



A Summary of Laws and Regulations For Small Farm Owner and Operator

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Dear Friends,

We are pleased to publish this brochure hoping that it will be helpful to many of our small farmers who are in dire need of knowing the laws and regulations around the operation of a small farm business.

While this summary may be very resourceful, it is not intended to be neither a representation nor an interpretation of the laws. Therefore, if you have any question or are in doubt of anything, we encourage you to seek legal consultation or speak directly to the respective agencies listed at the "Resources Directory" section at the end of this brochure.

Please feel free to contact us if you have any suggestions or recommendations.

Sincerely,

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I. PESTICIDE APPLICATION¹

Pesticide is used to control pests but it can also be harmful to human beings.

When handling pesticides, follow closely the instructions on the label and always wear protective clothing.



- ____1. The County Ag-commissioner issues pesticide applicator permit. There are two types of permits:
- a. A non-restricted permit, and
- b. A restricted permitⁱ which also requires passing an examination²
- _____2. Only certified applicator or those who work under his direct supervision are qualified to handle restricted materials
- _____3. A valid pesticide user permit is required when purchasing pesticide materials
- ____4. A restricted permit must be renewed every 2 year³
- ____5. Employee handling pesticides must be trained and re-trained every 12 months, and informed of the hazards involved
- ____6. Only a certified applicator or trainer are qualified to conduct a pesticide training, and the training must be conducted in the language spoken by the employees

- _____7. Notice and consent of land owner or operator is required prior to each pesticide application
- _____8. Application of restricted materials requires a notice of intent (NOI), a 24 hours advanced notice, before each application⁴
- ____9. Pesticides application is allowed only during daylight hour, 1 hour after sunrise and 1 hour prior to sunset, at a wind speed at 3 mph to 10 mph⁴ maximum
- ____10. Minimum protective equipments are gloves, goggles, shoes or boots, long sleeves shirt, and long pant



Recommended minimum protection

- ____11. A pesticide handler who is required to wear respiratory protective equipments is routinely required to complete a medical questionnaire and/or undergo a medical examination⁵
- ____12. An employer must have in place an Emergency Procedure or Manual⁶ and have a First Aid Kit approved by a physician available at his work site
- ____13. Always keep pesticides in its container. Do not keep them in containers that are used for foods or drinks⁷
- ____14. Keep record of pesticide usage, training, name of trainer(s) and trainee(s) for 3 years
- ____15. Workers must be informed about Restricted Entry Intervals (REI) following each pesticide application
- ____16. After using pesticides, always wash hands before eating, drinking, smoking or using a bathroom
- ____17. Avoid pesticides contact with eyes, mouth, or nose

ⁱ For handling highly hazardous materials

II. BURN PERMIT8

Burning is a way to dispose agricultural waste. Burning requires a "burn permit" and a "daily burn authorization".

Burn permit is issued by San Joaquin Valley Air Pollution Control District.

Effective 2010, a burn permit will no longer be issued.



Notes: Cooking fires in the field or burning money paper at Hmong funeral services are permissible and require no burning permit. (Pg. 28, Rule 4103)

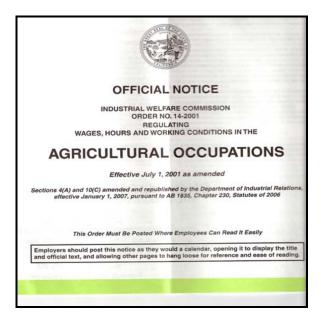
- ____1. A burn permit cannot be transferred to any other individual and is valid only at the site specified in the permit
- _____2. A "daily burn authorization" is required before each burning. Contact the Smoke Management System at 1-800-665-2876 or via Internet at http://sms.valleyair.org to obtain a daily burn authorization
- _____3. A burning location must be attended at all times by able-bodied adults with adequate tools to control the fire
- ____4. The permit holder is liable for all damages should the fire becomes out of control⁹
- ____5. Only materials specified on the permit can be burned
- ____6. Do not burn near utility poles or utility supply lines (it is very hazardous)
- _____7. Allowable ignition devices are newspaper, matches or propane burner⁷. Do not use fuel, motor oil, gasoline, rubber or diesel to ignite a fire

