

# Farm Labor Contractor License Examination Study Guide

NOTE: This guide is designed to help you with the exam and to give you a basic idea of what the requirements are for farm labor contractors. IT DOES NOT CONTAIN EVERY APPLICABLE LAW.

## Table of Contents

I. <a href="#">Basic Responsibilities</a>	
A. <a href="#">The examination</a> .....	3
B. <a href="#">The license</a> .....	3
C. <a href="#">Training supervisors</a> .....	3
D. <a href="#">Recruiting workers</a> .....	3
E. <a href="#">Contracting with growers</a> .....	4
F. <a href="#">Grounds for losing your FLC license</a> .....	4
G. <a href="#">Grounds for losing your FLC federal registration certificate</a> .....	4
II. <a href="#">Health and Safety</a>	
A. <a href="#">Handwashing and toilet facilities</a> .....	5
B. <a href="#">Field safety</a> .....	5
C. <a href="#">Heat illness prevention</a> .....	6
D. <a href="#">Injury and Illness Prevention Program</a> .....	6
E. <a href="#">Required postings</a> .....	7
F. <a href="#">Reporting injuries and deaths</a> .....	7
G. <a href="#">Penalties</a> .....	7
H. <a href="#">Pesticide safety</a> .....	7
III. <a href="#">Wages</a>	
A. <a href="#">Minimum wage and overtime</a> .....	11
B. <a href="#">Wage deductions</a> .....	11
C. <a href="#">Meal and rest periods</a> .....	11

D. <a href="#">Paydays</a> .....	11
E. <a href="#">Recordkeeping requirements</a> .....	12
F. <a href="#">Posting requirements</a> .....	12
G. <a href="#">Final pay</a> .....	13
H. <a href="#">Other</a> .....	13
IV. <a href="#">Workers' Compensation and State Disability Insurance</a> .....	15
V. <a href="#">Child Labor</a>	
A. <a href="#">Permit to work and permit to employ</a> .....	16
B. <a href="#">Work hours</a> .....	16
C. <a href="#">Hazardous occupations</a> .....	16
VI. <a href="#">Employee Housing</a>	
A. <a href="#">Permits</a> .....	17
B. <a href="#">Postings</a> .....	17
C. <a href="#">Workers' rights</a> .....	17
VII. <a href="#">Transportation</a>	
A. <a href="#">Required license and certificates</a> .....	18
B. <a href="#">Vehicle insurance requirements</a> .....	18
C. <a href="#">Driving restrictions</a> .....	18
D. <a href="#">Vehicle restrictions</a> .....	19
VIII. <a href="#">Treatment of Workers</a> .....	20

## Chapter I. Basic Responsibilities

### A. The examination

Farm labor contractors (FLC) are required to take California's farm labor contractor exam **every two years**. An FLC who has violated any law related to farm labor contracting must take the exam the year after the violation or at the request of the Labor Commissioner.

### B. The license

To contract for farm labor, you must:

- Have and show a valid and current California farm labor contractor's license.
- Have and show a valid and current FLC federal registration certificate from the U.S. Department of Labor.
- Be registered with the Agricultural Commissioner in each county where you supply labor.
- Have a bond for the appropriate amount posted with the Labor Commissioner.
- Have workers' compensation insurance
- Disclose all people who have a financial interest in your contracting business.
- Every year, enroll and participate in at least nine hours of an approved FLC class, of which one hour should cover sexual harassment prevention.
- **Notify the Department of Labor Standards and Enforcement (DLSE) immediately of any changes related to the business** officers, address, legal entity, partnerships, etc.

**You must not:**

- Sell or transfer any part of the profits of your business unless the Labor Commissioner gives written consent.
- Transfer your FLC federal registration certificate to anyone else.

### C. Training supervisors

You must provide every crew leader, foreperson, or other person who supervises, directs, or controls any agricultural laborer on your behalf with information and training on the law governing worker health and safety, pesticide safety, and the terms and conditions of employment.

Additionally, federal law requires that all your field supervisors be registered as Farm Labor Contractor Employees (FLCE) and that they be trained in pesticide safety. You are responsible for any violations of federal law committed by any FLCE who works for you.

### D. Recruiting workers

You, or any person working for you, must not make any false or misleading statements about the terms, conditions, or existence of employment. For example, you must not transport workers to a jobsite unless you already have an agreement to supply labor there. If you *drive workers to a jobsite and there is no work, you must pay them the agreed-upon rate of **pay for all the time traveling to the jobsite and back.***

If there is a strike or lockout at the worksite, you must tell your workers about it *before* you take them there.

If your employees or the grower request it, you must provide a written statement (in English and in Spanish) showing the amount of the contract fee you are receiving from the grower and the workers' rates of pay.

