

**STATE OF CALIFORNIA
DEPARTMENT OF INDUSTRIAL RELATIONS
Division of Labor Standards Enforcement**

NOTICE OF PROPOSED RULEMAKING

Subject Matter of Regulations: Farm Labor Contractors- Application for Farm Labor Contractor License; Educational Classes for Farm Labor Contractors; Duties of Contractors; and, Farm worker Remedial Account

**TITLE 8, CALIFORNIA CODE OF REGULATIONS
Sections 13660 et seq.**

NOTICE IS HEREBY GIVEN that the Labor Commissioner, Chief of the Division of Labor Standards Enforcement, Department of Industrial Relations pursuant to the authority vested in her by Labor Code sections 59 and 1699 proposes to amend sections 13660, 13661, and 13662 and to adopt sections 13660.1, 13660.2, 13663, 13663.5, 13664 within proposed Article 1; adopt 13665 and 13665.5 within proposed Article 2; adopt 13666, 13666.1 and 13666.2 within proposed Article 3; adopt 13667, 13667.1, and 13667.4 within proposed Article 4 of Division 1, Chapter 6, Subchapter 9, of Title 8, California Code of Regulations, relating to the Application for Farm Labor Contractor License; Educational Classes for Farm Labor Contractors; Duties of Contractors; and, Farm worker Remedial Account.

PROPOSED REGULATORY ACTION

The Division of Labor Standards Enforcement (DLSE), proposes to adopt Articles 1-4 of Division 1, Chapter 6, Subchapter 9, of Title 8, California Code of Regulations, by amending and or adopting regulations commencing with section 13660

- I. Add new article: Article 1. Application for Farm Labor Contractor License**
 - 1. Amend section 13660 Application for New License
 - 2. Adopt section 13660.1 Character, Competency and Responsibility
 - 3. Adopt section 13660.2 Date a Denied Applicant May Reapply for Licensure
 - 4. Amend section 13661 Application for Renewal of License
 - 5. Amend section 13662 Written Examinations
 - 6. Adopt section 13663 Schedule for Processing Applications
 - 7. Adopt section 13663.5 Issuance of Replacement License
 - 8. Adopt section 13664 Surety Bonds; Establishing Annual Payroll
 - 9. Adopt section 13664.1 Payment of Wage Claims Against Bonds
- II. Add new article: Article 2. Educational Classes for Farm Labor**
 - 1. Adopt section 13665 Education Program Approval; Course Criteria; List of Approved Courses
 - 2. Adopt section 13665.5 Records of Education
- III. Add new article: Article 3. Duties of Contractors**
 - 1. Adopt section 13666 Posting Rate of Compensation
 - 2. Adopt section 13666.1 Identification Signage at Worksite
 - 3. Adopt section 13666.2 Worker Safety Training of Crew Leaders and Forepersons

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IV. Add new article: Article 4. Farmworker Remedial Account

- 1. Adopt section 13667 Procedure to Obtain Damages from the Farmworker Remedial Account
- 2. Adopt section 13667.1 Hearing
- 3. Adopt section 13667.4 Payment of Wage Claims Against the Farmworker Remedial Account

TIME AND PLACE OF PUBLIC HEARING

A public hearing has been scheduled to permit all interested persons the opportunity to present statements or arguments, either orally or in writing, with respect to the subjects noted above. The hearing will be held at the following time and place:

Date: December 9, 2013
Time: 10:00a.m. to 5:00p.m., or conclusion of business
Place: Elihu Harris State Building
Room 1 Meeting Room, 2nd Floor
1515 Clay Street
Oakland, CA 94612

The State Office Building and its Auditorium are accessible to persons with mobility impairments. Alternate formats, assistive listening systems, sign language interpreters, or other type of reasonable accommodation to facilitate effective communication for persons with disabilities, are available upon request.

Please contact the State Wide Disability Accommodation Coordinator, Kendra Frazier, at 1-415-703-4810, or through the California Relay Service by dialing 711 or 1-800-735-2929 (TTY/English) or 1-800-855-3000 (TTY/Spanish) as soon as possible to request assistance. If Ms. Frazier is unavailable you can contact Leticia Montealegre at 1-415-703-4810.

