment.

HAZARD ASSESSMENT

Periodic inspections to identify and evaluate workplace hazards shall be performed by a competent observer in the following areas of our workplace:

Periodic inspections are performed according to the following schedule:

- 1. When we initially established our IIP Program;**
- 2. When new substances, processes, procedures or equipment which present potential new hazards are introduced into our workplace;**
- 3. When new, previously unidentified hazards are recognized;**
- 4. When occupational injuries and illnesses occur;**
- 5. When we hire and/or reassign permanent or intermittent workers to processes, operations, or tasks for which a hazard evaluation has not been previously conducted; and**
- 6. Whenever workplace conditions warrant an inspection.**

Periodic inspections consist of identification and evaluation of workplace hazards utilizing applicable sections of the attached Hazard Assessment Checklist and any other effective methods to identify and evaluate workplace hazards.

ACCIDENT/EXPOSURE INVESTIGATIONS

Procedures for investigating workplace accidents and hazardous substance exposures include:

- 1. Interviewing injured workers and witnesses;**
- 2. Examining the workplace for factors associated with the accident/exposure;**
- 3. Determining the cause of the accident/exposure;**
- 4. Taking corrective action to prevent the accident/exposure from reoccurring; and**
- 5. Recording the findings and corrective actions taken.**

HAZARD CORRECTION

Unsafe or unhealthy work conditions, practices or procedures shall be corrected in a timely manner based on the severity of the hazards. Hazards shall be corrected according to the following procedures:

- 1. When observed or discovered; and**
- 2. When an imminent hazard exists which cannot be immediately abated without endangering worker(s) and/or property, we will remove all exposed workers from the area except those necessary to correct the existing condition. Workers necessary to correct the hazardous condition shall be provided with the necessary protection.**

TRAINING AND INSTRUCTION

All permanent and intermittent workers, including managers and supervisors, shall have training and instruction on general and job-specific safety and health practices. Training and instruction can be provided through a brief on-site safety meeting. Any training and instruction shall be provided as follows:

1. When the IIP Program is first established;
2. To all new workers, except for construction workers who are provided training through a construction industry occupational safety and health training program approved by Cal/OSHA;
3. To all workers given new job assignments for which training has not previously provided;
4. Whenever new substances, processes, procedures or equipment are introduced to the workplace and represent a new hazard;
5. Whenever the employer is made aware of a new or previously unrecognized hazard;
6. To supervisors to familiarize them with the safety and health hazards to which workers under their immediate direction and control may be exposed; and
7. To all workers with respect to hazards specific to each worker's job assignment.

Workplace safety and health practices for all industries using intermittent workers include, but are not limited to, the following:

1. Explanation of the employer's IIP Program, emergency action plan and fire prevention plan, and measures for reporting any unsafe conditions, work practices, injuries and when additional instruction is needed.
2. Use of appropriate clothing, including gloves, footwear, and personal protective equipment.
3. Prevention of musculoskeletal disorders, including proper lifting techniques.
4. Information about chemical hazards to which workers could be exposed and other hazard communication program information.
5. Availability of toilet, hand-washing and drinking water facilities.
6. Provisions for medical services and first aid including emergency procedures.

In addition, we train all workers about the checked applicable items found in the attached List of Training Subjects.

RECORDKEEPING

We have checked one of the following categories as our recordkeeping policy.

_____ **Category 1. Our establishment has twenty or more workers; has a workers' compensation modification rate of greater than 1.1 and is not on a designated low hazard industry list; or, is on a designated high hazard industry list. We have taken the following steps to implement and maintain our IIP Program:**

- 1. Records of hazard assessment inspections, including the person(s) or persons conducting the inspection, the unsafe conditions and work practices that have been identified and the action taken to correct the identified unsafe conditions and work practices, are recorded on a hazard assessment and correction form; and**
- 2. Documentation of safety and health training for each worker, including the worker's name or other identifier, training dates, type(s) of training, and training providers are recorded on a worker training and instruction form. We also include the records relating to worker training provided by a construction industry occupational safety and health program approved by Cal/OSHA.**

Inspection records and training documentation will be maintained according to the following checked schedule:

_____ **For one year, except for training records of workers who have worked for less than one year which are provided to the worker upon termination of employment; or**

_____ **Since we have less than ten workers, including managers and supervisors, we only maintain inspection records until the hazard is corrected and only maintain a log of instructions to workers with respect to worker job assignments when they are first hired or assigned new duties.**

