

Health and safety issues commonly faced by farmworkers: answers to 67 most frequently asked questions, by Paul Chown.

HEALTH AND SAFETY ISSUES  
COMMONLY FACED BY FARMWORKERS:

. . . ANSWERS TO  
67 MOST FREQUENTLY  
ASKED QUESTIONS,

BY

PAUL CHOWN.

1983

THIS MANUAL IS DEDICATED TO THE  
STAFF OF THE CAMPESINO CENTERS

California University, Institute of Industrial Relations (Berkeley).

THIS MATERIAL IS COPYRIGHTED BY THE REGENTS  
OF THE UNIVERSITY OF CALIFORNIA, PERMISSION TO  
REPRODUCE ANY PORTIONS OF THIS DOCUMENT MUST BE  
OBTAINED IN ADVANCE FROM THE LABOR OCCUPATIONAL  
HEALTH PROGRAM, CENTER FOR LABOR RESEARCH AND  
EDUCATION, 2521 CHANNING WAY, BERKELEY, CA. 94720.

©1982, 1983

**HEALTH AND SAFETY ISSUES  
COMMONLY FACED BY FARMWORKERS**

ACKNOWLEDGMENTS		i
INDEX		ii
SECTION I	SANITATION PROBLEMS	1
SECTION II	SAFETY PROBLEMS	7
SECTION III	MEDICAL PROBLEMS	19
SECTION IV	PESTICIDE PROBLEMS	38
SECTION V	HEALTH AND SAFETY JOB PROTECTION RIGHTS	52
SECTION VI	SPECIAL PROTECTION FOR MIXERS, APPLICATORS, AND LOADERS OF PESTICIDES	62

## ACKNOWLEDGMENTS

THIS MANUAL REPRESENTS THE CONTRIBUTIONS OF MANY PEOPLE. DOCTOR MOLLY COYE HELPED CONCEIVE THE IDEA OF THIS MANUAL. ANDY ROWLAND AND LAURA FENSTER DID MUCH OF THE EARLY WORK ON THE CODES. MARIAM CHOWN EDITED THE MANUSCRIPT. CATHY DAVIS, HOWEVER, NOT ONLY TYPED THE FINAL VERSION BUT WORKED ON THE DESIGN AND LAYOUT OF THE BOOK AS WELL.

FINALLY, MANY THANKS TO ANN MC GREGOR, THE DIRECTOR OF THE MARTIN LUTHER KING, JR. FARMWORKERS FUND, FOR INSPIRING THIS MANUAL AND MAKING IT POSSIBLE FOR IT TO BE PUBLISHED.

## INTRODUCTION

THIS MANUAL DEVELOPED OUT OF THE MANY TRAINING SESSIONS CONDUCTED AT THE REQUEST OF THE UNITED FARMWORKERS UNION. IT WAS ALSO WRITTEN IN RESPONSE TO THE NUMEROUS REQUESTS FOR SPECIFIC INFORMATION REGARDING THE RIGHTS OF FARMWORKERS IN CALIFORNIA.

READERS WILL NOTICE REPEATED REFERENCES TO THE UNION AGREEMENT. THIS IS BECAUSE THE UNION HAS NEGOTIATED CONSIDERABLE PROTECTION FOR ITS MEMBERS AND WHERE FARMWORKERS ARE COVERED BY A COLLECTIVE BARGAINING AGREEMENT, THEY ALREADY POSSESS CONSIDERABLE PROTECTION AND ABILITY TO ENFORCE THEIR RIGHTS.

THIS MANUAL IS ALSO PREPARED SO AS TO BE READ IN CONJUNCTION WITH "FRUITS OF YOUR LABOR", A COMPILATION OF PESTICIDE INFORMATION AND HAZARDS BY CROP. THIS BOOK IS AVAILABLE THROUGH THE LABOR OCCUPATIONAL HEALTH PROGRAM, A COMPONENT OF THE CENTER FOR LABOR RESEARCH AND EDUCATION AT UNIVERSITY OF CALIFORNIA, BERKELEY.

# INDEX OF HEALTH AND SAFETY ISSUES COMMONLY FACED BY FARMWORKERS

## SECTION I -- SANITATION PROBLEMS

1. DRINKING WATER: A WORKER COMPLAINS . . . 1  
THAT THERE IS EITHER NO DRINKING WATER  
OR NOT ENOUGH FURNISHED TO SUPPLY THE  
CREW.
2. TOILET FACILITIES: A WORKER COMPLAINS . . . 1  
THAT THERE ARE EITHER NO TOILET  
FACILITIES OR THAT THEY ARE BADLY TAKEN  
CARE OF.
3. WASH-UP FACILITIES: A WORKER COMPLAINS . . . 1  
THAT THERE ARE NO WASH-UP FACILITIES OR  
THAT THE FACILITIES CANNOT TAKE CARE OF  
ALL THE CREW.
4. POLLUTED WATER: A WORKER COMPLAINS . . . 3  
THAT THERE IS GOOD REASON TO THINK  
THAT THE WELL WATER IS POISONED OR  
THAT CREEKS HAVE BEEN POLLUTED.