You may not charge a worker any kind of registration fee or employment fee or tell workers that they must pay a transportation fee to get a job.

You must post your name, FLC license number, and the pay rate for workers at the entrance to your vehicles.

Federal law also requires you to post a notice of the workers' federal rights.

You *must not contribute to or interfere with workers who are organizing a union.*

**Before** you hire workers, you must tell them **(1)** where they will be employed, **(2)** the pay rates, **(3)** the crops they will work on, **(4)** their work duties, **(5)** the expected length of employment, **(6)** whether you will receive a commission for sales from a store owned by the grower and about **fees** for **(7)** transportation, **(8)** housing, and **(9)** other benefits.

Workers must not be required to purchase goods or services solely from a contractor or a grower or any person acting for them.

### **E. Contracting with growers**

Before you may contract to supply labor for a grower, you must show the grower your California FLC license *and* your FLC federal registration certificate.

You must (on a form supplied by the Labor Commissioner) provide the grower with a payroll list of all employees who will be doing work for that grower.

You must not split any fees with the grower or with any of his/her employees.

### **F. Grounds for losing your FLC license**

Your license may be revoked if you do any of the following:

- Violate any state or federal law governing farm labor contractors, including health and safety, payment of wages, or lack of workers' compensation insurance.
- Include any false information on your application.
- Change any condition under which the license was issued.
- Allow any employee to drive a farm labor vehicle without proper license and certification.
- Fail to pay wages promptly
- Fail to comply with an FLC contract
- Sell alcoholic beverages as part of the FLC business

### **G. Grounds for losing your FLC federal registration certificate**

Similarly, your FLC federal registration certificate will be revoked if you:

- Do any of the above, or if you:
- Apply for the FLC license on behalf of someone else
- Violate any federal law relating to farm labor contractors or fail to obey any court judgment by the Secretary of Labor
- Were convicted in the past five years of a felony or of violating any law related to gambling or alcohol in connection with farm labor contracting
- Hire any person who is in this country illegally

## Chapter II. Health and Safety

### A. Handwashing and toilet facilities

If you employ *fewer than five workers*, it is acceptable to have **one coed toilet** if it can be locked from the inside. If you have *5 to 20 male and female employees*, you must have **one facility for men and one for women**. If you have *21 to 40 employees*, you must have **two facilities for men and two for women**. If you have *41 to 60 employees*, you must have **three facilities for men and three for women**. The number of facilities increases by one for men and one for women for every 20 workers.

Handwashing and toilet facilities must be in the field if you employ five or more workers for two or more hours in hand labor; otherwise, if you employ less than five workers, you must supply transportation to and from offsite handwashing and toilet facilities.

The handwashing facility must get fresh air, and the water tank must hold at least 15 gallons. The water must be potable and refilled as necessary. You must post signs that say the water is only for handwashing. The facility must be stocked with soap and single-use towels and kept clean. Water may drain from the handwashing facility **ONLY if it does not cause a problem or contamination**.

All toilet facilities must be screened to keep out flies and vermin. They must get fresh air and be private with doors that lock from the inside. Chemical toilet wastewater must drain into a >40-gallon tank *designed to prevent contamination*.

Chemical toilet tanks must be drained into a sewer or approved septic tank. When pit toilets are filled to within 2 feet of the surface, cover them with 2 feet of compact dirt.

The facilities must be in working order, clean, and stocked with odor control chemicals and toilet paper at all times. You must keep written records of maintenance of the facilities for two years.

The handwashing and toilet facilities must be close together and located within a quarter-mile or a five-minute walk from the worksite, whichever is shorter. If the terrain makes this too difficult, the facility must be as close to the workers as a vehicle can bring it.

You must tell the employees where the facilities are located and allow all employees to use the facilities throughout the workday. In addition, you must tell your employees to use the facilities, drink water often, urinate often, and wash their hands before and after using the toilet and before eating or smoking.

### B. Field safety

#### 1. First aid in the field

There must be first-aid kits at the farm headquarters and in the transportation buses. At remote locations, you must arrange in advance for prompt medical care in case of serious injuries. You may need onsite facilities or equipment for transporting the injured person to a doctor or a way to call a doctor to the field. In addition, when they are out in the field, **at least 1 employee in every 20** must have training in emergency first aid.

It is YOUR RESPONSIBILITY to arrange for emergency medical service in the field!

#### 2. Tools

A worker must not use any pole that can conduct electricity for fruit picking, nut knocking, etc. Conductive tools (metal ladders, irrigation pipe, etc.) should not be used where there is a possibility of exposure to high-voltage lines until the employees have been trained about such hazards. Supervisors must inspect the work area in orchards and other planted areas to determine the potential for exposure to high-voltage lines and caution employees about the hazard.

