



FARM EMPLOYERS LABOR SERVICE
PERSONNEL & LABOR AUDIT CHECKLIST

Company: _____ Company Representative(s): _____ Date: _____

REQUIRED POSTERS:

- Posting of Notices, Locations and Availability

WAGES & HOURS OF WORK:

MINIMUM WAGE:

- Federal \$6.55 (7/24/08), \$7.25 (7/24/09); State \$8.00
Sub-Minimum Wages Exceptions:
- Opportunity Wage, federal, under 20 years,
- Learners, state, 18 years and older, 85% min. wage
- Board & Lodging - Credit against minimum wage
Exempt - Employers own parent, spouse or child
Piece Rate; based on weekly Reg. Rate of Pay
- RRP = Gross earnings ÷ Total hours worked
- Extra compensation for employer-directed non-production time
- Compensation at minimum wage or established rate
Workday and Workweek defined - Default = calendar week & day

OVERTIME:

- Agricultural Occupation
- 1 1/2 times regular rate of pay
* Over 10 hours/workday,
* Over 6 days/workweek,
* 1st 8 hours on 7th day of work in a Workweek
- 2 times regular rate of pay
* Over 8 hours on 7th day of work in a Workweek
- Note: If employee handles product of another farmer FLSA will control, i.e. 40-hour week.
Non-Agricultural Occupations/Industries
- 1 1/2 times regular rate of pay
* Over 8 hours/workday
* Over 40 straight-time hours/workweek
* 1st 8 hours on 7th day of work in a Workweek
- 2 times regular rate of pay
* Over 12 hours in workday
* Over 8 hours on 7th day of work in a Workweek

WAGE-HOUR ISSUES:

- Mechanics
Winery Employees
Working under two IWC Orders
Piece-rate employees

OVERTIME EXEMPTIONS:

- Truck Drivers; state vs. federal
- Intrastate Vehicles
* Three axles & >= 10,000 lbs. GVW,
* Truck tractors; buses; farm labor vehicles; trailers designed or used to transport more than 10 persons.
* Two-axle trucks towing combination exceeds 40 feet in length,

transporting hazardous material or towing a trailer with a GVW of more than 10,000 pounds.

* Applies during workday.

- Interstate; Driver is ready, able to drive interstate.

* Vehicles of 10,000 lbs GVW or more..

* Applies during workweek.

- Exempt Status vs. Non-Exempt
- Performs, primarily (over half time) exempt work,
- Exercises independent judgement, and
- Salary (2 times Min. Wage @ 40/week, \$2,440/mo.)
Salespeople (Inside & Outside Sales)
Part-time Employee - 7th day of work; max. 6 hours/day & 30 hours/week; Ag only
Irrigators; spends >50% time performing duties as an irrigator
Shepherdess; \$1,200/mo. minimum wage
Employers own parent, spouse or child - exempt

OTHER WAGE CONSIDERATIONS

- Tardiness; 30-minute deduction for any tardiness in 1st 30 minutes of work
Split Shift Premiums; one hour at min. wage
Bonuses, Incentives, Commissions
Example
- \$8.00 RRP = \$12.00 O.T.
- \$2,000 bonus divided by 2,000 hours worked = \$1/hour
- \$1 Bonus + RRP = \$9.00 or \$13.50 O.T. A \$1.50/ hour short fall
- Back-out overtime to reduce impact
Indemnification of Employee Losses
Reporting Time Pay; 1/2 scheduled (a min. of 2 to a of max 4)
Waiting time; free to leave work site
Stand-by Time; controlled vs. uncontrolled
Preparation Time
Alternative Workweeks; (Non-Ag Only)
- 4-10 hour days, voted by 2/3 of employees
- Make up time at request of employee; must be in writing, work up to 11 hours/day, at request of EE
Compensatory Time Off, (IWC 4 in Ag only), salary exempt,
72-Hour Max Weekly Hours of Work; IWC Orders 8 & 13
Travel Time Pay;
- Home to work, and work to home, not compensable
- In company provided transportation (voluntary vs. non voluntary),
- Performing work before or after work - Compensable
- Home to another work site, meetings - Compensable
- Between job sites - Compensable
- Travel time at min. wage if arranged in advance with EE
Weekend and Holidays - Premium pay & Overtime
WORKING CONDITIONS:
Tools & Equipment

- Must provided tools unless employee paid 2 times min. wage
- Security Bonds
- Uniforms; required to wear items of designative design or color
- Required Personal Protective Equipment (PPE)
- Meal Periods
 - ½ hour after working 5 hrs - Must be recorded
 - Unless workday can be completed within 6 hours
 - Where not practical, voluntary agree to eat when possible
 - Fail to provide, must pay 1 hour at RRP
- Rest Periods; 10 min. per 4 hours or major fraction
 - Fail to provide, must pay 1 hour at RRP
- Lactation