## SECTION II -- SAFETY PROBLEMS

5. UNSAFE CONDITIONS: A WORKER COMPLAINS . . . 7  
THAT THERE ARE MANY UNSAFE CONDITIONS  
ON THE RANCH.
6. NO SAFETY TRAINING: A WORKER COMPLAINS . . . 10  
THAT THE GROWER DOES NOT TRAIN PEOPLE IN  
THE USE OF MECHANICAL EQUIPMENT OR  
OTHER SAFETY PROCEDURES.
7. SHORT HANDLE HOE: A WORKER COMPLAINS . . . 10  
THAT THE GROWER IS MAKING THE CREW  
WORK WITH SHORT HANDLE HOES

8.	FIRST-AID: A WORKER COMPLAINS THERE ARE NO FIRST-AID MATERIALS ON THE RANCH OR WORKSITE.	11
9.	HIGH VOLTAGE LINES: A WORKER COMPLAINS THAT THERE ARE HIGH VOLTAGE LINES ON THE RANCH WHERE WORKERS MUST USE METAL POLES OR OPERATE MACHINERY.	12
10.	SAFETY CODES: A WORKER WANTS TO KNOW IF YOU HAVE A SUMMARY OF THE KEY SAFETY CODES FOR AGRICULTURE.	13
11.	ACCIDENT REPORTS: A WORKER ASKS IF WORKERS ARE ENTITLED TO GET COPIES OF THE GROWERS' ACCIDENTS AND INJURIES REPORTS SUBMITTED TO CAL/OSHA EACH YEAR.	17

### SECTION III -- MEDICAL PROBLEMS OF FARMWORKERS

12.	WORKER'S RIGHT TO PERSONAL DOCTOR: A WORKER WANTS TO BE TREATED BY THE UFW CLINIC OR HIS/HER OWN PHYSICIAN WHEN INJURED ON THE JOB, OR BECOMES ILL WHILE WORKING.	19
13.	MEDICAL BILLS: A GROWER REFUSES TO PAY THE MEDICAL BILLS OF A WORKER ON THE GROUNDS THAT THE ILLNESS OR INJURY <u>DID</u> <u>NOT</u> OCCUR ON THE JOB.	21
14.	TRANSPORTATION FOR MEDICAL TREATMENT: A GROWER FAILS OR REFUSES TO PROVIDE IMMEDIATE TRANSPORTATION AND MEDICAL TREATMENT TO A WORKER OR WORKERS WHO HAVE BECOME ILL ON THE JOB FROM PESTICIDE POISONING.	22

15. DOCTOR'S REFUSAL TO DIAGNOSE: A . . . 23  
 PHYSICIAN REFUSES TO DIAGNOSE A  
 WORKER FOR A PESTICIDE ILLNESS,  
 CLAIMING THAT THE ILLNESS IS UNRELATED  
 TO WORK.
16. PESTICIDE REPORTING; FINES FOR . . . 25  
 PHYSICIANS: YOU HAVE SENT WORKERS TO  
 A PHYSICIAN BECAUSE OF A PESTICIDE  
 POISONING AND YOU WANT TO CHECK WHETHER  
 THE DOCTOR FILED A PESTICIDE ILLNESS  
 REPORT. CAN A DOCTOR BE FINED?
17. WHAT TO TELL THE DOCTOR: YOU ARE . . . 26  
 ABOUT TO GO WITH A WORKER TO A  
 PHYSICIAN TO TRANSLATE MEDICAL SYMPTOMS  
 OF SUSPECTED PESTICIDE POISONING OR YOU  
 ARE SENDING WORKERS ON THEIR OWN TO A  
 CLINIC. WHAT SHOULD YOU TELL THE  
 PHYSICIAN?
18. FIRST-AID: A WORKER WANTS ADVICE . . . 27  
 ABOUT EMERGENCY FIRST-AID ON THE RANCH.
19. POISON CONTROL: A WORKER WANTS TO . . . 30  
 KNOW HOW TO FIND A POISON CONTROL  
 CENTER.
20. MEDICAL TEST RESULTS: A WORKER HAS . . . 31  
 BEEN GIVEN BLOOD OR OTHER TESTS FOR  
 PESTICIDE POISONING BUT HAS NOT BEEN  
 GIVEN THE RESULTS.
21. PRE EMPLOYMENT MEDICAL DISCRIMINATION: . . . 33  
 A WORKER COMPLAINS THAT S/HE TOOK A  
 PRE-EMPLOYMENT PHYSICAL, OR LATER  
 TOOK A PHYSICAL EXAM FROM A GROWER'S  
 DOCTOR AND WAS REFUSED EMPLOYMENT OR  
 FIRED AS A RESULT OF SOMETHING IN  
 THE EXAMINATION FINDINGS.