8. A burn location must have adequate clearance to prevent fire escape. Remove combustible material(s) to at least 30 feet away from the burn area
9. Do not burn on a windy day
10. Do not burn near a highway or roadway. Ashes or heavy smoke can create hazardous situations for drivers
11. Burning is permissible ⁷ during day light hours, between 10:00am-2:00pm. No burning should be added after 5:00pm
12. Burning weeds or grasses along a fencerow is generally prohibited ¹⁰ except under special conditions
13. Pesticide, fertilizer and seeds sacks cannot be transported and can be burned at any day at the location where they are emptied
14. Burning cardboard box, garbage, barrel, manure, plastic and or tire is prohibited ⁱⁱ
15. Under a valid burn permit, a grower who owns a ditch or canal may burn weeds in his premise in order to maintain a good water delivery for his agricultural operation
16. Fruit stands are not allowed to burn anything except warming fire, and only if the ambient temperature is less than 50 degree F, and the fire is attended at least every 15 minutes for warming purpose

ii Burning one tire at a time may be allowed. Check with the Air Control District for details

III. LABOR LAWS¹¹

The Bureau of Field Enforcement (BOFE) of the California Department of Industrial Relations and the U.S. Department of Labor (DOL) enforce workers' compensation insurance, child labor laws, cash pay, labor contractor laws, Industrial Welfare Commission orders, as well as investigating complaints on minimum wage, overtime claims or other complaints.



- ____1. An employer MUST obtain an Employer Identification Number (EIN)
- ____2. An employer MUST carry a worker's compensation insurance. (Note: owner is not covered)
- _____3. Employer MUST comply with work hours, break and meal periods, i.e. a 30 min unpaid period after working 5 hours for meal period, and a 10 minutes rest period per 4 hours of work¹²
- ____4. It is OK to pay by "piece work", but the pay must at least equal to the appropriate minimum wage
- ____5. An employer MUST keep record of payrolls, time sheets, tax, SSI and all other deductions¹³
- ____6. Employer MUST post all required State & Federal posters. Where posting is not possible, posters may be put in a binder but it must be easily accessible to employees¹⁴

- 7. Child labor laws¹⁵:
- a. Work permit is required for all minors under 18 years old.
- b. Minimum wage laws apply to all minors except those under 12 years old
- Sixteen years old is legal working age, and can be employed at any job whether declared hazardous or not
- d. 14-15 years old require a written consent from parent. They can work on a non-hazardous occupation and outside school hours only
- e. 12-13 years old require a written consent from parents; must work at the same farm where parents are working
- f. Minors under 12 years old may be employed with written consent from parents. They must work on the farm where their parents are working. They are exempted from minimum wage requirement
- g. Children of farm owners or operators may be employed by their parents at any time, in any occupation on a farm owned or operated by their parents

8. Overtime¹⁶:

- a. 1 and 1 1/2 times the employee's regular rate or pay for all hours worked in excess of 8 hours up to and including 12 hours in any workday, and for the first 8 hours worked on the 7th consecutive day of work in a workweek; and
- b. Double the employee's regular rate or pay for all hours worked in excess of 12 hours in any workday and for all hours worked in excess of 8 hours on the 7th consecutive day of work in a workweek.
- ____9. Civil penalties will be imposed for:
- a. Failure to pay minimum wage
- b. Failure to comply with overtime pay provision
- c. Failure to carry worker's compensation insurance
- d. Failure to maintain a written record of pay or wage statement
- e. Allowing minor to engage in prohibited tasks