Tools with short handles must not be used in a stooped, kneeling, or squatting position when the worker is weeding, thinning, or hot-capping. Long-handled tools must not be used as short-handled tools. Vegetable-trimming saws must have the unused portion of the blade covered.

Where ladders are used in agricultural work, they should be kept in good condition. Ladders should be placed where there is a secure footing.

### C. Heat illness prevention

Excessive heat exposure can lead to serious illness or death. State law requires that you provide at least one quart per hour of pure, cool drinking water as close as is practical to where your employees are working. They **must be able to drink the water any time they wish**. The water must be dispensed in single-use cups or by fountains. The water containers must be cleaned regularly, refilled as necessary, and covered to keep the water clean.

**Shade must be available when temperatures exceed 80 degrees Fahrenheit and even if temperatures do not exceed 80 degrees shade must still be available**, so shade structures must be opened near the workers at the start of the shift. Employees who suffer from heat illness or request to rest in the shade must be given access to shade that is: open to the air, ventilated, or cooled for at least five minutes.

All employees must be trained on the following before working outdoors:

1. The environmental and personal risk factors for heat illness
2. The employer's procedures for complying with the requirements of this standard
3. The importance of frequent consumption of small quantities of water, up to four cups per hour, when the work environment is hot
4. The importance of acclimatization
5. The different types of heat illness and the common signs and symptoms of heat illness
6. The importance of immediately reporting to the employer signs of heat illness in themselves or in co-workers
7. The employer's procedure for responding to possible heat illness, including how emergency medical service will be provided should it become necessary and how employees will be transported to a place where they can be reached by an emergency medical service provider.

The above procedures must be in writing and made available to employees and to Cal/OSHA.

### D. Injury and Illness Prevention Program

California requires all employers to have a **written Injury and Illness Prevention Program (IIPP)**. The program and associated records must be presented to Cal/OSHA inspectors upon request. The IIPP must include:

- **Who** will implement the program
- A **system** of training and incentives to make sure employees follow the safety rules
- Meetings, **training, postings**, etc., about health and safety presented in a manner/language the workers can understand
- A **system** for receiving anonymous health and safety reports
- A **system** for identifying hazards that includes regular inspections, evaluation of new procedures, equipment, substances, and any new hazards brought to your attention
- **Investigations** of occupational injury or illness
- A **procedure** for quickly correcting hazards

- **Training** for employees and supervisors when the program first starts, for new employees, for employees doing new tasks, and for everyone when new substances, processes, procedures, or equipment are introduced, or new hazards are found.
- **Records** showing regular inspections, action taken to correct the hazards, and the name of the inspector. Records must be kept for three years.
- **Records** showing safety and health training that include the employee's name, the instructor's name, the training date, and type of training must be kept for three years unless the employee worked for you for less than one year.

## E. Required postings

You must post the following:

- "Safety and Health Protection on the Job," which lists the basic employer and employee rights and responsibilities as they relate to safety and health rules.
- "Annual Summary of Work-Related Injuries and Illnesses" (Cal/OSHA Form 300A), a log of all the injuries your employees have received during the year. It must be posted once a year in February.

## F. Reporting injuries and deaths

All injuries: Report to your workers' compensation insurance carrier within five days.

Serious workplace injury/death: ALSO report immediately to the nearest Cal/OSHA office, California Division of Labor Statistics and Research, California Census of Fatal Occupational Injuries, and to local police.

Injury/death involving pesticides: ALSO report to the Department of Pesticide Regulation.

## G. Penalties

If a Cal/OSHA consultant identifies an imminent or serious hazard, you must eliminate the hazard within a reasonable period or you will be cited.

The minimum penalty for violating a single Cal/OSHA regulation governing field sanitation (such as failure to provide toilets) is \$750.

The Employment Development Department will not refer workers to contractors who have violated health and safety laws.

## H. Pesticide safety

### **Safety Requirements for Fieldworkers Who DO NOT Apply or Handle Pesticides**

#### *1. Fieldworkers must be trained in pesticide safety*

The **Department of Pesticide Regulation** (DPR) requires all farm labor contractors to ensure that all their fieldworkers have been trained in pesticide safety before they enter a treated field, regardless of whether those workers will handle pesticides. The training must have taken place within the previous five years. The information must be presented to the workers in a way that they understand.

This training requirement must include such topics as the health effects of exposure to pesticides, symptoms, how pesticides enter the body, emergency first aid and decontamination procedures, danger of pesticide residue on clothing and containers, as well as information about field entry restrictions, and posting.

Only a qualified trainer can train your fieldworkers. Trainers can become qualified by:

- Successfully completing a DPR-approved train-the-trainer training program
- Possessing a valid private applicator certificate
- Possessing a valid commercial applicator certificate or license, or
- Meeting other trainer qualifications listed in the law.