22. WORKERS COMPENSATION PAYMENTS . . . 34  
OUTSIDE THE U.S.: A WORKER  
WANTS TO KNOW IF WORKERS COMPEN-  
SATION WILL PAY FOR TREATMENT  
RECEIVED FROM A DOCTOR PRACTICING  
IN MEXICO.
23. MEDICAL RECORDS: A WORKER WANTS . . . 34  
TO KNOW IF S/HE HAS ACCESS TO  
HIS/HER OWN MEDICAL RECORDS.
24. PHYSICIAN'S RECOMMENDATIONS: . . . 35  
A WORKER WANTS TO KNOW IF THE  
EMPLOYER MUST KEEP A RECORD OF  
ALL MEDICAL RECOMMENDATIONS  
MADE BY THE DOCTOR.
25. NOTIFICATION OF WORKERS . . . 36  
COMPENSATION BENEFITS:  
A WORKER ASKS WHETHER NEW  
EMPLOYEES MUST BE ADVISED BY  
THE EMPLOYER THAT THEY ARE  
PROTECTED BY WORKERS  
COMPENSATION.
26. HEALTH HAZARD EVALUATION: A . . . 37  
WORKER WANTS TO KNOW IF THERE IS  
A WAY TO GET A HEALTH HAZARD  
EVALUATION OF CONDITIONS ON A  
SPECIFIC RANCH.

#### SECTION IV -- PESTICIDE PROBLEMS

27. POISONING: A WORKER WANTS TO . . . 38  
KNOW THE SYMPTOMS OF PESTICIDE  
POISONING.



28. WHAT ARE PESTICIDES?: A WORKER . . . 38  
WANTS TO KNOW WHAT PESTICIDES ARE.
29. PESTICIDE USE BY CROP: A WORKER . . . 40  
WANTS TO KNOW WHICH PESTICIDES ARE  
USED MOST COMMONLY ON THE CROP S/HE  
IS WORKING WITH.
30. WORKERS GET SICK: A WORKER OR . . . 41  
GROUP OF WORKERS GET SICK ON THE  
JOB AND THE SYMPTOMS SEEM TO BE  
THOSE OF PESTICIDE POISONING.
31. PESTICIDE LABELS: A WORKER BRINGS . . . 41  
YOU A LABEL FROM A PESTICIDE  
CONTAINER AND WANTS TO KNOW HOW TO  
READ IT, WHAT THE INGREDIENTS ARE  
AND WHAT THE HEALTH HAZARDS ARE.
32. WORKER RIGHT TO INFORMATION: A . . . 42  
WORKER HAS ASKED THE GROWER FOR  
INFORMATION ABOUT WHICH PESTICIDES  
ARE USED OR HAVE BEEN USED ON THE  
RANCH IN THE CURRENT SEASON. THE  
GROWER REFUSES TO GIVE THIS  
INFORMATION.
33. HAZARDS OF A SPECIFIC PESTICIDE: . . . 42  
A WORKER CALLS WITH THE NAME OF A  
SPECIFIC PESTICIDE AND WANTS TO KNOW  
WHAT ITS HAZARDS ARE AND WHAT HEALTH  
PRECAUTIONS ARE NECESSARY.
34. SPRAY DRIFT: A WORKER REPORTS THAT . . . 45  
THE DRIFT FROM AN AIRPLANE SPRAY  
HAS HIT THE CREW AND MANY FEEL SICK  
AND DISABLED.

35. RE-ENTRY WARNING SIGNS: A WORKER CALLS . . . 46  
AND SAYS THE GROWER IS ORDERING PEOPLE  
TO WORK DESPITE THE POSTED WARNING  
SIGN TELLING WORKERS NOT TO RE-ENTER  
THE FIELD.
36. SIGNS NOT IN SPANISH: A WORKER REPORTS . . . 48  
THAT THE RE-ENTRY SIGNS ARE POSTED ONLY  
IN ENGLISH.
37. BOSSES KNOW NOTHING ABOUT PESTICIDES: . . . 48  
A WORKER REPORTS THAT THE SUPERVISORS ON  
THE RANCH KNOW LITTLE OR NOTHING ABOUT  
PESTICIDES OR THE SYMPTOMS OF PESTICIDE  
POISONING.
38. NO PESTICIDE PROTECTION: A WORKER . . . 49  
REPORTS THAT THE GROWER HAS NO  
PESTICIDE PROTECTION PROGRAM OF ANY  
KIND.
39. GROWER VIOLATES THE LAW: A WORKER . . . 50  
WANTS TO KNOW IF A GROWER IS IN  
VIOLATION OF THE LAW IF THEY FAIL TO  
COMPLY WITH PRESTICIDE REGULATIONS.
40. SENSITIVITY TO PESTICIDES: A WORKER . . . 51  
CAN NO LONGER ENTER A FIELD WITHOUT  
BREAKING OUT WITH AN ALLERGIC REACTION.  
WHAT CAN BE DONE ABOUT THIS?
41. THE RIGHT TO SUE: A WORKER WANTS TO . . . 51  
KNOW IF THEY CAN SUE ANYONE BECAUSE  
OF BEING POISONED BY PESTICIDES.