Please note that public comment will begin promptly at 10:00 a.m. and will conclude when the last speaker has finished his or her presentation or 5:00 p.m., whichever is earlier. If public comment concludes before the noon recess, no afternoon session will be held.

The DLSE requests, but does not require, that any persons who make oral comments at the hearing also provide a written copy of their comments. Equal weight will be accorded to oral comments and written materials.

WRITTEN COMMENT PERIOD

Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action to the Department of Industrial Relations, Division of Labor Standards Enforcement. The written comment period closes at **5:00 p.m., on December 9, 2013**. The DLSE will consider only comments received at the division by that time. Equal weight will be accorded to comments presented at the hearing and to other written comments received by 5:00 p.m. on that date by the Division.

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Filed in Register 10/25/2013: written comment period closes at **5:00 p.m., on December 9, 2013.**

Submit written comments concerning the proposed regulations prior to the close of the public comment period to:

Jennifer Stevens, Legislative Analyst and Regulations Coordinator
Department of Industrial Relations
Division of Labor Standards Enforcement, Legal Unit
2031 Howe Avenue, Suite 100
Sacramento, CA 95825

Written comments may be submitted by facsimile transmission (FAX), addressed to the above-named contact person at (916) 263-2920. Written comments may also be sent electronically (via e-mail) using the following e-mail address: DLSERegulations@dir.ca.gov.

Unless submitted prior to or at the public hearing, Ms. Stevens must receive all written comments no later than **December 9, 2013.**

AUTHORITY AND REFERENCE

The DLSE is undertaking this regulatory action pursuant to the authority pursuant to Labor Code sections 59 and 1699.

Reference is to Labor Code sections 55, 59, 61, 273, 1682, 1683, 1684, 1685, 1688, 1689, 1695, 1695.6, 1695.7, 1696, 1696.3, 1696.4, 3700, 3701, 3701.7; Health & Saf. Code sections 17960, 17965, 34240, 34290; Vehicle Code section 12519; Bus. & Prof. Code section 481, 486

INFORMATIVE DIGEST AND POLICY STATEMENT OVERVIEW

Existing law establishes a Farm Labor Contractors licensing requirement for persons engaged in procurement of labor to perform agricultural work. The Farm Labor Contractors Licensing program is administered by the Labor Commissioner, Chief of the Division of Labor Standards Enforcement (DLSE) with the recognized intent of protecting farm workers. Section 1683 of Chapter 3 (Farm Labor Contractors) of Part 6 (Licensing) in Division 2 (Employment Regulation and Supervision) of the Labor Code requires farm labor contractors to apply for, and receive, a Farm Labor Contractors license issued by the Labor Commissioner prior to engaging in activities related to procuring labor to perform agricultural work.

Existing regulations regarding farm labor contractors licensed by the agency only pertain to the agency's disbursement of funds from the Farmworker Remedial Account for workers who have been damaged by a farm labor contractor's failure to pay wages to workers after a determination regarding the validity of a claim (8 CCR 13660-13662). In recent years, the regulated public (licensees and persons interested in obtaining a license) and worker groups have increasingly requested from the DLSE information regarding the standards, criteria, and processes for issuance of licenses used by DLSE in carrying out the

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statutory standard that an applicant provide information regarding character, competency, and responsibility.

The proposed amendments to existing regulations along with proposed new regulations to be adopted standardizes criteria for administering statutory licensing requirements used to determine fitness of applicants and licensees, surety bonds, written examinations, educational classes, continuing duties of licensees, and disbursing funds to workers and their representatives from the Farmworker Remedial Account administered by the agency.