CHILD LABOR

- Posting Notice
- Agricultural Zone of Danger
- Age requirements; 16-17 most jobs, <16 very restrictive
- Certificates of age, federal
- Work Permits; acquired from school, required any time of year
- Hours & Times of Work; listed on back of work permit

CAL/OSHA:

- Posters
- Cal/OSHA, 300, 300A & 301 (or Form 5020 Rev 7 for Form 301)
- Dual & Multi-Employer
- Injury and Illness Prevention Program (§3203)
 - Records
 - Cal/OSHA required to review during inspection
- Written Hazard Communication Program (§5194)
 - Inventory hazardous substances
 - Insure secondary containers are labeled
 - Acquire and provide to employees MSDS's
 - Train employees in substance safety and MSDS's
- Respiratory Program (Title 8, CCR,§5144 and Title 3,CCR§,6739)
 - MOU between DPR & CalOSHA, i.e. Pesticide safety reg's
 - Written program
 - Qualified administrator selected
 - Medical evaluations
 - Fit testing and training
- Medical Services (§3400)
 - Provide medical services within four minutes
 - Employees trained in first-aid and CPR
 - Remote locations, one per 20 employees trained in first-aid
 - First-aid kits, recommended by company physician
- Emergency Action Plan (§3220)
- Fire Prevention Plan (§3221)
 - Inspection of flammable areas
 - Fire extinguishers
- Weeding, Thinning & Hot Capping (§3456)
 - * Employees use of short-hand tool or hand weeding prohibited
 - * Hand weeding - Exemptions:
 - When there is no readily available, reasonable alternative
 - Hand weeding is occasional or intermittent and incidental (20%)
 - The commodity plants being weeded:
 - planted 2 inches apart;
 - registered as organic;
 - seedlings; or
 - horticultural - grown in 15 inches or less containers
 - * Additional 5-minute rest period when not occasional or intermittent
 - * Employees supplied with gloves and kneepads
- Sanitation Facilities
 - Alternative Compliance (<5 employees, <2 hours)
 - Toilet and Handwashing-1/4 mile or 5 minutes

- One per sex, 5 or more in crew
- One per 20 employees per sex
- Drinking Water-Readily Accessible
- Maintenance Records (2 years)
- Employee Notices; hand-washing water only, good hygiene
- Lockout/Tagout; written program, training and self audit
- Hearing conservation (testing, and analysis)
- Permits/Inspections:
 - Pressure vessel; Air tank >= 6" dia. And >= 15 psi
 - LPG tank; > 60 gallons, DOT approved exempt
 - NH3 tanks not covered
 - Construction for excavation, scaffolding (3-stories), demolitions, elevators
 - Pressure Vessel Dept (510) 622-3066
- Heat Illness Prevention (§3395)
 - Water - 1 quart per employee per hour
 - Shade - Min of 5 minutes to recuperate
 - Training
 - Written Emergency Procedures
- Occupational Carcinogens Control Act - Example: Asbestos
- Smoke-free Workplace
- Access to Medical Records (§3204)
- Accidents reported to Cal/OSHA; within 8 hours when hospitalization > 24 hours, dismemberment or death
- Ergonomics standard (§5110)
 - =>2 RMI's, diagnosed by physician, 50% job related, 12 mo.
 - Evaluation, exposure control, employee training
- Proposition 65 (Clean Water Act)
 - Postings - clear and reasonable warning
- Roll Over Protection (ROP):
 - All tractors after 10/26/76, except:
 - Orchards, hops, vineyards, inside barns and greenhouses, when used with mountable equipment incompatible with ROPs , and stationary power units, e.g. pumping units
 - Seat belts
- Safety Training:
 - New employees, new assignments, new processes
 - Supervisory Safety Training
 - Equipment; forklift, tractor (annually)
 - Pesticide Safety
 - Emergency action plan training
 - First Aid First Aid & CPR
 - Medical & Exposure Records - Access
 - Hearing (Noise) Protectors Conservation
 - Heat Illness Prevention
 - Tree Work General
 - Fire prevention, fire extinguisher
 - Lockout/Tagout
 - Welding & Cutting Safety – Hot Work
 - Wheels or Rims – Servicing
 - Medical responders, first-aid/CPR
 - Personal Protective Equipment
 - Respiratory Protection
 - Confined space entrants and rescue teams
 - Battery charging
 - Cotton Dust
 - Ergonomics - When triggered by §5110
 - Fall Protection
 - Bloodborne pathogens, doesn't apply to agriculture
 - Hazard Communication
 - Other non-agricultural jobs may have specific training requirements

HOUSING:

- Postings

- Inspection & Permits;
 - MSWPA one or more migrant worker housed
 - State >=5 employees house in connection to employment
- Housing agreement recommended