_____ **Category 2. Our establishment has fewer than twenty workers and is not on a designated high hazard industry list. We are also on a designated low hazard industry list or have a workers' compensation experience modification rate of 1.1 or less, and have taken the following steps to implement and maintain our IIP Program:**

- 1. Records of hazard assessment inspections; and**
- 2. Documentation of safety and health training for each worker.**

Inspection records and training documentation will be maintained according to the following checked schedule:

_____ **For one year, except for training records of workers who have worked for less than one year which are provided to the worker upon termination of employment; or**

_____ **Since we have less than ten workers, including managers and supervisors, we maintain inspection records only until the hazard is corrected and only maintain a log of instructions to workers with respect to worker job assignments when they re first hired or assigned new duties.**

_____ **Category 3. We are a local governmental entity (any county, city, or district, and any public or quasi-public corporation or public agency therein) and we are not required to keep written records of the steps taken to implement and maintain our IIP Program.**

LIST OF TRAINING SUBJECTS

We train our workers about the following checked training subjects:

AGRICULTURE PRODUCTION AND FARM LABOR AND MANAGEMENT SERVICES

(SIC Codes: 0111-0119, 0131-0139, 0161, 0171-0179, 0191, 0721-0724, 0761-0762)

- _____ Safe practices for operating any agricultural equipment, including procedures for cleaning, repairing, servicing and adjusting.
- _____ Electrical hazards.
- _____ Heat stress.
- _____ Ergonomic hazards, including proper lifting techniques and working on ladders or in a stooped posture for prolonged periods at one time.
- _____ Hazardous chemical exposures.
- _____ Other job-specific hazards, such as _____
- _____
- _____



PRESERVED FRUITS AND VEGETABLES MANUFACTURING AND SUGAR AND CONFECTIONERY PRODUCTS

(SIC Codes: 2032-2038, 2061-2068)

- _____ Guarding of belts and pulleys, gears and sprockets, and conveyor nip points.
- _____ Machine, machine parts, and prime movers guarding.
- _____ Lock-out/tag-out procedures.
- _____ Materials handling.
- _____ Ergonomic hazards, including proper lifting techniques.
- _____ Noise.
- _____ Other job-specific hazards, such as _____
- _____
- _____

HAZARD ASSESSMENT CHECKLISTS

The following checklists contain safety and health hazard assessment items commonly found in the workplace. It is the employer's responsibility to identify, evaluate and control job-specific safety and health hazards in the workplace, and to meet all applicable Cal/OSHA requirements.

The following checklists are to be used as guides in identifying safety and health hazards in your workplace. Answer the questions contained in the General Workplace checklist and then identify and answer the questions contained in the checklist that applies to your specific industry.

GENERAL WORKPLACE

(SIC Codes: All)

- | | |
|---|---|
| <input type="checkbox"/> Is the Cal/OSHA poster Safety and Health Protection on the Job displayed in a prominent location where all workers are likely to see it? | <input type="checkbox"/> Are restrooms and washrooms kept clean and sanitary? |
| <input type="checkbox"/> Do you have a written, effective Injury and Illness Prevention Program? | <input type="checkbox"/> Are workers instructed in the proper manner of lifting heavy objects? |
| <input type="checkbox"/> Are all work areas properly illuminated? | <input type="checkbox"/> Is there a list of hazardous substances used in your workplace? |
| <input type="checkbox"/> Are workers instructed in proper first aid and other emergency procedures? | <input type="checkbox"/> Is there a written hazard communication program dealing with Material Safety Data Sheets (MSDS) labeling, and worker training? |
| <input type="checkbox"/> Do you have a fire prevention plan? | <input type="checkbox"/> Is each container for a hazardous substance (i.e. vats, bottles, storage tanks,) labeled with product identity and a hazard warning (communication of the specific health hazards and physical hazards)? |
| <input type="checkbox"/> Are all worksites clean and orderly? | <input type="checkbox"/> Is there a Material Safety Data Sheet readily available for each hazardous substance used? |
| <input type="checkbox"/> Are all spilled materials or liquids cleaned up immediately? | <input type="checkbox"/> Is there an worker training program for hazardous substances? |
| <input type="checkbox"/> Do you have eye wash facilities and a quick drench shower within the work area where workers are exposed to injurious corrosive materials? | <input type="checkbox"/> Can the work be performed without eye strain or glare to the workers? |
| <input type="checkbox"/> When lunches are eaten on the premises, are they eaten in areas where there is no exposure to toxic materials or other health hazards? | <input type="checkbox"/> Does the task require prolonged raising of the arms and does the neck and shoulders have to be stooped to view the task? |
| <input type="checkbox"/> Are aisles and passageways kept clear? | <input type="checkbox"/> Are there pressure points on any parts of the body (wrists, forearms, back of thighs)? |
| <input type="checkbox"/> Are the directions to exits, when not immediately apparent, marked with visible signs? | <input type="checkbox"/> Are there sufficient rest breaks, in addition to the regular rest breaks, to relieve stress from repetitive-motion tasks? |
| <input type="checkbox"/> Are hazardous substances identified which may cause harm by inhalation, ingestion, skin absorption or contact? | <input type="checkbox"/> Are tools, instruments and machinery shaped, positioned and handled so that tasks can be performed comfortably? |
| <input type="checkbox"/> Are workers aware of the hazards involved with the various chemicals they may be exposed to in their work environment, such as ammonia, chlorine, epoxies, caustics? | <input type="checkbox"/> Are you keeping the required records and documentation? |
| <input type="checkbox"/> Is personal protective equipment provided, used and maintained wherever required? | <input type="checkbox"/> Have arrangements been made to maintain required records for the legal period of time? |
| <input type="checkbox"/> Are there written standard operating procedures for the selection and use of respirators where needed? | |