The DLSE now proposes to amend and adopt administrative regulations governing licensing requirements used to determine fitness of Farm Labor Contractor applicants and licensees, surety bonds, written examinations, educational classes, continuing duties of licensees, and disbursing funds to workers and their representatives from the Farmworker Remedial Account administered by the agency. These regulations implement, interpret, and make specific the statutory requirements of Chapter 3 (Farm Labor Contractors) of Part 6 (Licensing) in Division 2 (Employment Regulation and Supervision) of the Labor Code as follows:

Article 1: Application for Farm Labor Contractor License

Proposed new Article 1 contains nine (9) sections which provide general requirements for application and issuance of farm labor contractor licenses and implement requirements or make more specific the procedures specified in Chapter 3 of Part 6 of Division 2 of the Labor Code.

Section 13660: Application for New License

This section sets forth the process for obtaining a new Farm Labor Contractor (FLC) license pursuant to Labor Code 1682 et seq and includes as follows:

- Written application content
- Fee amounts
- Documentation to be furnished to the Labor Commissioner as part of the FLC license application package
- Provides for supporting documentation as proof of statements made in response to application questions and to complete investigation into the character, competency, and responsibility of the applicant to be furnished to the Labor Commissioner upon request.

13660 (a), (b), and (c) are amended to delete the definition of “Damages” which are to be replaced with the above described application requirements for obtaining a new FLC license.

Section 13660.1: Character, Competency, and Responsibility

This section provides parameters for “character, competency, and responsibility” stated in Labor Code 1684(a)(1)(A) which the Labor Commissioner must determine prior to issuing a farm labor contractor license based upon review of the application information.

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This section also specifies conditions for rehabilitation of an applicant following a period of time after completion of any ordered incarceration or penalty under a crime or act, as specified.

This section also specifies that no contractor license shall be issued to any applicant who has an unsatisfied final judgment that would be covered by the surety bond against the farm labor contractor.

Section 13660.2: Date a Denied Applicant May Reapply for Licensure

This section specifies the period of time which must lapse before a new application can be submitted to the Labor Commissioner following denial of an application due to a determination that the person lacked the character, competence, or responsibility to be licensed.

Section 13661: Application for Renewal of License

This section sets forth the procedure for a licensee to renew their license prior to expiration of their existing license. Specifically, this section describes the renewal process and requirements as follows:

- The renewal application form which requests updated or changed information
- Describes the specific information and documentation required to renew an existing FLC license for any licensee who has
 - no outstanding citation charging violation of a statute or regulation related to working conditions, unpaid wages or unpaid penalties
 - filed all required tax returns
 - not been convicted of a crime while licensed as a farm labor contractor, misdemeanor or felony, related to working conditions.

Section 13662: Written Examinations

This section sets forth the requirement that an applicant take a written examination required under Labor Code 1684(a)(5) demonstrating knowledge of the current laws and regulations concerning farm labor contractors. The section specifies who must take the examination based upon the business entity form and codifies the current practices of the agency for ensuring the identity of the appropriate person to take the written examination.

Section 13663: Schedule for Processing Applications

This section sets forth the schedule for processing license applications (within 60 days of receiving an application) and time periods for submitting additional information following a written notice from the agency requesting additional information from the applicant. This section also provides that the Labor Commissioner may issue a temporary license authorized under Labor Code 1684.3 only when the agency is unable to complete its determination (within 60 days of receiving an application) and the delay is not the fault of the applicant.

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Section 13663.5: Issuance of Replacement License

This section sets forth the procedure for requesting replacement licenses, which may be requested by a licensee to replace a license which has been lost, destroyed or mutilated and provides for a replacement fee (\$25) which will pay for personnel time and materials for issuing a replacement license.

Section 13664: Surety Bonds; Establishing Annual Payroll

This section sets forth the surety bond requirement specified in Labor Code 1684(a)(3) and provides criteria for proof of annual payroll, continuity of the protections afforded by the bond, and length of time the bond must be retained after the employer ceases business. This section implements the statutory requirement for determining the amount of a surety bond and provides for an alternative undertaking authorized under Code of Civil Procedure Section 995.010 et seq.