You must be able to prove to inspectors that your fieldworkers are properly trained. You should keep records of the persons trained, who performed the training, and when and where the training was given.

## 2. Warnings

*Before your workers enter a field*, the grower must tell you whether the field has been treated with pesticides, the name of the pesticide, the date it was applied, the amount of time to wait (restricted-entry interval) before entering, and the safety precautions to take. **You must tell your employees this** and make certain that they understand it.

## 3. Preparations to make before allowing fieldworkers to enter a field

Before your employees enter a treated field, you must:

- Plan emergency medical care in advance and designate the medical facility to provide the care. The field supervisor or employees must know the name and location of the medical facility.
- Give them a document called the “Pesticide Safety Information Series (PSIS) A-9.” If necessary, you must translate and read the PSIS A-9 to your workers in a language they understand. Your workers must be told what precautions to take before entering a treated field.
- Upon request, you must give your workers, their doctors, or their representatives the pesticide records kept by the grower, which should include: (a) the list of the pesticides applied to the field in the past two years, (b) additional PSIS leaflets as applicable, and (c) technical descriptions of the pesticides.
- Provide a handwashing facility for every 20 employees. Requirements for handwashing facilities are explained in Chapter II, section A.
- Learn and teach your field supervisor and employees the common **symptoms of pesticide poisoning: headache, nausea, vomiting, cramps, weakness, blurred vision, pinpoint pupils, breathing difficulties, nervousness, sweating/clammy skin, watery eyes, drooling or frothing at the mouth, muscle spasms, skin rash, and coma.**
- If an employee comes into direct contact with pesticides, you must tell him/her to wash immediately. If he/she shows signs of pesticide poisoning, **take him/her to the doctor.**
- Make sure that you and your field supervisors are familiar with the procedures for dealing with pesticide poisoning.

## 4. Restricted entry interval (REI)

A “restricted-entry interval” is the amount of time that must pass before people can safely enter a treated area without special protective clothing. REIs are indicated on the pesticide label and in state regulations, but *the grower must give you this information.*

If you are not sure whether it is safe, keep your employees out of the field until the grower has provided records showing the pesticide used and its REI. If extra-dangerous chemicals are used, the area must be marked with a skull and crossbones and a warning written in English and Spanish. **Only the grower may post and remove the warning sign.**

### *5. Early entry to a treated area*

Under certain circumstances, workers may enter a treated field during an REI if they (1) have received special training and wear protective equipment or (2) will operate machinery that will shield the workers from contact with pesticide.

If the grower does not provide you with the information or you have any doubt about the information the grower provided, such as the REI, safety precautions, or the proper personal protective equipment, keep your employees out of the field and report your concern to the local county agricultural commissioner.

If your workers will enter a treated area early, you must supply any required protective wear and equipment and train them in safe work procedures. You must also tell them what kind of pesticide was applied to the field, where they will be working, what the REI is, and to shower with warm water and soap as soon as possible after the end of the work shift.

### *6. Additional safety requirements for businesses that handle pesticides*

If you or your employees will handle pesticides, you must:

- Have a qualified applicator license or a pest control business License
- Follow all the relevant worker safety regulations. (Contact DPR for the specific regulations.)
- Establish a hazard communication program for workers who handle pesticides
- Post the PSIS A-8 leaflet at the worksite (which is different from the leaflet you give to fieldworkers who do not handle pesticides)
- Include pesticide handling in your Injury and Illness Prevention Program (the IIPP is explained fully in Chapter II, section D)
- Keep records of the pesticides you apply and submit written reports to the county agricultural commissioner.