HAZARD ASSESSMENT CHECKLISTS

AGRICULTURE PRODUCTION AND FARM LABOR AND MANAGEMENT SERVICES

(SIC Codes: 0111-0119, 0131-0139, 0161, 0171-0179, 0191, 0721-0724, 0761-0762)

- | | |
|---|--|
| <p><input type="checkbox"/> Where workers do not understand English, are safety instructions and warnings presented in a language the workers understand?</p> <p><input type="checkbox"/> Are adequate first-aid materials are immediately available at the farm headquarters and/or on worker transportation buses?</p> <p><input type="checkbox"/> At remote locations, are provisions made in advance for prompt medical attention and are there is there at least 1 worker for every 20 workers trained for the administering of first aid?</p> <p><input type="checkbox"/> Is all agricultural equipment is properly guarded to prevent accidental contact by workers?</p> <p><input type="checkbox"/> Are safe practices for operating agricultural equipment, including procedures for cleaning, repairing, servicing and adjusting, being followed?</p> <p><input type="checkbox"/> Is all machinery or equipment capable of movement, required to be de-energized or disengaged and blocked or locked out during cleaning, servicing, adjusting or setting up operations, whenever required?</p> <p><input type="checkbox"/> Are safe work practices being followed during operation of self-propelled equipment?</p> <p><input type="checkbox"/> Where mobile farm equipment is towed by a tractor or truck and the tractor or truck driver cannot see the workers on the towed equipment, is there a positive signaling device installed on the towed equipment that can stop the towing equipment in case of an emergency?</p> <p><input type="checkbox"/> Are portable screw conveyors located seven feet or less above the work level substantially covered or guarded?</p> <p><input type="checkbox"/> Are augers guarded with either grating type guards or solid baffle style covers according to Cal/OSHA section 3446?</p> <p><input type="checkbox"/> Are ladders, steps, or other suitable climbing means provided where and when workers are required to work in or about farm structures such as permanent pools, ponds, water tanks, or reservoirs 4 feet or more in actual depth and where the slope and construction would make exit difficult?</p> <p><input type="checkbox"/> Are machines, aircraft, or applicators decontaminated in a safe area before they are overhauled or placed in storage?</p> <p><input type="checkbox"/> Are safety precautions as required by Title 3, Article 23 of the California Code of Regulations followed when using aircraft for crop dusting and spraying?</p> | <p><input type="checkbox"/> Are safe work practices followed when using applicator rigs, tanks, and vessels containing fertilizer, insecticide, pesticide, and other chemical solutions of a hazardous nature?</p> <p><input type="checkbox"/> Is potable water provided, and access to permitted, at all times, during working hours and placed in locations readily accessible to all workers?</p> <p><input type="checkbox"/> Is potable water for drinking dispensed in single-use drinking cups or by fountains, and the water is fresh, pure, and suitably cool?</p> <p><input type="checkbox"/> Are adequate toilet and handwashing facilities available and do they meet Cal/OSHA section 3457 requirements?</p> <p><input type="checkbox"/> Are all ladders maintained in good condition, and are workers instructed to face the ladder when ascending or descending and prohibited from using ladders that are broken, missing steps, rungs, or cleats, broken side rails or other faulty equipment?</p> <p><input type="checkbox"/> Are workers instructed not to use the top 2 steps of ordinary stepladders as a step?</p> <p><input type="checkbox"/> Are workers made aware of the hazards caused by faulty or improperly used hand tools?</p> <p><input type="checkbox"/> Is each van, bus or truck used regularly to transport workers, equipped with an adequate number of seats, and equipped with the proper safety devices?</p> <p><input type="checkbox"/> Can the work be done without twisting or overly bending the lower back?</p> <p><input type="checkbox"/> Are there sufficient rest breaks, in addition to the regular rest breaks, to relieve stress from repetitive-motion tasks?</p> <p><input type="checkbox"/> Are tools, instruments and machinery shaped, positioned and handled so that tasks can be performed comfortably?</p> <p><input type="checkbox"/> Are hazardous substances identified which may cause harm by inhalation, ingestion, skin absorption or contact?</p> <p><input type="checkbox"/> Are workers aware of the hazards involved with the various chemicals they may be exposed to in their work environment, such as ammonia, chlorine, and caustics?</p> <p><input type="checkbox"/> Is heat stress being evaluated and controlled?</p> <p><input type="checkbox"/> Are workers screened before assignment to areas of high heat to determine if their health condition might make them more susceptible to having an adverse reaction?</p> |
|---|--|