Section 13664.1: Payment of Wage Claims Against Bonds

This section sets for the procedure that an employee or representative of the employee must follow in their first attempt to proceed against the employer's surety bond to recover amounts owed for wages, interest, or damages if awarded by the Labor Commissioner. This section provides for recovery against the bond or undertaking which will provide a prompt recovery for workers from a secured source (bond or undertaking) prior to seeking recovery from the Farmworker Remedial Account administered by DLSE. The procedures set forth in this section seek to avoid or minimize unnecessary depletion of account funds and discourage simultaneous recoveries from the two sources.

Article 2: Educational Classes for Farm Labor

Proposed new Article 2 contains two (2) sections which establish general requirements for educational classes for farm labor contractor applicants and licensees required under Labor Code 1684(a)(5).

Section 13665: Education Program Approval; Course Criteria; List of Approved Courses

This section sets forth the procedures by which a person, nonprofit organization, or educational institution may be evaluated and approved by the agency to provide educational programs to farm labor contractor applicants and licensees. This section specifies the contents of a proposed program and qualifications for each proposed instructor, and criteria used by the agency to determine approval of the educational provider and sets forth the length of time that the DLSE may, within 30 days of receipt of a request and at his or her discretion, approve an educational program for a one-year time period. This section also specifies that an approved educational provider must report to the agency any changes in the program or instructor(s), and changes in the dates such programs are offered by the educational provider. This section implements the statutory requirement for educational classes (Labor Code 1684(a)(5)) and establishes standard requirements for educational class providers which will be reviewed and approved by the agency.

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Section 13665.5: Records of Education

This section sets forth the length of time that educational providers must maintain a record of administered classes (three (3) years from the date of completion) and specifies the information which must be kept and shall be submitted to DLSE within 30 days of completion of each program. The section provides for a certificate of completion to be issued by the educational provider. This section provides for effective administration of the educational classes (initial and continuing education) for licensees.

Article 3: Duties of Contractors

Proposed Article 3 contains three (3) new sections specifying the on-going duties of licensed contractors. The sections in this article implement Labor Code 1695(a)(7) & (a)(9), and establish contractor identification signage requirements at worksites.

Section 13666: Posting Rate of Compensation

This section sets forth the requirement that a licensee must post the rate(s) of compensation to be paid. This section codifies the statutory requirement under Labor Code 1695(a)(7) that rate posting be “displayed prominently” and specifies the minimum size of the posting and font size.

Section 13666.1: Identification Signage at Worksite

This section sets forth the specifications for contractor identification signage, including information to be included on signage required at worksites where contractors are operating work crews. Recent legislation (AB 1675, Chapter 857 of Stat. 2012) provides for enforcement of the licensing requirement through assessments of civil penalties against unlicensed contractors. The requirements set forth in this section will allow for more effective contractor identification and contact information pertaining to the worksite where workers are employed by requiring portable signage placed near the entrance and clearly visible from the access road where workers enter the site for the day, and an additional portable sign in reasonable proximity to where each crew is working.

This section provides that temporary signage at the entrance of a work site must contain, at a minimum:

- The name of the licensee
- The license number of the licensee in the top-half portion of the sign
- The name and working phone number of the field supervisor in charge of the crew.

The section also provides for an additional portable sign in proximity where a crew is working which must contain:

- The name of the licensee
- The name and working phone number of the field supervisor in charge of the crew

The identification signage requirements at worksites will aide enforcement efforts of inspectors and investigators by providing more effective visibility of contractor operations, thus enhancing accountability of employer contractors who employ farm laborers at regularly changing worksites.

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These requirements will provide for more readily visible and important basic identifying information regarding operations which are subject to farm labor contractor requirements.

Section 13666.2: Worker Safety Training of Crew Leaders and Forepersons

This section establishes specific requirements for a licensee to provide periodic training to supervisors, forepersons, and crew leaders regarding applicable laws and regulations as pertains to general work safety, and specifically implementing programs and practices for heat illness injury prevention and response and pesticide safety. This section specifies that supervisor training shall be conducted at least once during each quarter of a calendar year that the licensee operates and requires that a licensee maintain records of all training and information provided to each supervisor. This section specifies information to be included in a record of training, and that the records must be available, upon request, to the Labor Commissioner for at least two years.