## Summary of Chapter II: Health and Safety

Topic	Requirements
Field Sanitation	<p>&lt; 5 employees = 1 coed toilet, otherwise 1 men's and 1 women's toilet for every 20 employees.</p> <p>&lt; 5 employees = offsite toilet is ok IF TRANSPORT IS PROVIDED, otherwise must have toilets in the field. Toilet must be working, be clean, offer privacy, and be fully stocked. Keep maintenance logs for two years. Must have clean water for handwashing, and drainage must not cause contamination; toilet must not drain. Tell employees to about hygiene and allow use of toilets and handwashing throughout the day.</p>
Heat Illness Prevention	<p>Provide pure drinking water via fountain or disposable cups and encourage drinking water throughout the day.</p> <p>Shade must be available when temperatures exceed 80 degrees Fahrenheit and even if temperatures do not exceed 80 degrees shade must still be available.</p> <p>Allow access to shade at all times. Shade structures must be ventilated to stay cool.</p> <p>Train workers on the effects of heat and the need to drink water and cool off.</p>
Field Safety	<p>Have first-aid kits at farm headquarters and on buses. YOU as the FLC must arrange for emergency care in advance for workers hurt in the field. One employee in 20 must have first-aid training.</p> <p>Never use metal poles for fruit picking, nut knocking, etc., or in any situation where a person could be electrocuted.</p> <p>Never use long-handled tools as short-handled tools. Never use short-handled tools when bending, kneeling, or squatting.</p>
Injury and Illness Prevention Program (IIPP)	<p>You MUST have an IIPP that includes: (1) who will be responsible for the program, (2) training, (3) a system to ensure compliance, (4) a way to make anonymous reports, (5) a method of identifying and fixing hazards, (6) investigations, and (7) recordkeeping.</p>
Pesticide Safety	<p>Only the grower may post/remove a pesticide warning, but YOU must know the restricted entry interval and keep your workers safe.</p> <p>To keep workers safe, you must tell them about the pesticide(s), provide all necessary equipment, provide training, and arrange for emergency care if someone is poisoned.</p> <p>If your business will apply pesticides, you will need to provide pesticide info, obtain extra training, get a pesticide license, and follow extra safety protocols.</p> <p>If a worker touches pesticides, make him/her wash immediately, and if he/she has symptoms, take him/her to a hospital immediately.</p> <p>Symptoms include headaches, nausea, weakness, blurred vision, breathing trouble, and rashes.</p>
Other Topics	<p>You must not retaliate against workers who report safety issues.</p> <p>You must post the "Safety and Health Protection on the Job" and the Cal/OSHA Form 300A posters.</p> <p>All injuries at the workplace must be reported to your workers' compensation carrier.</p> <p>Serious injuries and deaths must ALSO be reported to Cal/OSHA, the California Census of Fatal Occupational Injuries, and your local police.</p> <p>Injuries and deaths related to pesticides must ALSO be reported to the Department of Pesticide Regulation.</p> <p>The minimum penalty for any health or safety violation related to field sanitation is \$750.</p>

## Chapter III. Wages

NOTE: The Industrial Welfare Commission (IWC) sets wages, hours, etc.

### A. Minimum wage and overtime

#### 1. Minimum wage

The applicable minimum wage is the California State minimum wage of \$10 per hour.

Workers may also be paid a piece rate, but the rate must be at least equal to the minimum wage, including any overtime. For example, an employee who worked 8 hours must be paid at least \$80 (8 x 10\$/hr.) even if he/she is paid a piece rate.

BUT there is an exception to the minimum wage for learners, regardless of age, who may be paid not less than 85% of the minimum wage during their first 160 hours of employment in occupations in which they have no previous similar or related experience.

Food and lodging supplied by the employer may count as wages if there is a *voluntary* written agreement with the employee, BUT you must charge the amounts set in Section 10 of the IWC Orders.

#### 2. Overtime

In most industries, workers must be paid 1.5 times their regular rate of pay for all hours worked over 8 in a day or over 40 in a week. They must be paid twice their regular rate for all hours worked after 12 in a day and after 8 hours on the seventh consecutive day in a workweek, *BUT...*

...in agricultural field work (covered by IWC Order 14) workers must be paid overtime after 10 hours in a day and for the first 8 hours on the seventh consecutive day of work. They receive **twice** their regular rate for any work after 8 hours on the seventh day in a workweek.

### B. Wage deductions

You must make the deductions from your employees' wages that are required by state and federal law, but you must not make deductions from an employee's wages to cover breakage or loss of equipment, unless the employee intentionally causes the loss.

You **must not make any other deduction** unless the employee gives you specific written permission to deduct wages for a meal, personal medical insurance program, etc.

### C. Meal and rest periods

ALL EMPLOYEES MUST BE ALLOWED TO TAKE BREAKS EVEN IF OTHERS ARE STILL WORKING. Someone who works **more than five hours must receive a half-hour meal period** unless the workday is no more than six hours long, and you both agree. You do not have to pay your employees for the meal period time.

You must give your employees a paid 10-minute rest break for every four hours they work or major fraction thereof.

That means that in an 8- to 10-hour day, a worker must receive two paid breaks. You do not need to give a rest break to someone who works less than three and a half hours in a day.

### D. Paydays

**You must pay your employees at least once per week.** The day must be set in advance and posted on the Payday Notice (see "Posting Requirements" in section F below).

Wages must be paid by direct deposit, check, cashier's check, money order, or cash, and the employee must ALWAYS receive a wage deduction statement (see Section E(3) below).

## E. Recordkeeping requirements

### 1. Employee identification

Time records and wage deduction statements should list the name, address, occupation, and Social Security number of the employee, and (if the employee is a minor) his/her birthdate.