PESTICIDES:

- Postings:
 - PSIS; Safety Info. A-8 and A-9
 - Field Postings, REI (up to 24 hours prior to applications)
 - Storage signs:
 - Applications at Central Locations,
 - Pesticides applied through irrigation water
 - Fumigations; emergency response plan
 - Voluntary respirator use notice
- Hazard Communication Procedures
 - Notice of application to persons know to be within 1/4 mile
 - Describe location, time of application and REI, orally or written based on product label instructions
- Material Safety Data Sheets
- Qualifications of Trainers: written training program
- Respiratory Procedures; PSIS A-5, medical evaluation
- Decontamination Facilities
- Records/Documents
 - Training records - Handlers, Field Workers 2 years
 - Written Training Program 2 years
 - Respirator program procedures During Use
 - Medical evaluation (respirator use) During Use
 - Accident response plan (fumigants) During Use
 - Pesticide label During Use
 - Pesticide Safety Information Series 2 years
 - Material Safety Data Sheet 2 years
 - Treatment notification method -PCO 2 years
 - Pesticide use records 2 years
 - Emergency medical care notice During use
- Medical supervisor; Danger or Warning and Organophosphate or carbamate;
 - Identity of medical supervisor notice During Use
 - Medical supervisor recommendations 3 years
 - Employer/medical supervisor agreement 3 years
 - ChE blood test results; baseline, 6 days in 30-day period 3 years
 - Employer's work practice review 3 years
 - Employee exposure records 3 years

TRANSPORTATION:

- Any vehicle (transporting employees):
 - Valid drivers license, meet safety regulations, seat belts
 - Insurance (WC or \$100,000/seat - max.. \$5 million + \$50,000 liability insurance)
- Farm Labor Vehicle
- DOT Drug and Alcohol Testing
- PULL Notice Program; Class A and B drivers
- Liabilities FLC, Supervisors, Going and coming rule

Migrant & Seasonal Ag. Worker Protection Act (FLC/Grower):

- Postings
- Worker Information - Provided at recruitment
- FLC Registration - FLC Employees - Housing & Transportation Endorsements
- Payroll Records of FLC (3 Yrs.)
- FLC W.C. Certificate
- Joint Employment Relationship

Farm Labor Contractor (State):

- Postings
- Copy FLC License - DLSE FLC Verification
- Day Hauler
- Land or Vineyard-Management Services
- Labor Contractor Agreement - Rebuttable presumption
- County Agricultural Commissioner Registration
- Verify FLC's compliance with minimum requirements

RECORDS:

- Record Retention
 - Most records 3 years, except in the following instances:
 - Cal/OSHA Form 300, 300A,301 - 5 years.
 - IRS - Records documenting business expenses- 7 years, but preferably forever. No time limit in cases of fraud.
 - FICA, FUTA, Income Tax Withholding - Records containing basic employee data, - 4 years
 - Written Employment Contracts - Statute of Limitations, written contracts 4 years.
 - Records Relating to Discrimination Lawsuits - Until "final disposition" of the charge or lawsuit
 - ERISA - Reporting or disclosing the information - 6 years
- Documents Filed in Separate Files:
 - Medical Records
 - Equal/Employment Opportunity Documents: Applicant Flow Data
 - Self-Identify Disability or Veterans Status
- Recommended:
 - ICE Form I-9
 - Safety Training Records
- Employee Personnel Information
 - Name of Employee (MSWPA & IWC)
 - Permanent Address (MSWPA) - Home Address (IWC)
 - Occupation (IWC)
 - Social Security Number (MSWPA & IWC)
 - Birthday, if under 18 years (IWC)
- Payroll Information:
 - Beginning & Ending Times (IWC)
 - Meal Periods (IWC)
 - Split Shift Intervals (IWC)
 - Total Daily Hours Worked (MSWPA & IWC)
 - Workweek/Workday (Calif. Labor Code)
 - Basis for Wages Paid (MSWPA & IWC)
 - Piece Rate Units Produced (MSWPA & IWC)
 - Explanation of Incentive Plan Formula (IWC)
 - Specific Sums Deducted (MSWPA & IWC)
 - Total Pay Period Earnings (MSWPA & IWC)
 - Applicable Rates of Pay (IWC)
 - Net Pay (MSWPA & IWC)
 - Pay Day (Calif. Labor Code)
 - Location of Pay (Calif. Labor Code)
 - Value of Board, Lodging or Other Compensation (IWC)
- Paycheck Itemization (paycheck stub):
 - Name of Employee (MSWPA & IWC)
 - Social Security Number (last four digits) or Employee Identifier
 - Basis for Wages Earned (MSWPA)
 - Total Hours Worked (MSWPA & Labor Code)
 - Number of Piecework Units Earned (MSWPA)
 - Total Pay Period Earnings (MSWPA & Labor Code)
 - Specific Sums Withheld & Purpose (MSWPA & IWC)
 - Net Pay (MSWPA & Labor code)
 - Employer's Name (MSWPA & IWC)
 - Employer's Address (MSWPA & Labor Code)
 - Employer's IRS Identification Number (MSWPA)
 - Inclusive Dates of the Pay Period (IWC)