## SECTION V -- HEALTH AND SAFETY JOB PROTECTION RIGHTS

42. WORKERS CAN STOP WORK OVER SAFETY: . . . 52  
A WORKER OR GROUP OF WORKERS REFUSES  
TO WORK BECAUSE OF AN UNSAFE OF  
UNHEALTHY CONDITION.

43. RIGHT TO STOP WORK OVER PESTICIDES: . . . 53  
A WORKER OR GROUP OF WORKERS REFUSES  
TO WORK BECAUSE OF EXPOSURE TO  
PESTICIDE POISONS OR OTHER RELATED  
HEALTH PROBLEMS.
44. RIGHT TO INSPECT REGARDING SAFETY: . . . 55  
A CAL/OSHA INSPECTOR SHOWS UP ON THE  
RANCH AND THE GROWER WON'T LET A  
UNION REPRESENTATIVE ACCOMPANY THE  
INSPECTOR.
45. RIGHT TO INSPECT REGARDING . . . 56  
PESTICIDES: A COUNTY AGRICULTURAL  
COMMISSIONER SHOWS UP ON THE RANCH  
TO MAKE AN INSPECTION. IS THE  
UNION REPRESENTATIVE REQUIRED TO  
PARTICIPATE IN THE INSPECTION?
46. WORKER'S RIGHTS IF FIRED: A WORKER . . . 57  
OR GROUP OF WORKERS IS FIRED,  
DISCIPLINED OR DISCRIMINATED AGAINST  
BECAUSE THEY ENGAGED IN SAFETY AND  
HEALTH ACTIVITIES.
47. WORKER DENIED PAY DURING INSPECTION: . . . 58  
A WORKER IS DENIED PAY FOR PARTICI-  
PATING IN A CA/OSHA OR COUNTY  
AGRICULTURAL COMMISSIONER INSPECTION.
48. SERIOUS INJURY OR DEATH: A WORKER . . . 59  
IS KILLED ON THE RANCH OR FIVE OR  
MORE WORKERS ARE SERIOUSLY INJURED  
OR POISONED BY PESTICIDES.
49. AGENCIES REFUSE TO ACT: AN AGENCY . . . 61  
OR GROUP OF AGENCIES FAIL TO  
RESPOND TO A UNITED FARMWORKER  
COMPLAINT OR REFUSE TO ACT FAVORABLY  
ON THE COMPLAINT AFTER AN INVESTI-  
GATION.

## SECTION VI -- SPECIAL PROTECTION FOR MIXERS, APPLICATORS AND LOADERS OF PESTICIDES

### A WORKER WANTS TO KNOW . . .

- |     |                                                                                                                             |          |
|-----|-----------------------------------------------------------------------------------------------------------------------------|----------|
| 50. | IF THE EMPLOYER MUST PROVIDE<br>FOR MEDICAL CARE.                                                                           | . . . 62 |
| 51. | IF THE EMPLOYER MUST PAY FOR AND<br>PROVIDE FOR REGULAR MEDICAL<br>CHECK-UPS.                                               |          |
| 52. | IF THE EMPLOYER MUST POST A SIGN<br>TELLING THE NAME, ADDRESS AND<br>PHONE FOR A PHYSICIAN WHO CAN<br>PROVIDE MEDICAL CARE. | . . . 62 |
| 53. | IF THE EMPLOYER MUST KEEP MEDICAL<br>RECORDS AND IF S/HE MAY HAVE<br>ACCESS TO THEM.                                        | . . . 62 |
| 54. | IF S/HE IS ENTITLED TO BLOOD TESTS.                                                                                         | . . . 62 |
| 55. | IF S/HE CAN CHOOSE THE LAB TO DO<br>THE MEDICAL WORK.                                                                       | . . . 62 |
| 56. | IF S/HE IS ENTITLED TO BE TRAINED<br>IN THE HAZARDS OF PESTICIDE USE.                                                       | . . . 62 |
| 57. | IF THE EMPLOYER MUST PROVE THAT<br>THEY HAVE PROVIDED ADEQUATE TRAINING.                                                    | . . . 62 |
| 58. | IF S/HE IS ENTITLED TO PROTECTIVE<br>CLOTHING AND OTHER EQUIPMENT.                                                          | . . . 62 |
| 59. | IF S/HE IS ENTITLED TO SAFE EQUIPMENT.                                                                                      | . . . 63 |
| 60. | IF S/HE IS ENTITLED TO HAVE ADEQUATE<br>LIGHTING WHEN MIXING AND LOADING<br>PESTICIDES.                                     | . . . 63 |
| 61. | IF S/HE MUST WORK ALONE IN APPLYING<br>PESTICIDES.                                                                          | . . . 63 |