### 2. Time records

You must keep time records for all employees and provide them at the request of the employee. Time records must show when each employee started and finished work, when the meal period was taken, the total hours worked each day, the total hours worked during the pay period, and the total wages paid for that period, including meals, lodging, etc.

### 3. Wage deduction statement

Every time you pay your employees (even if you pay them in cash), you must give them a written statement in ink, in English, and properly dated with the month, day, and year that shows:

- Employee's **name**
- Last four digits of the employee's Social Security number *or* the full employee identification number
- Your FLC business's **name and address**
- **Name and address of business that hired you** (usually the grower)
- **Dates** of the pay period
- **Total hours** worked
- **Gross wages** earned
- **Net wages** earned
- Number of piece-rate units earned (if applicable)
- All **deductions**, such as taxes and medical benefits
- The **hourly rates** for regular, overtime, and double-time work and the corresponding number of hours worked at each rate of pay

A copy of records of deductions must be maintained at the place of employment or central location for three years.

### 4. Keep records on file

All applications and the personnel files of terminated employees **must be kept for two years.**

You must keep copies of all applications and personnel records, including the records showing minors' ages, for three years.

You should keep payroll records for at least four years. You MUST keep records of payments made to people who provided services to your business for at least eight years, in case of an employment tax audit.

## F. Posting requirements

You must post the following posters at the worksite where workers can see it:

- The appropriate IWC Order where employees can easily read it.

- The Minimum Wage poster.
- A **payday notice** stating when the regular payday is
- A poster with your name, FLC license number, and the rate you pay for each type of job. The notice must be in English and Spanish.

## G. Final pay

### 1. *If you fire your employee*

If you fire an employee, you must pay all wages owed at that time.

### 2. *If your employee quits*

If an employee quits without notice, he or she must be paid within three days. If the employee gives you at least three days' notice, you must pay him or her at the time of quitting.

### 3. *If you don't pay wages due*

If an employee who quits or is fired is not paid on time, then you will be charged a penalty equal to the employee's wage for each day that you do not pay.

### 4. *If you and your employees disagree on the amount of wages due*

You must pay the wages that you know are owed and resolve the disputed amount later.

## H. Other

### 1. *Tools*

You **must supply all the tools** an employee needs to do his or her job if the employee is paid less than twice the minimum wage.

### 2. *Discrimination*

You **MUST NOT pay a different wage to women** who do the same work under the same conditions as men. You may pay different rates if they are based on a seniority system or a merit system that measures quantity and quality of production.

### 3. *Working conditions applicable to shepherds*

Shepherds must be provided with all the following at each work site:

- Regular mail service at least once a week
- An appropriate form of communication, including but not limited to a radio or telephone
- Visitor access to fixed-site housing and, when practicable, mobile housing

## Summary of Chapter III: Wages

Topic	Requirements
Minimum Wage and Overtime	<p>Min. wage = \$10/hr. It does not matter if you pay a piece rate; you may not pay less than \$10/hr., with an exception for learners, regardless of age, may be paid not less than 85% of the minimum wage during their first 160 hours of employment in occupations in which they have no previous similar or related experience.</p> <p>You may only count food and lodging that you provide toward wages if the worker voluntarily signs an agreement to that effect. (You may only charge the amounts in IWC Sec. 10)</p> <p>Overtime for agricultural workers is covered by IWC Order 14.            &gt;10 hrs. in 1 day or the first 8 hrs. on the seventh day in a row = 1.5x pay &gt; 8hrs. on the seventh day in a row = 2x pay</p>
Breaks	<p>You must give employees breaks even if others are still working.</p> <p>&gt;5 hrs. of work = must take meal break <i>unless</i> total work &lt; 6.hrs. and you and the worker both agree</p> <p>Every 4 hrs. = 10-minute break (on the clock)</p>
Paydays and Deductions	<p>You must pay your employees at least once per week on the date in your payday notice. You must always provide an itemized statement with deductions. You must make all the deductions required by state and federal law. You must not deduct for broken or lost equipment unless the worker intentionally breaks it. You may not deduct for anything else unless the worker consents in writing to have deductions for meals or medical plans, etc.</p> <p>The itemized statement must include the employee's information, the date, the employer's name, the last four digits of the employee's SSN, hours worked, pay, deductions, pay rate, grower's info, and pay period.</p>
Recordkeeping	<p>You must keep time records for all employees and provide them at the employee's request.</p> <p>Applications and personnel files for former employees for at least two years, current employees and minors = three years</p> <p>Payroll records = keep four years, payments to subcontractors = keep eight years</p>
Final Pay	<p>Fired employee = must pay all wages owed at the time of firing</p> <p>Employee quits = must pay all wages within three days, but if employee gave less than three days' notice, then must pay on the last day of work.</p> <p>If you fail to pay on time, you will be fined the employee's daily wage for each day the pay is overdue</p> <p>Even if you and your employee disagree on the wages due, you must pay the undisputed part on time and resolve the rest later</p>
Posting Reqs.	<p>You must post the following where employees can easily read them:</p> <ul style="list-style-type: none"> <li>• The appropriate IWC Order</li> <li>• The Minimum Wage poster.</li> <li>• A payday notice stating when the regular payday is</li> <li>• A poster with your name, FLC license number, and the rate you pay for each type of job. The notice must be in English and Spanish.</li> </ul>
Other Topics	<p>If you pay a worker less than 2x the minimum wage, you must provide all necessary tools.</p> <p>You must not pay women less if the women do the same or similar work under similar conditions as men.</p> <p>In addition to their pay, you must provide for shepherds:</p> <p>Regular mail at least once per week, a method of communication such as a radio or phone, and visitor access to employee housing</p>