HAZARD ASSESSMENT CHECKLISTS

PRESERVED FRUITS AND VEGETABLES MANUFACTURING AND SUGAR AND CONFECTIONERY PRODUCTS (SIC Codes: 2032-2038, 2061-2068)

- | | |
|---|---|
| <input type="checkbox"/> Is sufficient clearance provided around and between machines to allow for safe operations, set up and servicing, material handling and waste removal and is there a power shut-off switch within reach of the operator's position at each machine? | <input type="checkbox"/> Are only trained personnel allowed to operate industrial trucks and does each industrial truck have a warning horn, whistle, gong, or other device which can be clearly heard above the normal noise in the area where operated? |
| <input type="checkbox"/> Are all pulleys and belts, moving chains and gears and conveyor nip points that are within 7 feet of the floor or working level properly guarded ? | <input type="checkbox"/> Before entering a confined space, are all appropriate tests conducted, precautions observed, permits obtained, and work practices followed? |
| <input type="checkbox"/> Are revolving drums, barrels and containers required to be guarded by an enclosure that is interlocked with the drive mechanism, so that revolution cannot occur unless the guard enclosure is in place, so guarded? | <input type="checkbox"/> Are workers aware of the hazards involved with the various chemicals they may be exposed to in their work environment? |
| <input type="checkbox"/> Is all machinery or equipment capable of movement, required to be de-energized or disengaged and blocked or locked out during cleaning, servicing, adjusting or setting up operations, whenever required? | <input type="checkbox"/> Can the work be done without twisting or overly bending the lower back? |
| <input type="checkbox"/> Does the lock-out procedure require that stored energy (i.e. mechanical, hydraulic, air,) be released or blocked before equipment is locked-out for repairs? | <input type="checkbox"/> Are there sufficient rest breaks, in addition to the regular rest breaks, to relieve stress from repetitive-motion tasks? |
| <input type="checkbox"/> Are only authorized and trained personnel permitted to use welding, cutting or brazing equipment? | <input type="checkbox"/> Are there areas in the workplace where continuous noise levels exceed 85 dBA and if so, are engineering controls being considered to reduce the noise and/or is a hearing conservation program in effect? |

HAZARD ASSESSMENT AND CORRECTION RECORD

Date of Inspection: _____ **Person Conducting Inspection:** _____

Unsafe Condition or Work Practice:

Corrective Action Taken:

Date of Inspection: _____ **Person Conducting Inspection:** _____

Unsafe Condition or Work Practice:

Corrective Action Taken:

Date of Inspection: _____ **Person Conducting Inspection:** _____

Unsafe Condition or Work Practice:

Corrective Action Taken:

ACCIDENT/EXPOSURE INVESTIGATION REPORT

Date & Time of Accident:

Location:

Accident Description:

Workers Involved:

Preventive Action Recommendations:

Corrective Actions Taken:

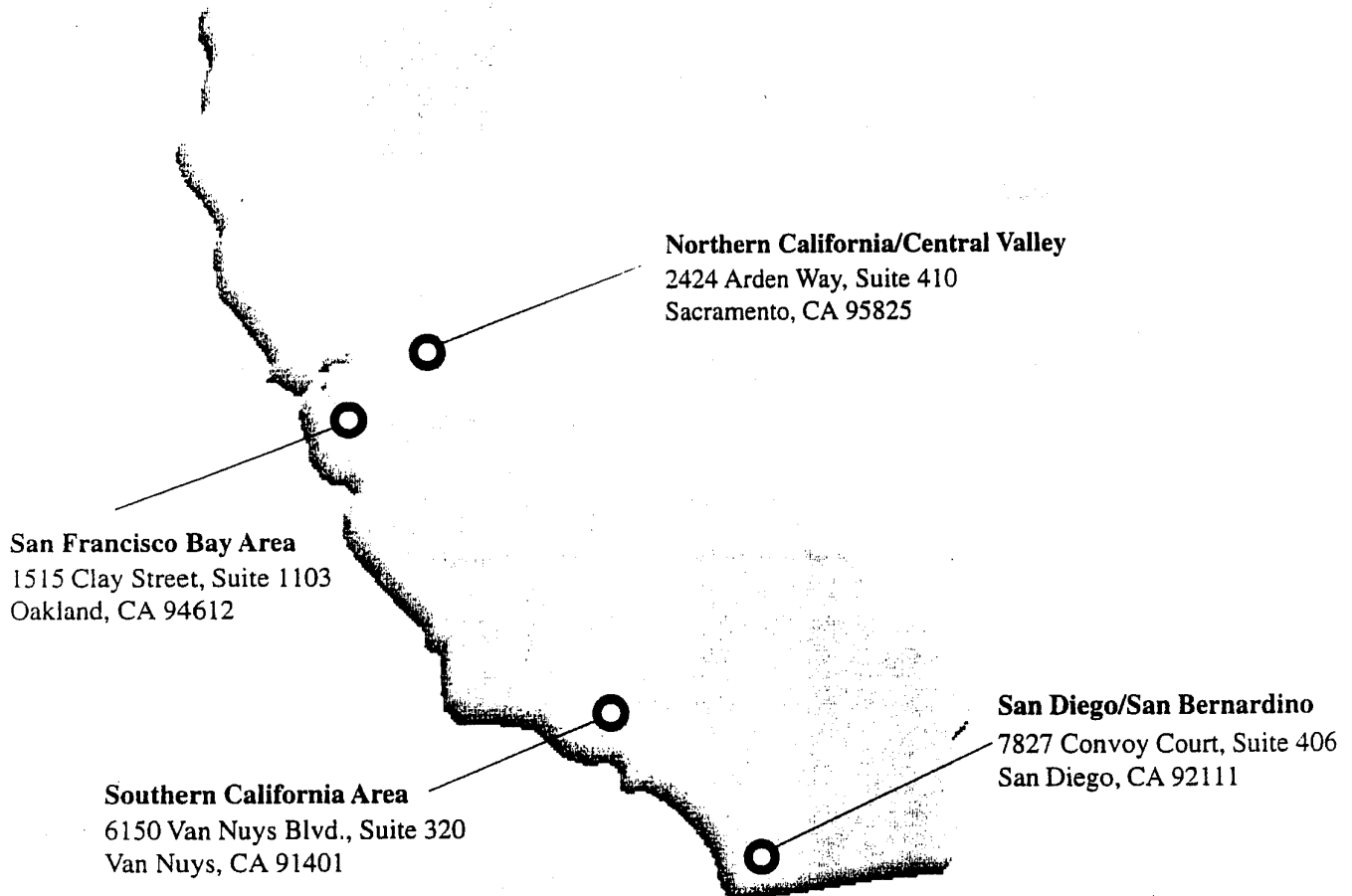
Manager Responsible:

Date Completed:

Cal/OSHA Consultation Service Offices

For assistance call our new toll-free number: 1-800-963-9424

Check our two new office locations



- **Voluntary Protection Program**
San Francisco, CA 94142
(415) 972-8517

- **Education and Training Unit**
Sacramento, CA 95825
(916) 574-2528

- **High Hazard Assistance Unit**
Fresno, CA 93727
(209) 454-0615

- **Special Emphasis Program Unit**
Santa Fe Springs, CA 90670
(562) 903-1446

Your call will in no way trigger an inspection by Cal/OSHA enforcement.
Internet: www.dir.ca.gov

FARM WORKER HOUSING REGULATIONS IN CALIFORNIA

By Steve Sutter, UC Area Farm Advisor

California's Employee Housing Act and regulations set standards for the construction, maintenance, use, and occupancy of living quarters called "employee housing," which are provided for **five or more** employees or farm workers under specified circumstances. In general, employee housing is privately owned housing which houses five or more employees and meets either of the following:

- Living quarters in urban or rural areas provided by an employer in connection with any work, whether or not rent is involved.
- Housing in a rural area which is both: (1) provided by someone who is not an agricultural employer, and (2) provided for agricultural workers employed by any agricultural employer.