10. When hiring a labor contractor ¹⁷ , make sure that he has the following documents:
 a. State bonds b. Workers' compensation insurance c. State and federal license d. Completes I-9 on file e. Safety program and a sign-off sheet showing that each worker was trained f. Proof that record of workers' payrolls and timesheets are kept
11. Immediate family members of an employer ¹⁶ include spouse, children, stepchildren, foster-children, parents, stepparents, and foster parents. "Other relatives even if living permanently in the same household as the employer, are not considered to be immediate family members".
12. Employer is required to verify that each worker is eligible to work. Check for a valid social security number and have the worker fill out a W-4 form
13. Employer is required to report the name, address and social security of each employee hired
14. It is unlawful to discriminate against anyone because of race, disability, age, color, national origin, marital status, sex or religious preference
15. When notified, an employer must withhold child support money from an employee's paycheck, and forward it to the appropriate agency
16. By laws, an employer must grant a 12 weeks unpaid leave in a 12 months period to an employee if one or more of the following is the cause:
a. Giving birth to a child, taking care of a new born or an adopted childb. Taking care of immediate family member who is seriously ill

c. When the employee is seriously ill and unable

to work

- _17. Employment Development Department (EDD) requires:
 - a. Unemployment insuranceb. Disability insurance

 - **c.** Unemployment and training tax (ETT)
 - **d.** Personal income tax withholding (PIT) if applicable

IV. Cal/OSHA CONSULTATION

Cal/OSHA Consultation is a division of the California Department of Industrial relations that provides consultation on a "safe and healthy work environment" to employer.

Cal/OSHA consultation is free of charges. Cal/OSHA keeps all finding confidential, and reports its findings to the Enforcement Division only if the employer repeatedly fails to take proper corrective actions¹⁸



Fig. 1 – Mobile Toilet at Sarn Saechao's Strawberries Farm

A. Field Sanitation¹⁹

1. Provide cool drinking water with a faucet, disposable cups, clearly marked: "drinking water", i.e. 4 gallons of water per worker for every 8 hours
2. Provide hand-washing water, soap, and singled use towels, clearly labeled: "hand-washing water", i.e. a tank of 15 gallons minimum in capacity
3. Provide toilets: 1-male and 1-female for every 20 employees
4. For less than 5 employees, only 1 toilet is required but the toilet must be lockable from the inside
5. Each toilet must hold at least 40 gallons, screened, sanitized and supplied with toilet paper
6. Toilet must be located within ¼ mile or no more than of 5 minutes walk from the work site (Title 8, Sect 3457)

7. Toilet and hand washing facility are not required where employees will be working less than 3 hours or where only immediate family members are working
8. Services records for toilets must be kept for 2 years ²⁰

B. Hazard Communication Program

Farmers and farm workers are potentially exposed to a variety of work and environmental hazards that could be harmful to their health. To minimize these risks, an employer is required to:

- ____1. Establish a "hazard communication program"; provide employees with information about hazardous chemicals and pesticides to which they might be exposed²¹
- _____2. Provide training in safe handling of pesticide/equipment, safe work practice, first aid and CPR
- _____3. Have a physician-approved First Aid Kit and supplies available
- ____4. Make sure a medical professional is available for consultation on matters related to workplace health
- ____5. Workers must wear protective clothing, and all machinery should be properly maintained and used
- ____6. A summary of injury or citation must be posted at or near the location where they occur. Posting must be in a way that it can easily be seen by workers
- _____7. Notify OSHA within 8 hours if a worker is seriously injured or died as a result of a work related accident²² (Title 8, Section 342), but definitely no later than 24 hours after the accident
- _____8. Maintain records of all work related injuries or illnesses for 5 years²³

C. Heat Illness Prevention²⁴



Heat related illnesses could occur while working under a hot working environment, after our body becomes dehydrated.

When one or more of these signs are noticed, provide the sick person with proper emergency care and medical attention

vomiting, dry and hot skin with no sweating.