62.	IF S/HE IS ENTITLED TO A PLACE TO STORE REGULAR CLOTHING.	. . .	63
63.	IF S/HE IS ENTITLED TO TAKE SHOWERS.	. . .	63
64.	IF PEOPLE UNDER AGE 18 CAN WORK.	. . .	63
65.	CLOSED SYSTEMS REGULATIONS: A WORKER WANTS TO KNOW IF S/HE IS ENTITLED TO USE CLOSE SYSTEMS FOR MIXING PESTICIDES.	. . .	66
66.	PESTICIDES NOT IN THIS MANUAL: A WORKER ASKS ABOUT PESTICIDES NOT FOUND IN THIS MANUAL.	. . .	66
67.	PROTECTIVE DEVICES: A WORKER WANTS TO KNOW IF THERE ARE SPECIFIC GUIDELINES FOR THE KIND OF PROTECTIVE DEVICES REQUIRED.	. . .	67



## SECTION I -- SANITATION PROBLEMS

1. A WORKER COMPLAINS THAT THERE IS EITHER NO DRINKING WATER OR NOT ENOUGH FURNISHED TO SUPPLY THE CREW.
2. A WORKER COMPLAINS THAT THERE ARE EITHER NO TOILET FACILITIES OR THAT THEY ARE BADLY TAKEN CARE OF.
3. A WORKER COMPLAINS THAT THERE ARE NO WASH-UP FACILITIES OR THAT THE FACILITIES CANNOT TAKE CARE OF ALL THE CREW.

DISCUSSION: These three issues are dealt with at one time since UFW agreements all provide for sanitary working conditions and explicitly require growers to provide for good conditions of work with respect to these issues. Therefore, the first course of action to correct such problems is through the union and the enforcement of Article 14, the safety and health language in the contract. Various legal remedies are also available to get better conditions for nonunion workers or to back up a union grievance with legal complaints.

### CODES OR REGULATIONS VIOLATED:

1. Cal/OSHA Title 8, Safety Code, 3260, Sanitation.
2. California Safety and Health Codes 5474.23, 24, 26.
3. Cal. Admin. Code, Title 3, Art. 23, Pesticide Worker Safety.
4. UFW Union Agreement, Article 14.

### SUGGESTED COURSES OF ACTION:

1. Take up the issue with the grower as a grievance under the terms of the contract.
2. File a complaint with Cal/OSHA and/or the county health department.

### EXTRACTS OF THE CODES OR REGULATIONS VIOLATED:

1. Cal/OSHA Safety Code, 3260.

(d) *Water Supply.*

(1) *Potable Water.*

(A) *Potable water in adequate supply shall be provided in all places of employment for drinking, washing and bathing, cooking, washing of food, washing of cooking and eating utensils, washing of food preparation or processing premises, and personal service rooms.*

(B) *All sources of drinking water shall be maintained in a clean and sanitary condition. Drinking fountains and portable drinking water dispensers shall not be located in toilet rooms.*

. . . .

(3) Toilet Facilities.

(A) Each water carriage toilet facility shall be so installed that the space around the fixture can be easily cleaned. (This provision does not prohibit the use of toilet facilities of the wall hung type.)

(B) Every water closet shall have a hinged seat made of substantial material having a nonabsorbent finish. Seats installed or replaced after the effective date of this standard shall be of the open-front type.

(C) Nonwater carriage toilet facilities and disposal systems shall be in accordance with Section 3261.

(C) Toilet facilities shall be kept clean, maintained in good working order and be accessible to the employees at all times. Where practicable, toilet facilities should be within 200 feet of locations at which workers are regularly employed and should not be more than one floor-to-floor flight of stairs from working areas.

(f) Washing Facilities.

(1) General Requirements.

(A) Washing facilities for maintaining personal cleanliness shall be provided in every place of employment. These facilities shall be reasonably accessible to all employees.

(B) Washing facilities shall be maintained in good working order and in a sanitary condition.

## 2. California Safety and Health Codes

5474.23. Toilet and handwashing facilities: Duty of employer to provide

Every employer shall provide or cause to be provided toilet and handwashing facilities for every food crop growing and harvesting operation.

Added Stats 1965 ch 1417 section 1.

Cross References:

Regulations relating to handwashing facilities: Fd & Ag  
C section 12981.

Definition of "toilet facilities": 17 Cal Adm Code section 8003.

Toilet and handwashing facilities standards: 17 Cal Adm Code  
sections 8004, 8012.