Current or *prospective* providers of employee housing should request and retain the 25-page booklet "**Employee Housing Facility Inspection Information Booklet for Owners, Operators and Residents**" from the Department of Housing and Community Development (HCD) in Sacramento (northern area) at **916-255-2501** or Riverside (southern area) at **(909) 782-4420**.

The **federal** Migrant and Seasonal Agricultural Worker Protection Act also has certain health and safety regulations that apply to temporary or seasonal housing (Title 29, Part 500 §500.130-135) regardless of the number of **migrant** workers living there. Federal housing regulations are included at <http://www.dol.gov/dol/compliance/comp-msawpa.htm>.

A migrant agricultural worker is an individual who is employed in agricultural employment of a seasonal or other temporary nature, and who is required to be *absent overnight* from his permanent place of residence. Farm labor contractors and others providing housing for migrant farm workers should contact the U.S. Department of Labor, Wage and Hour Division at **(415) 848-6603** for registration information.

Posters ...Housing permitted by the State must have the Employee Housing Act Notice (HCD 206) posted at the facility. In the case of migrant housing registered with the U.S. Wage and Hour Division, Form WH-521 should be displayed at the facility.

State inspections are made **prior to occupancy** and also **during occupancy** to assure compliance with the use, maintenance, and occupancy requirements of laws and regulations. Operating permits are generally issued annually. Fees are \$35 plus **\$12** per worker housed.

Some California **counties** have taken jurisdiction over inspections and permitting under the Employee Housing Act, generally through environmental health departments. These counties (and contacts) are: **Fresno** (C.O. Seaman, 559-445-3390); **Kern** (Guy Shaw, 661-862-8700); **Merced** (John Isom, 209-826-0166); **Monterey** (Susan Rimando, 831-755-4546); **Napa** (Ruben Oropeza, 707-253-4471); **Orange** (Allen Stroh, 714-667-3600); **Riverside** (Barry Hess, 909-791-2224); **Sacramento** (Anne Frey, 916-875-8446); **San Benito** (Michael Machado, 408-637-5313); San Joaquin (Donna Heran, 209-468-3426); **San Mateo** (Brian Zamora, 650-363-4305); **Santa Cruz** (Ray Toshitsune, 408-454-2022); **Stanislaus** (Jim Sellers, 209-525-4154); and **Tulare** (Catherine Andersen, 559-733-6291). Housing owner and/or operators in other counties should call the *HCD* numbers listed above for Sacramento or Riverside.

Components of inspections include (1) fire and safety (LPG tanks, floor space, fire extinguishers), (2) structural (screening, weather protection, maintenance), (3) electrical, (4) plumbing (hot and cold water, minimum facilities), mechanical (heat, gas connectors), and (5) general (cleanliness, garbage, refrigerators, other food storage, drainage, poultry and other livestock). The booklet cited above contains an exhaustive checklist of "the most common violations found" during inspections of an employee housing facility. Compliance with State standards will generally meet or exceed federal standards.

Since April 6, 1998, applicants for permits to operate employee housing have had to verify their legal presence in the United States. Regulations for California HCD are at <http://www.hcd.ca.gov/codes/eh/>



REPORT OF NEW EMPLOYEE(S)

See detailed instructions on reverse side. Please type or print.
NOTE: Report new employees within 20 days of start of work.



00340600



DATE MMDDYY	CA EMPLOYER ACCOUNT NO. L	BRANCH CODE L	FEDERAL ID NO. L	NO. OF FORMS NEEDED L
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BUSINESS NAME	CONTACT PERSON	TELEPHONE NO.
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ADDRESS	STREET	CITY	STATE	ZIP
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EMPLOYEE FIRST NAME L	MI L	EMPLOYEE LAST NAME L
SOCIAL SECURITY NO. L	STREET NO. L	STREET NAME L
CITY L	STATE L	ZIP L
		START-OF-WORK DATE MMDDYY

EMPLOYEE FIRST NAME L	MI L	EMPLOYEE LAST NAME L
SOCIAL SECURITY NO. L	STREET NO. L	STREET NAME L
CITY L	STATE L	ZIP L
		START-OF-WORK DATE MMDDYY