WORKERS' COMPENSATION INSURANCE:

- Posting of Notice
- New Employee Orientation - WC Carrier Pamphlet
- Employee Physician Pre-designation (if covered by ER health plan)
- Leased employees; WC agreement

UI - SDI - PFL - EDD:

- Posting Notice
- SDI Pamphlet DE 2515 - PFL Pamphlet DE-2511
- New Employee Reporting Act; DE34, within 20 days
- Independent Contractor Reporting; DE 542, within 20 days
- Layoff, Termination or Change of Status Notice
- UI-SDI-PFL Pamphlet DE2320
- Order EDD Forms at (916) 322-2835

PAYMENT OF WAGES:

- Time and Location Notice
- Within 7 days of the end of payroll period, 4 days FLC
- Discharge, Layoff or Quitting Employees
- Set Offs, Deductions from Wages
 - All deductions, except governmental required, written agreement to deduct any amount from paycheck
 - Lost of equipment
 - Cash shortage and breakage
 - Uniforms and equipment
 - Loans, balloon payments
- Disclosure of Wages by Employees - Prohibition
- Garnishment of Wages - Child Support

SOCIAL SECURITY - INCOME TAXES:

- No-match Letters from Social Security Administration
- Withholding - Form W-4

DISCRIMINATION:

- Posters
- Sexual Harassment Notice
- American's With Disabilities Act (ADA)
- Pregnancy Leave provisions
- Civil Rights Act (Title VII) & FEHA
- Privacy In Employment
- Privacy-Off the job; Prior agreement regarding lawful activities
- Sexual Orientation
- Domestic Violence Leave Act
- EEOC Report (100 or more employees)
- Leaves of Absence - Other, School attendance, literacy, etc.

AG LABOR RELATIONS ACT:

- Protected Concerted Activities
- FLC Employees
- Supervisor Training-ULP'S, Access

IMMIGRATION:

- Verification of Employee Status (CIS Form I-9)
- Anti-Discrimination Provisions

EMPLOYMENT BENEFITS:

- Health Insurance-COBRA/Conversion
- Health Insurance Portability and Accountability Act (HIPPA)
- Pension ERISA
- Vacation Pay Benefits-Suastez
- Family and Medical Leave Act
- Paid Sick Leave; Must allow ½ toward personal reason
- WARN - Worker Adjustment and Retraining Notification Act

EMPLOYMENT CHECKLIST:

- Pre-Employment:
 - Required:
 - Worker Disclosure Information (MSPA)
 - Applicant Flow Data (DFEH)
 - Optional:
 - Application for Employment
 - Job Testing and Investigate References
- At Time of Hire:
 - Required:
 - Issue Disability Insurance Pamphlet DE-2515
 - Issue Paid Family Leave Pamphlet DE-2511
 - IRS Form W-4
 - Earned Income Tax Credit
 - CIS Form I-9 (Employment Eligibility Verification Form)
 - Pesticide Haz Comm & Training (Field/Handlers)
 - Work Permit for Minors
 - Payroll Deduction Authorization (e.g., Health Ins., etc)
 - Wages & Benefits explained to employee
 - Safety Training provided to employee
 - Sexual Harassment handout or in employee handbook
 - Explain Hazard Communication Program and MSDS's
 - Location of Sanitation Facilities & Good Hygiene Practices
 - Workers' Compensation - Physician Pre-designation form
 - New Employee Registration Act, DE-34
 - Optional:
 - Issue Employee Handbook, Signed Receipt
 - Employment Contract
 - Orientation Company Rules/Procedures
 - Tools & Equipment Loan Agreement
 - Housing Agreement
 - Bonding for Employees Handling Funds
 - Physical Examinations
- Terminations:
 - Required:
 - Written Notice of Termination, Layoff
 - Payment of Non-Forfeited Benefits (vacation, etc.)
 - Return Deposits for Loaned Equipment Plus Interest
 - EDD Pamphlet DE 2320 "For Your Benefit. . ."
 - COBRA 60-Day Notification for Group Health Plan
 - Health Insurance Premium Payment Act Notice (state)
 - Health Insurance Portability and Accountability Act (HIPPA)
 - Optional:
 - Notice to Vacate Housing
 - Exit Interview (Voluntary Quit)
 - ICE Form I-9 to Inactivate File