Information to be included in the record of training includes:

- The date(s) on which the training and information were provided.
- The identity of the crew leaders, forepersons or other supervisors to whom the training and information was provided.
- A description of the training and information provided and, if written materials were provided, a copy of such materials.
- A certification by the licensee that the foregoing is true and complete.

This section implements and makes more specific the requirement in Labor Code 1695(a)(9) that a licensee provide information and training to supervisors, crew leaders, forepersons, on laws relating to worker safety, including pesticide use/exposure, heat illness injury prevention, and/or regulating terms and conditions of agricultural employment. The establishment of a recordkeeping requirement will enhance the ability of the agency to verify and enforce the required supervisor training through the farm labor contractor licensing program.

Article 4: Farmworker Remedial Account

Proposed new Article 4 contains three (3) new sections specifying requirements and procedures for recovery under the Farmworker Remedial Account which exists pursuant to Labor Code 1684(a)(4). The requirements set for in this section will specify the procedures under which the Labor Commissioner will be able to disburse unpaid wages and damages awarded to persons who have been damaged by either a licensee or an unlicensed farm labor contractor.

Section 13667: Procedure to Obtain Damages from the Farmworker Remedial Account

This section sets forth the procedure for claiming and disbursing funds for the recovery of damages from the Farmworker Remedial Account for claims made by an employee or employee's representative. This section specifies the required information which must be submitted to the Labor Commissioner which includes:

- A list naming each employee or claimant for whom recovery is sought and the time period for which recovery is sought.

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- The name and address of the farm labor contractor(s), grower(s) or packer(s) whose conduct has damaged the employee(s), or claimant(s).
- A valid form of identification, including a social security or Taxpayer Identification Number, if available, of each employee for whom recovery is sought.
- A copy of the written authorization of claimant to his or her representative authorizing the representative to act on his or her behalf that bears the claimant's signature, if applicable, and mailing instructions for payment of the claim.
- A copy of an Order, Decision or Award or final court judgment, if applicable.
- A declaration or affidavit under penalty of perjury which complies with the provisions of the Code of Civil Procedure Section 2015.5 containing information regarding attempts made to satisfy the claim by demand against the surety bond provided in Labor Code Section 1684(a)(3) and the results of that demand, and/or what attempts, if any, were made to collect the recovery sought directly from the farm labor contractor, grower or packer and the results of those attempts. The declaration or affidavit required herein may be signed by the representative of the employee(s) claimant(s), or farm labor contractor if the information submitted does not require the personal knowledge of the employee(s), claimant(s), or farm labor contractor.

This section also specifies that if no attempts were made to collect either from the surety bond or the farm labor contractor, grower, or packer, the declaration must explain the reasons for such inaction and makes clear that the fact that no attempts have been made will not of itself defeat recovery from the Farmworker Remedial Account, if it is shown that any attempt would have been futile. This section sets forth the provisions for the exercise of discretion by the Labor Commissioner provided under Labor Code 1684(a)(4) in determining disbursements upon review of information provided to the Labor Commissioner. This section replaces former sections 13660 and 13661, proposed for amendment, with a single section within a new article pertaining to administering and disbursing funds from the Farmworker Remedial Account.

Section 13667.1: Hearing

This section provides for the authority of the Labor Commissioner to order an investigatory hearing to determine the amount of damages actually suffered by an employee or other claimant seeking recovery from the Farmworker Remedial Account. This section specifies that if an order for hearing is made a service of notice of a hearing will be made either personally, or by certified mail, upon the farm labor contractor, and employee(s) or other claimant(s). This section provides the authority for an investigatory hearing, at the discretion of the agency, which would apply where there is conflicting or insufficient information regarding the amount of damages provided in a claim against the Farmworker Remedial Account, and provides for notice and location of the hearing.