EMPLOYEE FIRST NAME L	MI L	EMPLOYEE LAST NAME L
SOCIAL SECURITY NO. L	STREET NO. L	STREET NAME L
CITY L	STATE L	ZIP L
		START-OF-WORK DATE MMDDYY

EMPLOYEE FIRST NAME L	MI L	EMPLOYEE LAST NAME L
SOCIAL SECURITY NO. L	STREET NO. L	STREET NAME L
CITY L	STATE L	ZIP L
		START-OF-WORK DATE MMDDYY

EMPLOYEE FIRST NAME L	MI L	EMPLOYEE LAST NAME L
SOCIAL SECURITY NO. L	STREET NO. L	STREET NAME L
CITY L	STATE L	ZIP L
		START-OF-WORK DATE MMDDYY

EMPLOYEE FIRST NAME L	MI L	EMPLOYEE LAST NAME L
SOCIAL SECURITY NO. L	STREET NO. L	STREET NAME L
CITY L	STATE L	ZIP L
		START-OF-WORK DATE MMDDYY

INSTRUCTIONS FOR COMPLETING THE REPORT OF NEW EMPLOYEE(S),

WHO MUST BE REPORTED:

Federal law requires all employers to report to EDD within 20 days of start of work all employees who are newly hired or rehired. This information is used to assist state and county agencies in locating parents who are delinquent in their child support obligations.

An individual is considered a **new hire** on the first day in which he/she performs services for wages. An individual is considered a **rehire** if the employer/employee relationship has ended and the returning individual is required to submit a W-4 form to the employer.

WHAT MUST BE REPORTED ON THIS FORM:

Employer's:

- California Employer Account Number
on each form completed
- Branch Code - Complete only if employer was assigned a Branch Code number
- Federal Employer Identification Number
- Business name and address

Employee's

- First name, middle initial, and last name
- Social security number
- Home Address
- Start of work date (hire date)

HOW TO COMPLETE THIS FORM:

Please record information in the spaces provided. If you use a typewriter or printer, ignore the boxes and type in UPPER CASE as shown. Do not use dashes or slashes

EMPLOYEE FIRST NAME				MI	EMPLOYEE LAST NAME			
I M O G E N E				A	S A M P L E			
SOCIAL SECURITY NO.			STREET NO.		STREET NAME			UNIT/APT
1 2 3 4 5 6 7 8 9			1 2 3 4		A N Y S T R E E T			3 1 2

If you **must hand print this form**, write each letter or number in a separate box as shown. Do not use commas or periods.

EMPLOYEE FIRST NAME				MI	EMPLOYEE LAST NAME			
I M O G E N E				A	S A M P L E			
SOCIAL SECURITY NO.			STREET NO.		STREET NAME			UNIT/APT
1 2 3 4 5 6 7 8 9			1 2 2 3		A N Y S T R E E T			3 1 2

ADDITIONAL INFORMATION:

To obtain information for submitting Reports of New Employee(s) on magnetic media, call (916) 654-6845.

If you have any questions concerning this reporting requirement, please contact your local Employment Tax Customer Service Office (ETCSO) listed in your local telephone directory in the State Government section under "Employment Development Department".

TO OBTAIN ADDITIONAL DE 34s:

- Enter number of forms needed in spaces provided next to Federal ID Number (**on the first page only**);
- Visit EDD's Home Page at www.edd.ca.gov
- Contact your local ETCSO or for 25 or more forms Telephone (916) 322-2835.

An inquiry line (916) 657-0529 has been established to provide information about this reporting requirement. A customer service representative will be available to assist you during normal business hours.

HOW TO REPORT:

Please record the information in the spaces provided and mail to the following address or FAX to (916) 255-0951.

**EMPLOYMENT DEVELOPMENT DEPARTMENT
P. O. Box 997016, MIC 23
West Sacramento, CA 95799-7016**



REPORT OF INDEPENDENT CONTRACTOR(S)



05420700



See detailed instructions on page 2. Please type or print.

SERVICE- RECIPIENT (BUSINESS OR GOVERNMENT ENTITY):

Form for SERVICE- RECIPIENT (BUSINESS OR GOVERNMENT ENTITY) with fields for DATE, FEDERAL ID NO., CA EMPLOYER ACCOUNT NO., SOCIAL SECURITY NO., NO. OF FORMS NEEDED, SERVICE-RECIPIENT NAME / BUSINESS NAME, CONTACT PERSON, ADDRESS, TELEPHONE NO., CITY, STATE, ZIP.