- ____4. Have in place a "Procedure for Preventing and Handling Heat related Illness"²⁵
- ____5. Avoid drinking alcohol or caffeine. These beverages increase dehydration and induce the risk of heat illnesses
- ____6. Always wear sun protective clothing
- _____7. Pregnant woman, obese, elderly or sick persons have a higher risk of heat illnesses

D. Safe work practices²⁶

- ____1. Use proper lifting and carrying techniques; Repetitive motions or excessive bending could lead to muscles or back pain
- _____2. Avoid using short-handled tools (less than 4 ft in length) for weeding or thinning weeds
- _____3. Use long handle tools to avoid excessive bending or kneeling motions
- _____4. Teach workers about hazards posed by high-voltage lines
- _____5. Do not store or operate machinery or equipment near high voltage lines

E. First Aid and Medical Care²⁷



- ____1. At least one person trained in First aid and CPR for every 20 workers (title 8, Sect 3203)
- _____2. A qualified First aid and CPR personnel must be available for assistance within 4 minutes
- _____3. First aid communication and a trained first aid person is not required if the worksite is within (15) minutes from a medical care facility

F. Injury and Illness Prevention Program²⁸ (IIPP)

Every California employer must have an "Injury and Illness Prevention Program" in place. The IIPP must contain these 8 elements:

- ____1. *Responsibility* (appoint an IIPP administer who has authority and responsibility to implement and maintaining the program)
- _____2. *Compliance* (inform, train, evaluate, recognize workers on safety performance; discipline workers for failure to comply with safe work practice)
- _____3. *Communication* (provide orientation, training, instruction on safety and health programs; regularly schedule safety meeting, post and distribute safety information, translate safety information in a language that is understood by the employees, and encourage employee to discuss safety issues with supervisor or manager)
- _____4. *Hazard Assessment* (conduct periodic inspection, identification and evaluation of hazards)
- ____5. Accident/Exposure Investigation (when an accident occurs, interview, determine the cause of the accident; take corrective action and record all findings)
- _____6. *Hazard Correction* (unsafe work condition or practice must be corrected in a timely manner)
- _____7. *Training and Instruction* (employees shall be trained on general job safety and on their job-specific safety)
- _____8. **Record Keeping** (record hazard assessment and training. Maintain all records for at least 3 years, except those who have worked less than a year. For company with less than 10 employees, maintain the record until the hazard is corrected)

A sample "IIPP" model is available at Cal/OSHA or State Compensation Insurance Fund²⁹.

V. WATER DISCHARGE REGULATIONS¹⁹

The State Water Resources Control Board (SWRCB) and the nine Regional Water Quality Control Boards (RWQCBs) are responsible for the enforcement of the laws and regulations of our waterways, human health and the environment.

The SWRCB allocates rights to the use of surface water.

The RWQCB regulates pollutant's discharge to the ground or water; protects ground surface and coastal water from pollution.

water from pollution. If you own or operate irrigated lands, manage irrigation water supply or water drains, you are a Discharger and the following regulations apply to you: 1. If the discharges from your property affect land surface, coastal, or ground waters, you will need a permit from the RWOCB³⁰. ____2. If you discharge pollutants (or proposing to) into land surface or water you must file with the National Pollutant Discharge Elimination System (NPDES) and obtain a permit from the RWQCB ____3. Under some situations, permits may be waived and discharge activities can be handled through an enrollment in an existing general permit (check with the board for details) _4. Anyone wanting to divert water from a stream or river to his property must apply for a "Water Right Permit" from the State Water Resource Control Board (SWRCB) _5. The SWRCB issues permit for water rights and will specify the amounts of water, location, conditions and timetable for the diversion and purpose _6. Water cannot be stored for a deferred use

VI. FOOD & PRODUCE SAFETY¹⁶

Foods safety begins with Clean Soil, Clean Water, Clean Hands and Clean Surfaces.

Agricultural grounds, water, and the presence of animals in the field or in the packing areas, or the health and hygiene of workers handling the produce during harvesting, cooling, packing, processing, transportation, or storage may cause produce contamination.