Section 13667.4: Payment of Wage Claims Against the Farmworker Remedial Account

This section sets forth the specifications under which valid claims against the Farmworker Remedial Account shall be disbursed by the Labor Commissioner. This section establishes the procedures for administering the Farmworker Remedial Account and disbursing funds which will provide a more full recovery of valid claims. Specifically, this section:

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- Establishes that claims against the Farmworker Remedial Account determined to be due a worker will be paid based on the order a claim is received.
- Provides that if there are insufficient funds in the Farmworker Remedial Account to pay a valid claim, the valid claim shall be held until adequate funds are deposited into the Farmworker Remedial Account to pay the valid claim.
- Provides for full payment of claims which are held in the event there are insufficient funds to pay a valid claim.

OBJECTIVE AND ANTICIPATED BENEFITS OF THE PROPOSED REGULATIONS

The objective of the regulations is to codify the existing procedures, standards, and criteria for issuance of licenses used by DLSE in carrying out the statutory requirements provided in Chapter 3 (Farm Labor Contractors) of Part 6 (Licensing) in Division 2 (Employment Regulation and Supervision) of the Labor Code requiring Farm Labor contractors to apply for, and receive, a Farm labor Contractors license issued by the DLSE prior to engaging in activities related to procuring labor to perform agricultural work. These regulations expand upon existing regulations regarding farm labor contractors licensed by the agency which only pertain to the agency’s disbursement of funds from the Farmworker Remedial Account for workers who have been damaged by a farm labor contractor’s failure to pay wages to workers after a determination regarding the validity of a claim (8 CCR 13660-13662), and are in response to requests by the regulated public (licensees and persons interested in obtaining a license) and worker groups who have increasingly requested from the DLSE standardized information regarding the standards, criteria, and processes for issuance of Farm Labor Contractor licenses.

DETERMINATION OF INCONSISTENCY AND/OR INCOMPATIBILITY WITH EXISTING STATE REGULATIONS

The Labor Commissioner, Chief of the Division of Labor Standards Enforcement, Department of Industrial Relations has determined that this proposed regulation is not inconsistent or incompatible with existing regulations. After conducting a review for any regulations that would relate to or affect this area, the Acting Administrative Director has concluded that these are the only valid regulations to implement the statutory mandates contained in Chapter 3 (Farm Labor Contractors) of Part 6 (Licensing) in Division 2 (Employment Regulation and Supervision) of the Labor Code .

DUPLICATION OF LABOR CODE PROVISIONS:

The proposed regulations repeat limited parts of various provisions of Labor Code sections 1682, 1683, 1684, 1685, 1688, 1689, 1695, 1695.6, 1695.7, 1696, 1696.3, and 1696.4. Duplication is necessary for the purpose of clarity such that the regulations represent comprehensive and detailed procedures, standards, and criteria for issuance of Farm Labor Contractor licenses, Educational Classes for Farm Labor Contractors, Duties of Contractors, and administration of the Farm worker Remedial Account used by DLSE

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DISCLOSURES REGARDING THE PROPOSED REGULATORY ACTION

The Acting Administrative Director has made the following initial determinations:

- Mandate on local agencies and school districts: None.
- Cost or savings to any state agency: None. No fiscal impact exists because this regulation creates rules to conform to statutes, where the cost of compliance is equivalent for both the existing and amended provisions.
- Cost to any local agency or school district which must be reimbursed in accordance with Government Code sections 17500 through 17630: None. This regulation only conforms regulations to statute.
- Other nondiscretionary cost or savings imposed on local agencies: No fiscal impact exists because this regulation changes and/or creates rules to conform to statute, where the cost of compliance is equivalent for both the existing procedures and provisions.
- Cost or savings in federal funding to the state: None
- Cost impacts on a representative private person or business: The division is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.
- Statewide adverse economic impact directly affecting businesses and individuals: Although the proposed action will directly affect businesses statewide, including small businesses, and individuals who seek to or perform as farm labor contractors, the DLSE concludes that the adverse economic impact, including the ability of California businesses to compete with business in the other states, will not be significant.
- Significant effect on housing costs: None.