5474.25. Privacy, sanitation, and cleanliness of toilet facilities.

Toilet facilities shall provide privacy and shall be so designed as to keep human excreta from contaminating the crop and to keep flies away from the excreta. Toilet paper shall be provided. Toilet facilities shall be maintained in a clean and sanitary condition.

Added Stats 1965 ch 1417 section 1.

Cross References:

Toilet facilities standards: 17 Cal Adm Code section 8004.

Chemical toilet standards: 17 Cal Adm Code section 8005.



*Collateral References:*

*35 Am Jur 2d Food section 15.*

*5474.26. Requirements as to handwashing facilities.*

*Handwashing facilities shall be such as to afford an opportunity to wash hands in clean water using soap or other suitable cleansing agent and to dispose of used wash water without nuisance or contamination of food crop.*

*Added Stats 1965 ch 1417 section 1.*

3. California Administrative Code, Title 3, Art. 23, Pesticide Workers Safety.

*Title 3, Ch. 4, Subchapter 1, group 2. These regulations were adopted pursuant to authority vested in the Director of Food and Agriculture by Sections 407, 11502, 12005, 12111, 12782, 12979, 12981, 14005 of the Food and Agricultural Code.*

*Art. 23. Pesticide Worker Safety.*

*(2) Handwashing facilities shall be available. Handwashing facilities provided in conjunction with toilet facilities which are required by the provisions of Section 5474.26 et seq. of the Health and Safety Code shall be considered adequate for the purposes of this section.*

4. UFW Union Agreement, Article 14.

*D. In accordance with law, there shall be adequate toilet facilities, separate for men and for women in the field readily accessible to workers, that will be maintained by the Company in a clean and sanitary manner.*

*E. Each place where there is work being performed shall be provided with suitable, cool, potable drinking water convenient to workers. Individual paper drinking cups shall be provided.*

4. A WORKER COMPLAINS THAT THERE IS GOOD REASON TO THINK THAT WELL WATER IS POISONED OR THAT CREEKS HAVE BEEN POLLUTED.

DISCUSSION: Often a pesticide applicator will overrun his/her pattern for spraying fields and instead poison streams, lakes, and other bodies of water. Also frequent and continued application of some chemicals may well pollute the underlying water table and hence make well water unsafe. Wild game, livestock and fish may also be damaged. There are laws on the book to protect water supplies and fish and game. If you suspect that the application of pesticides has affected either or both of these areas, there are agencies with whom to file complaints. The procedure is less formal, a letter being sufficient, but pressure must be applied to bring about an investigation.

CODES OR REGULATIONS VIOLATED:

1. Various local ordinances or health requirements. These vary from county to county.
2. California State Water Resources Control Board, Section 13260, 13267 of the Porter-Cologne Water Quality Control Act of 1978.
3. Fish and Game Code, State of California Section 5650, Dept. of Fish and Game.
4. UFW Union Agreement, Article 14.

SUGGESTED COURSES OF ACTION:

1. Write a letter to the local health authorities demanding an investigation. There are codes and regulations which vary from county to county. When you write such a letter, issue a press release at the same time and contact other sympathetic groups in the community for support.
2. File a complaint with the California State Water Resources Control Board, P.O. Box 388, Sacramento, CA 95802.
3. File a complaint with the Fish and Game Commission, P.O. Box 47 Yountville, CA 94599.
4. Send a wire to the Governor's Office, Sacramento 95814.
5. Take samples of suspected well water, etc. to be analyzed. The State Department of Health and local health authorities have facilities to do this. It sometimes requires lots of pressure to get them to make an analysis.
6. Take up the issue as a grievance with the grower under the terms of Article 14 of the union agreement on the basis of the fact that the grower is obliged to provide a safe and healthy place of work.

EXTRACTS OF THE CODES OR REGULATIONS VIOLATED:

1. California State Water Resources Control Board, Section 13260, 13267 Porter-Cologne Water Control Act

*Article 4. Waste Discharge Requirements.*

*13260. (a) Any person discharging waste or proposing to discharge waste within any region that could affect the quality of the waters of the state, other than into a community sewer system, and any person who is a citizen, domiciliary, or political agency or entity of this state discharging waste or proposing to discharge waste outside the boundaries of the state in a manner that could affect the quality of the waters of the state within any region, shall file with the regional board of that region a report of the discharge, containing such information as may be required by the board. No report need be filed when such requirement is waived pursuant to Section 13269.*

(b) Every such person discharging waste shall file with the regional board of that region a report of any material change or proposed change in the character, location, or volume of the discharge.

13267. (a) A regional board, in establishing or reviewing a water quality control plan or waste discharge requirements, or in connection with any action relating thereto or authorized by this division, may investigate the quality of any waters of the state within its region.