SERVICE- PROVIDER (INDEPENDENT CONTRACTOR):

Form for SERVICE- PROVIDER (INDEPENDENT CONTRACTOR) with fields for FIRST NAME, MI, LAST NAME, SOCIAL SECURITY NO., STREET NO., STREET NAME, UNIT/APT, CITY, STATE, ZIP, START DATE OF CONTRACT, AMOUNT OF CONTRACT, CONTRACT EXPIRATION DATE, CHECK HERE IF CONTRACT IS ONGOING.

Form for SERVICE- PROVIDER (INDEPENDENT CONTRACTOR) with fields for FIRST NAME, MI, LAST NAME, SOCIAL SECURITY NO., STREET NO., STREET NAME, UNIT/APT, CITY, STATE, ZIP, START DATE OF CONTRACT, AMOUNT OF CONTRACT, CONTRACT EXPIRATION DATE, CHECK HERE IF CONTRACT IS ONGOING.

Form for SERVICE- PROVIDER (INDEPENDENT CONTRACTOR) with fields for FIRST NAME, MI, LAST NAME, SOCIAL SECURITY NO., STREET NO., STREET NAME, UNIT/APT, CITY, STATE, ZIP, START DATE OF CONTRACT, AMOUNT OF CONTRACT, CONTRACT EXPIRATION DATE, CHECK HERE IF CONTRACT IS ONGOING.



INSTRUCTIONS FOR COMPLETING THE REPORT OF INDEPENDENT CONTRACTOR(S)

WHO MUST REPORT:

Any business or government entity (defined as a "service-recipient") that is required to file a Federal Form 1099-MISC for service performed by an independent contractor (defined as a "service-provider") must report. You must report to the Employment Development Department within twenty (20) days of EITHER making payments of \$600 or more OR entering into a contract for \$600 or more with an independent contractor in any calendar year, whichever is earlier. This information is used to assist state and county agencies in locating parents who are delinquent in their child support obligations.

An independent contractor is further defined as an individual who is not an employee of the business or government entity for California purposes and who receives compensation or executes a contract for services performed for that business or government entity either in or outside of California. For further clarification, request *Information Sheet: Employment Work Status Determination* (DE 231ES). See below for additional information on how to obtain forms.

YOU ARE REQUIRED TO PROVIDE THE FOLLOWING INFORMATION THAT APPLIES:

Service-Recipient (Business or Government Entity):

- Federal employer identification number
- California employer account number
- Social security number
- Service-recipient name/business name, address, and telephone number

Service-Provider (Independent Contractor):

- First name, middle initial, and last name
- Social security number
- Address
- Start date of contract OR date payments equal \$600 or more
- Amount of contract (including cents)
- Contract expiration date
- Ongoing contract (check box if applicable)

HOW TO COMPLETE THIS FORM:

If you use a typewriter or printer, ignore the boxes and type in UPPER CASE as shown. Do not use commas or periods.

FIRST NAME I M O G E N E	MI A	LAST NAME S A M P L E	
SOCIAL SECURITY NO. 1 2 3 4 5 6 7 8 9	STREET NO. 1 2 3 4 5	STREET NAME M A I N S T R E E T	UNIT / APT. 3 0 1

If you **handwrite this form**, print each letter or number in a separate box as shown. Do not use commas or periods.

FIRST NAME I M O G E N E	MI A	LAST NAME S A M P L E	
SOCIAL SECURITY NO. 1 2 3 4 5 6 7 8 9	STREET NO. 1 2 3 4 5	STREET NAME M A I N S T R E E T	UNIT / APT. 3 0 1

GENERAL INFORMATION:

To obtain information for submitting *Report of Independent Contractor(s)* on magnetic media, call (916) 651-6945.

If you have any questions concerning this reporting requirement, please call (916) 657-0529. You may also contact your local Employment Tax Customer Service Office listed in your telephone directory in the State Government section under "Employment Development Department," or you may access our Internet site at www.edd.ca.gov.

To obtain additional DE 542 forms:

- Enter number of forms needed in upper right hand corner on front of form, or
- Visit our Internet site at www.edd.ca.gov, or
- For 25 or more forms, telephone (916) 322-2835
- For less than 25 forms, telephone (916) 657-0529

HOW TO REPORT:

Please record the information in the spaces provided and mail to the following address or fax to (916) 255-3211.

**EMPLOYMENT DEVELOPMENT DEPARTMENT
P. O. Box 997350, MIC 99
Sacramento, CA 95899-7350**