Results of the Economic Impact Analysis/Assessment

The DLSE concludes that it is (1) unlikely that the proposal will create any jobs within the State of California, (2) unlikely that the proposal will eliminate any jobs within the State of California, (3) unlikely that the proposal will create any new businesses with the State of California, (4) unlikely that the proposal will eliminate any existing businesses with the State of California, and (5) unlikely that the proposal would cause the expansion of the businesses currently doing business within the State of California.

The agency has determined that the proposed regulatory action will not have a significant impact on business. While the proposed regulations will impact farm labor contractor businesses that fall under the licensing requirement, the action primarily clarifies and standardizes existing requirements set by statute and will not significantly increase existing statutory obligations above that which the agency currently requires for license applicants.

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Nearly all of the proposed regulations regarding information and supporting documents required for applications and renewal are currently provided by applicants and licensees to DLSE in order for the agency to determine fitness for a farm labor contractor license. The proposed regulations are no more burdensome than current administrative practices relating to application review and issuance of licenses and providing payments of claims against the Farmworker Remedial Account. Proposed regulations for written examinations, educational program approval, instruction, and records of classes are consistent with existing practices and processes used by DLSE for administration of the licensing program and create no significant additional burden for applicants, licensee's, educational program providers, or workers claiming amounts under the Farmworker Remedial Account.

Proposed worker safety training of crew leaders and forepersons, and documentation thereof, are independently required under existing health and safety laws and thus, employers (including farm labor contractor licensee) are required to train their employees, including supervisors (see Title 8, CCR Sections 3203). The proposed requirement for safety and health training in heat illness injury prevention and response, and pesticide use and exposure, are known dangerous conditions for farmworkers health and constitute risks which vary by the season, workplace, and with frequency throughout the year to justify requiring a licensee contractor to comply with an on-going minimal obligation of safety training consistent with the seasonal conditions and to maintain records of such training in order to operate as a licensed farm labor contractor. Since both worker training on hazards and record-keeping by employers are existing obligations, the proposed worker safety training will only have minimal impact to account for specific training in these areas and record-keeping for purposes of regulating a farm labor contractor licensee.

Proposed identification signage at worksites of farm labor contractors will impact licensee businesses that regularly employ farm laborers at various work sites throughout a year. The signage requirement allows for portability of signs containing consistent information identifying the licensee and field supervisor which can be re-used at different locations. The number of signs (2 per worksite) will vary with the number of worksites (farms) where crews are working. DLSE estimates that there will be a one-time cost no more than \$70 for signage at each worksite of a licensee.

Benefits of the Proposed Action: These regulations will clarify and standardize the existing procedures, standards, and criteria for issuance of Farm Labor Contractor licenses currently used by DLSE and will alleviate confusion and inconsistency with regards to interpretation of the standards and criteria provided by statute in Chapter 3 (Farm Labor Contractors) of Part 6 (Licensing) in Division 2 (Employment Regulation and Supervision) of the Labor Code.

Small Business Determination: The DLSE has determined that the proposed regulations affect small business.

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code section 11346.5(a)(13), the DLSE must determine that no reasonable alternative considered or that has otherwise been identified and brought to the DLSE's attention would be more effective in carrying out the purpose for which the actions are proposed, or would be as effective and less burdensome to affected private persons than the proposed actions, or would be more cost-effective to affected private persons and equally effective in implementing the

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statutory policy or other provision of law.

The agency has initially determined that no alternatives would be more effective in carrying out the purpose that underlies the proposed regulatory action, or would be at least as effective or less burdensome on the regulated public (persons who seek to operate a business as a farm labor contractor) and that would ensure full compliance with the existing licensing statutes being implemented or made specific by the proposed regulations.

The DLSE invites interested persons to present reasonable alternatives to the proposed regulations at the scheduled hearing or during the written comment period.