## Chapter IV. Workers' Compensation and State Disability Insurance

**Every employer must have workers' compensation insurance (WCI)**, which covers medical expenses and lost wages of workers who are hurt on the job. Injuries may be the result of a single incident or long-term exposure to a hazard. **All your employees, full-time and part-time, must be covered.** You must not collect any money from the employee, directly or indirectly, to pay for WCI.

The penalty for not having WCI is either (1) twice the amount the employer would have paid in insurance premiums during the period the employer was uninsured or (2) \$1,500 per employee (whichever is greater). You will not be able to operate your business until you get insurance. You must pay all your employees their regular pay for the first 10 days that your business is closed.

If one of your workers is injured while you are not insured, you **(1)** will have to pay for his/her treatment, **(2)** will have to pay any lost wages, and **(3)** may be fined \$2,000 to \$10,000 for each employee you have, depending on the circumstances.

You must (1) provide new hires with notice of your WCI, (2) post a notice about your coverage where employees will see it, and (3) provide a notice upon request. The notice must show the name of your insurance company and explain workers' rights in plain language, such as the right to receive medical care, choose their own doctor, and have lost wages paid.

### *State disability insurance*

The Employment Development Department (EDD) handles disability insurance for workers who lose wages due to pregnancy or an off-the-job injury or illness. The employee pays for state disability insurance through a payroll deduction, which you are required to make.

You must give your employees a notice supplied by EDD that tells workers about their disability insurance rights.

## Chapter V. Child Labor

### A. Permit to work and permit to employ

You must not employ anyone under 12 years old. Minors age 12-18 need a permit to work and you need a Permit to Employ for each minor, but this does not apply to high school graduates who are under 18. Permits are issued by the local school district even for minors who are not residents of California. Permits are required even for work during school vacation.

To get your permit, you must file an Intent to Employ with the local school district. This form states the kind of work the minor will do and the hours the minor is expected to work; it requires the signatures of the minor, the parent, and you as the employer.

Permits are issued to specific employers for specific locations and cannot be transferred to another employer.

You must keep all Permits to Employ on file. If you do not have the proper permits available for inspection, it will be assumed that the minors are working for you illegally, and you may be **fined \$500 to \$1,000.**

### B. Work hours

The total number of hours a minor may work in a day and in a week as well as during what part of the day the minor can work will be written on the permit. These requirements may vary, depending on the age of the minor and whether school is in session. Always verify with the school district what hours a minor can work.

If you require or allow a minor to work any hours that are not permitted, you can be **fined \$500 to \$1,000.** If you require or allow a minor to work more than eight hours in a day, you can be **fined \$5,000 to \$10,000.**

### C. Hazardous occupations

Minors under 16 must NEVER be employed in a hazardous job.

If you allow a minor to work in any hazardous occupation, you may be **fined \$5,000 to \$10,000.**

Minors under 12 may not enter or accompany their parents into any dangerous agricultural area. If you allow a minor under 12 to enter such an area, you may be **fined \$5,000 to \$10,000.**

## Chapter VI. Employee Housing

### A. Permits

To operate housing for your workers *under any circumstance*, **you must obtain a permit** from the Department of Housing and Community Development. Apply at least 45 days before they move in to allow time for inspection. You **also** need to obtain permission from the U.S. Department of Labor.

### B. Postings

You must post the following on a bulletin board attached to a wall in the housing:

- A notice, in English and Spanish, with state requirements for employee housing, the name, address, and phone number of the housing agency, and the name of the housing official that workers may contact. The agency will provide this notice.
- A notice showing the name, address, and phone number of the person responsible for maintaining the housing
- A copy of the state/local housing permits. The originals must be kept for three years.