The following practices would minimize produce contamination:

A. General safeguards

maturity

- _____1. Do not plant in a field where the land or soil is contaminated
 _____2. Field should not be downstream from an animal housing
 _____3. Prevent run off or drift from an animal operation from entering the produce field
 4. Do not apply raw manure or slurries to a field
- ____5. Do not harvest produce within 120 days after a manure application

where leafy vegetable is grown or a field nearing harvest

_____6. Store, apply manure properly to avoid pathogen build-ups

8. Don't irrigate with water from a farm pond used by livestock
9. Don't harvest fruit from the orchard floor for human consumption
10. To prevent animal contamination, do not allow livestock or animal traffic in the produce field
A. Worker Sanitation
1. Field worker must follow worker's hygiene, OSHA and Cal/OSHA sanitary requirement
2. Worker with symptoms of illness or diarrhea should be reassigned to activities that do not have contact with food or produce
3. When a worker suffers an opened wound, lesion or cut, use bandage to cover the wounded area. Do not allow body fluids to come into contact with the produce
4. When servicing portable toilets, make sure there is no leakage or drain into a field. In case of a leakage or spill, have a plan for clean up
5. Establish a training program and train employees on sanitary practice. Training should include the following topics:
a. The importance of hand washingb. Proper use of toilet facility and disposal of toilet

c. Educate employees on signs and symptoms of

d. For roadside stand or U-pick farm, customers must follow a hygienic practice i.e. wash hands

contamination; establish and follow a safe food practice

6. Educate workers on the risk of food

before coming into contact with fresh produce

infectious diseases.

C. Harvest Sanitation



- ____1. Clean all surfaces that will come into contact with produce. This includes harvest containers or bins etc.
- _____2. Develop a regular system for cleaning and sanitizing food contact surfaces
- _____3. Minimize the opportunity for vectors contamination of packing surfaces and materials
- ____4. Wear surgical globes when harvesting
- ____5. Produce shall be free from dirt, washed with potable water, pre-cooled or cooled and stored at an appropriate temperature as soon as possible to avoid contamination build-up

D. Packing Sanitation

- ____1. Facility used to store fresh produce should be cleaned and disinfected prior to harvest
- _____2. Facility should be regularly inspected for evidence of pests, rodents, birds, or insects and routinely cleaned and sanitized
- _____3. Prevent birds or vectors from contaminating packing equipment surfaces, packing and storage areas
- ____4. Clean pallets, containers, or bins before each use
- _____5. Protect empty containers from contamination. Do not store them on the floor or on bare soil surface
- ____6. Use potable water for post-harvest washing³¹
- _____7. Remove dirt from harvest containers, or trailers between each harvest use

- _____8. Test the quality of wash water regularly. If water is contaminated, treat it with anti-microbial chemicals
- _____9. Keep air-cooling and chilling equipments clean and sanitized
- ____10. Store and use ice under sanitary condition only

E. Transportation



- _____1. Keep transportation vehicle clean and free from odors, dirt and debris
- _____3. Workers who load and unload fresh produce, produce inspectors and buyers must follow a good hygienic practice, i.e. washing hands before inspecting or coming into contact with produce
- ____4. When using a refrigerated truck for transportation, pre-cool it and make sure that refrigeration equipment works properly before loading the produce

F. Storage

- ____1. Sanitized storage facilities to minimize pathogens contamination
- _____2. Mixed storage and mixed load distribution has the potential to transfer contamination from one lot of products to another, especially where pallet-stacking, ice injection, or top icing is involved. Avoid these techniques whenever possible to prevent crosscontamination
- _____3. Separate dry from wet product by placing water-repellant shipping barrier between mix

VII. POSTING



- _____1. Make sure all required state and federal posters are posted and are up-to-date
- ____2. Where there is no place for posting (i.e. construction or agricultural site), posters may be put in a binder³².