PUBLIC DISCUSSIONS OF PROPOSED REGULATIONS

A text of draft proposed regulations will be made available for pre-regulatory public comment from October 25th – December 9th, 2013 on the Agency's website (<https://www.dir.ca.gov/Rulemaking/DIRProposed.html>), and a public meeting for public comment will be held as noted. In addition, a pre-rulemaking stakeholder meeting was held to receive input on the development of the regulations.

AVAILABILITY OF INITIAL STATEMENT OF REASONS, TEXT OF PROPOSED REGULATIONS, RULEMAKING FILE AND DOCUMENTS SUPPORTING THE RULEMAKING FILE / INTERNET ACCESS

An Initial Statement of Reasons and the text of the proposed regulations in plain English have been prepared and are available from the contact person named in this notice. The entire rulemaking file will be made available for inspection and copying at the address indicated below.

As of the date of this Notice, the rulemaking file consists of the Notice, the Initial Statement of Reasons, proposed text of the regulations, pre-rulemaking comments, and the Economic Impact Statement (Form STD 399). Also included are documents relied upon in drafting the proposed regulations.

In addition, the Notice, Initial Statement of Reasons, and proposed text of regulations may be accessed and downloaded from the Division's website at www.dir.ca.gov. To access them, click on the "Laws & Regulations" button and follow the link for "Rulemaking - Proposed Regulations". There you will find all of the agencies current rulemaking proceedings. Scroll down the list to find the Farm Labor Contractors- Application for Farm Labor Contractor License; Educational Classes for Farm Labor Contractors; Duties of Contractors; and, Farm worker Remedial Account rulemaking link.

Any interested person may inspect a copy or direct questions about the proposed regulations and any supplemental information contained in the rulemaking file. The rulemaking file will be available for inspection at the Division of Labor Standards Enforcement, 2031 Howe Avenue, Suite 100, Sacramento, California, between 9:00 a.m. and 4:30 p.m., Monday through Friday, unless the state office is closed for a state holiday. Copies of the proposed regulations, initial statement of reasons and any information contained in the rulemaking file may be requested in writing to the contact person.

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CONTACT PERSON

Nonsubstantive inquiries concerning this action, such as requests to be added to the mailing list for rulemaking notices, requests for copies of the text of the proposed regulations, the Initial Statement of Reasons, and any supplemental information contained in the rulemaking file may be requested in writing at the same address. The contact person is:

Jennifer Stevens, Legislative Analyst and Regulations Coordinator
Department of Industrial Relations
Division of Labor Standards Enforcement, Legal Unit
2031 Howe Avenue, Suite 100
Sacramento, CA 95825
E-mail: jstevens@dir.ca.gov

The telephone number of the contact person is (916) 263-3400.

CONTACT PERSON FOR SUBSTANTIVE QUESTIONS

In the event the contact person is unavailable, or to obtain responses to questions regarding the substance of the proposed regulations, inquiries should be directed to the following backup contact person:

Barton L. Jacka, Industrial Relations Counsel III
Department of Industrial Relations
Division of Labor Standards Enforcement, Legal Unit
2031 Howe Avenue, Suite 100
Sacramento, CA 95825
E-mail: BJacka@dir.ca.gov

The telephone number of the backup contact persons is (916) 263-2918.

AVAILABILITY OF CHANGES FOLLOWING PUBLIC HEARING

If the Acting Administrative Director makes changes to the proposed regulations as a result of the public hearing and public comment received, the modified text with changes clearly indicated will be made available for public comment for at least 15 days prior to the date on which the regulations are adopted.

AVAILABILITY OF THE FINAL STATEMENT OF REASONS

Upon its completion, the final Statement of Reasons will be available and copies may be requested from the contact person named in this notice or may be accessed on the Division's website at www.dir.ca.gov.

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AUTOMATIC MAILING

A copy of this Notice, the Initial Statement of Reasons, and the text of the regulations, will automatically be sent to those interested persons on the DLSE's mailing list.

If adopted, the regulations as amended will appear in title 8, California Code of Regulations, commencing with section 13660. The text of the final regulations will also be available through the website of the Office of Administrative Law at www.oal.ca.gov.

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