### C. Workers' rights

Workers living in housing that you operate have the right to:

- Complain to you, the landlord, or the employer about the housing
- Complain to an enforcement agency about the housing
- Use any legal right related to housing.

If they do any of the above, it is illegal for you to force them out by:

- Raising the rent
- Reducing services
- Threatening eviction
- Refusing to renew the housing agreement
- Firing them
- Blacklisting them
- Preventing them from doing something they want to do
- Threatening or forcing them to do something that they don't want to do.

## Chapter VII. Transportation

### A. Required license and certificates

You **must carry all the following documents with you at all times:**

1. Commercial Drivers' License
  - a. You must be **at least 18 years old** to get a commercial license.
2. Passenger Vehicle Endorsement
  - a. You must also have this special status applied to your commercial vehicle license.
3. Certificate to Operate a Farm Labor Vehicle
4. Medical Certificate
  - a. You must meet all the **physical requirements** to be able to drive safely.
5. Vehicle Inspection Certificate
6. Vehicle Registration
  - a. All farm labor vehicles must be registered with the Department of Motor Vehicles, the state Labor Commissioner, and the U.S. Department of Labor.

### B. Vehicle insurance requirements

Farm labor contractors who provide labor (and thus have workers' compensation insurance) must provide at least:

- \$15,000/\$30,000 minimum coverage for personal injury and \$50,000 for property damage for vehicles carrying 15 or fewer passengers, including the driver; or
- \$30,000/60,000 minimum coverage for personal injury and \$50,000 for property damage for vehicles carrying more than 15 passengers.

Day haulers who provide transportation only must provide at least:

- \$1.5 million minimum coverage for personal injury for vehicles carrying 15 or fewer passengers, including the driver; or
- \$5 million minimum coverage for personal injury for vehicles carrying more than 15 passengers, including the driver.

### C. Driving restrictions

Farm labor vehicles carrying passengers must **never be driven over 55 mph**.

**No one may drive a vehicle if he/she has ingested any alcohol/drugs.**

A driver traveling only within California must rest 8 hours after 10 hours of driving.

A driver traveling across states must rest 10 hours after of driving for 11 hours, and rest for 8 hours after driving 600 miles.

You must ensure that your drivers keep records of their driving.

## D. Vehicle restrictions

### 1. *Emergency exits*

Emergency exits must be clear, unlocked, and in working condition at all times. Emergency doors must open from inside and outside the vehicle. All exits must be clearly labeled on the inside and outside in English and in other languages that the workers can understand.

### 2. *Transporting property*

You must not carry any hazardous material or extra fuel in the passenger compartment of a farm labor vehicle, but you may carry tools with sharp edges if they are kept in covered containers. Any other tools or equipment must be tied down. Other personal property must be secured, and aisles and exits must be kept clear at all times.

## Chapter VIII. Treatment of Workers

### Discrimination

You (or anyone who works for you) must not treat a worker differently based on race, gender, age, or religion. As the employer, you may not refuse to hire or fire someone because of that person's race, gender, age, or religion.

### Retaliation

You may not make, adopt, or enforce any policy preventing an employee from disclosing information to a government or law enforcement agency, AND you must not take any negative action against an employee for having made a report.

You must not take any negative action against an employee who refuses to participate in an activity that would be illegal or result in noncompliance with regulations.

You must not take any negative action against an employee for having used any of his/her rights under the Labor Code, such as taking medical leave, filing for workers' compensation, filing a wage claim, or complaining about pay or working conditions.

### Sexual harassment

You (or anyone who works for you) must not sexually harass your workers or anyone else while on or off the job. **You will be liable** if your employee sexually harasses someone while on the job **if** you do not take reasonable steps to (1) prevent sexual harassment and (2) investigate claims of sexual harassment. If someone reports harassment, you must investigate immediately. You must encourage the worker to make a written report and protect the worker from retaliation for reporting the sexual harassment.

As part of your yearly nine-hour FLC training, you must take one hour of sexual harassment prevention training and so must your employees who supervise workers. Anyone that you hire (supervisors and workers) must receive sexual harassment prevention training when they are first hired, and supervisors must have training every year afterward while workers must receive training every two years afterward.

Any of the following can be sexual harassment: touching people (not just in a sexual way), offensive sexual language/gestures or posting sexual images or messages, sexual or romantic invitations, or treating a person differently based on that person's gender (e.g., giving more breaks to an employee based on gender). Essentially anything that makes a person feel uncomfortable *because* that person is a man or a woman can be sexual harassment and is STRICTLY prohibited. Victims can file sexual harassment claims with the Department of Fair Employment and Housing.

You will not be able to get an FLC license or renew your license if you or someone who works for you has been convicted of sexual harassment in the preceding three years.