A. California State Posting Requirements³³:

- Industrial Welfare Commission (IWC)
- Payday Notice
- Family Rights Act Notice A & B
- Safety and Health protection on the Job
- Emergency Phone Number
- Notice to Employees Injuries Caused by Work
- Notice of Workers' Compensation Insurance Carrier and Coverage
- Whistle Blower Protection Act
- No Smoking Signage
- Log and Summary of Occupational Injuries and Illnesses
- Farm Labor Contractor Statement of Pay Rates
- Discrimination and Harassment Notice
- Pregnancy Disability Leave
- Family Care and Medical Leave

- Equal Employment Opportunity is the Law
- Minimum Wage
- Access to Medical and Exposure Records
- CAL/OSHA Health and Safety Protection
- State Disability Insurance
- Payday Notice
- Time Off to Voting Notice
- Emergency Phone Number
- Edd UI.SDI.PFL Notice
- Farm Labor Contractor Name and License
- Notice to agricultural workers with minor children must say, "NOTICE: "Minor children are not allowed to work on these premises unless they are legally permitted to do so by law and work permit has been secured"

B. Federal Posting Requirements³⁴:

(www.laborlawcenter.com)

- Federal Minimum Wage
- USERRA Uniformed Services Employment and Reemployment Rights Act
- Withholding Poster
- USERRA Uniformed Services Employment and Re-employment Rights Act
- Unemployment Insurance
- Equal Employment Opportunity
- Employee Polygraph Protection Act
- Family and Medical Leave Act
- IRS Withholding Notice
- Anti-Discrimination Notice
- Anti-sexual Harassment Notice
- OSHA Safety Communication

VIII. RESOURCES DIRECTORY

I. All questions about Small Farm Operation

University of California Cooperative Extension 1720 S. Maple Avenue Fresno, CA 93727 (559) 456-7555

E-mail: rhmolinar@ucdavis.edu Website: http://cefresno.ucdavis.edu

II. Burn Permit & Pollution Control

San Joaquin Valley Air Pollution Control District 1990 E. Gettysburg Avenue Fresno, CA 93726 Tel. (559) 230-6000 Fax. (559) 230-6061 (559) 227-7143 (to apply for a permit) http://www.valleyair.org/burnprograms/ag_burning.htm

III. Labor Laws, Cal/OSHA,

Workers' Compensation Insurance, Workers' Safety, Health & Sanitation

California Department of Industrial Relations Division of Labor Standards Enforcement 770 E. Shaw Avenue, Suite 315 Fresno, CA 93710 (559) 244-5352 (559) 248-8398 http://www.dir.ca.gov/dlse/dlse.html

U.S. Department of Labor 2202 Monterey Ave Fresno, CA (559) 487-5317 www.dol.gov

State Compensation Insurance Fund 10 River Park Place East Fresno, CA 93755 (559) 353-1833 http://www.scif.comCaliforniaIndustrialRelations

Cal/OSHA 1901 N. Gateway Bvld, Ste 102 Fresno, CA 93727 (559) 454-1295 or (800) 963-9424 http://www.dir.ca.gov/occupational safety.html

IV. Pesticides Licensing & Regulations

Fresno County Ag Commissioner 1730 S Maple Avenue Fresno, CA 93702 Tel. (559) 456-7510 E-mail: FresnoAg@co.fresno.ca.us Website: http://www.co.fresno.ca.us

California Department of Pesticide Regulation 1001 "I" Street
Sacramento, CA 95814-4015
Tel. (916) 324-4100
Fresno – (559) 243-8111
Website: http://cdpr.ca.gov

Environmental Protection Agency 75 Hawthorne Street San Francisco, CA 94105 http://www.epa.gov/region09/ Phone: (415) 947-8000 (866) EPA-WEST (toll free in Region 9) Fax: (415) 947-3553

V. Water Regulations

Email: r9.info@epa.gov

Central Valley Regional Water Quality Control Board Fresno Office (5F) 3614 East Ashland Avenue Fresno, CA 93726 Tele: (559) 445-5115 http://www.swrcb.ca.gov/rwqcb5

State Water Resources Control Board Division of Water Rights Box 2000 Sacramento, CA 95812 (916) 341-5300 http://www.waterrights.ca.gov

VI. Posting

Cal/OSHA Consultation Program 1901 N. Gateway Bvld, Ste 102 Fresno, CA 93727 (559) 454-1295 or (800) 963-9424 http://www.dir.ca.gov/occupational safety.html InfoCons@dir.ca.gov

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