(b) In such an investigation, the regional board may require that any person discharging or proposing to discharge waste within its region or any citizen or domiciliary, or political agency or entity of this state discharging or proposing to discharge waste outside of its region that could affect the quality of waters within its region shall furnish, under penalty of perjury, such technical or monitoring program reports as the board may specify, provided that the burden, including costs, of such reports shall bear a reasonable relationship to the need for the report and the benefits to be obtained therefrom.

## 2. Fish and Game Code, State of California, Div. 4 Birds and Mammals, Ch. 2 Pollution

### Art. 1. General

5650. It is unlawful to deposit in, permit to pass into, or place where it can pass into the waters of this State any of the following:

(a) Any petroleum, acid, coal or oil tar, lampblack, aniline, asphalt, bitumen, or residuary product of petroleum, or carbonaceous material or substance.

(b) Any refuse, liquid or solid, from any refinery, gas house, tannery, distillery, chemical works, mill or factory of any kind.

(c) Any sawdust, shavings, slabs, edgings.

(d) Any factory refuse, lime, or slag.

(e) Any cocculus indicus.

(f) Any substance or material deleterious to fish, plant life, or bird life.

5651. Whenever it is determined by the department that a continuing and chronic condition of pollution exists, the department shall report such condition to the appropriate regional water pollution control board, and shall cooperate with and act through such board in obtaining correction in accordance with any laws administered by such board for control of practices for sewage and industrial waste disposal.

### 3. UFW Union Agreement, Article 14 Health and Safety

A. The Company and Union are interested in the health and safety of employees while working with the Company. It is understood and agreed that it is necessary in the sophisticated farming practices of today that certain agricultural chemicals must be used for the control of pests and growth of the product. The Company recognizes that the use of such chemicals that may be injurious to farm workers must be used in such a manner as not to cause injury to Company's employees. In order to assure the protection of Company's employees from injurious chemicals which may be applied by third parties with whom the Company may be engaged in a joint venture, partnership, or other agricultural arrangement, the Company agrees to insert a provision in all such contracts with third parties which provides that the third party will comply with all applicable laws relating to the health and safety of farm workers. Company will not use banned chemicals such as, but not limited to, DDT, DDD, DDE, Aldrin, and Dieldrin.



## SECTION II -- SAFETY PROBLEMS

### 5. A WORKER COMPLAINS THAT THERE ARE MANY UNSAFE CONDITIONS ON THE RANCH.

**DISCUSSION:** Since 1970, the Federal Occupational Safety and Health Act provides a framework for winning better conditions on the job. In California this law is enforced by the Division of Occupational Safety and Health. Both the federal law and the California Labor Codes require that employers provide a safe and healthy place to work. But such conditions have to be enforced by union action on the job and through filing of complaints. In many cases, the standards are not easy to interpret. Some are clear cut. The most frequently violated codes are attached to this discussion of safety issues. Through union action, new or additional or amended standards to strengthen them can be obtained. A suggested tactic is to combine on the job pressure with complaints filed with OSHA to ensure safer conditions of work. In the case of a general complaint about unsafe conditions it is a good idea to list these conditions as specifically as possible. Then check with the nearest California OSHA consulting office as to whether in fact any code violations exist. Or call the Labor Occupational Health Program in Berkeley, at 415/642-5507. Even if you cannot find a specific violation you may want to file a complaint under the general duty clause of the law which mandated that an employer provide for a safe place to work.

#### CODES OR REGULATIONS VIOLATED:

1. Cal. Labor Code 6400-6404.
2. Cal/OSHA Safety Code 3203.

#### SUGGESTED COURSES OF ACTION:

1. Take up the issue with the grower as a grievance.
2. File a complaint with Cal/OSHA.
3. If there is no standard which applies and there should be one, petition the California OSHA standards board for a new standard or improved standard.

#### EXTRACTS OF THE CODES OR REGULATIONS VIOLATED:

1. Cal. Labor Code

6400. Every employer shall furnish employment and a place of employment which are safe and healthful for the employees therein.  
(Repealed and added by Stats. 1973, Ch. 993.)

6401. Every employer shall furnish and use safety devices and safeguards, and shall adopt and use practices, means, methods, operations, and processes which are

reasonably adequate to render such employment and place of employment safe and healthful. Every employer shall do every other thing reasonably necessary to protect the life, safety, and health of employees.

(Repealed and added by Stats. 1973, Ch. 993.)

6401.5. No salvage of materials shall be permitted while demolition is in progress on any building, structure, falsework, or scaffold more than three stories high or the equivalent height for which a permit is required under subdivision (c) of Section 6500.

For this purpose salvage does not include removal of material from premises solely for the purpose of clearing the area to facilitate the continuation of the demolition.

(Added by Stats. 1976, Ch. 33. Effective March 6, 1976.)

6402. No employer shall require, or permit any employee to go or be in any employment or place of employment which is not safe and healthful.

(Repealed and added by Stats. 1973, Ch. 993.)

6403. No employer shall fail or neglect:

(a) To provide and use safety devices and safeguards reasonably adequate to render the employment and place of employment safe.

(b) To adopt and use methods and processes reasonably adequate to render the employment and place of employment safe.

(c) To do every other thing reasonably necessary to protect the life, safety, and health of employees.

(Repealed and added by Stats. 1973, Ch. 993.)

6404. No employer shall occupy or maintain any place of employment that is not safe and healthful.

(Repealed and added by Stats. 1973, Ch. 993.)

## 2. Cal/OSHA Safety Code

3203. *Accident Prevention Program.*

(a) *Every employer shall inaugurate and maintain an accident prevention program which shall include but not be limited to the following:*

(1) *A training program designed to instruct employees in general safe work practices plus specific instruction with regard to hazards unique to any job assignment.*

(2) *Scheduled periodic inspections to identify and correct practices which may be found.*

*This requirement of necessity was very general because every place of employment is unique. One employer may require a staff of safety engineers, consultants, published safety manuals, etc., while another employer may have no documentation, etc., and still satisfy the requirement if the plant exhibits physical evidence that an effective accident prevention program is functioning. Whether or not an employer has a formal documented accident prevention program, the overall effectiveness of such a program can only be evaluated at the completion of the compliance safety engineer's survey.*

*INTERPRETIVE DECISION: Application: Some of the minimum features which the compliance safety engineer should expect to find in a place of employment which has an effective on-going safety training program are:*

1. The employer should have rules of safe practices which are applied uniformly for any particular condition or situation.

2. The employer should have a procedure for employees to report unsafe conditions, and the employees instructed and encouraged to use the process.

3. The employer should have a procedure which is used to investigate and evaluate each accidental occurrence, whether or not it results in an injury, to determine the reason why it occurred and how to prevent its recurrence.

4. All levels of management and supervision understand and enforce company rules regarding safety and safe work practices.

5. First line supervision know the capability of their subordinates, and that new work assignments are given only to employees who have been instructed in the new work situation, including the hazards to be avoided.

6. Each new employee is given indoctrination training which includes instructions on the company's rules for employee safe work practices.

7. Each employee is given instruction with respect to each job assignment in sufficient detail that the employee understands both the task to be performed and the predictable hazards to be avoided.

8. Employees are clearly advised of the scope and limitation of their work assignments.

9. Employees assigned a task which may expose the individual to a foreseeable hazard should not be allowed to proceed without responsible supervision and instruction.

Scheduling "periodic" inspections is defined as that frequency of time, based on the conditions of employment, which is necessary for responsible management to identify for correction, unsafe conditions or work practices as they develop.

Where responsible management is monitoring the work areas at frequent intervals, and the work site is well maintained with respect to housekeeping, guarding, etc. the requirement for "periodic inspections" can be considered met.

DOCUMENTATION: While the standard does not mandate documentation, records of training and of periodic inspections and corrective actions taken are important means of verifying the total accident prevention program.

BY: Mike Schneider, Deputy Chief    APPROVED: Art Carter  
EFFECTIVE DATE: October 1, 1977



6. A WORKER COMPLAINS THAT THE GROWER DOES NOT  
TRAIN PEOPLE IN THE USE OF MECHANICAL  
EQUIPMENT OR OTHER SAFETY PROCEDURES.

DISCUSSION: There is a special California OSHA code number 3203 which requires that all employers have a good training program to protect workers assigned to work on mechanical equipment or machinery of whatever kind. (See section 3203 above p. 8.) If the grower has no systematic program for training new hires, training temporarily transferred workers, or periodic refresher training sessions to remind workers of the hazards of the job, the grower is in violation of this code.

CODES OR REGULATIONS VIOLATED:

1. Cal/OSHA Safety Code 3203 (see above, p. 8).

SUGGESTED COURSES OF ACTION:

1. Take up the issue as a grievance, pointing out to the grower what the OSHA regulation requires and attempt to get him to comply without filing a complaint. In this connection, if you can find out what the grower's accident record is by demanding that he furnish you with a copy of the form 200 he is required to file with OSHA each year, you may be better able to persuade him that putting into effect an accident prevention program is good business.

7. A WORKER COMPLAINS THAT THE GROWER IS MAKING  
THE CREW WORK WITH SHORT HANDLE HOES.

DISCUSSION: After a long battle which ended in the courts, the Supreme Court of California outlawed the use of short handled hoes on the basis that they constitute an unsafe working condition.

CODES OR REGULATIONS VIOLATED:

1. Cal/OSHA Safety Code 3556(b). The rule outlawing the short-handled hoe was upheld by the California Supreme Court in the Carmona v. The Division of Industrial Relations, 13 Cal.3d P 303 Dec. 1975.

SUGGESTED COURSES OF ACTION:

1. Take up the issue as a grievance with the grower. You may wish to take a stand that workers are entitled to refuse to work under such unsafe conditions. This will depend on the support you have on the ranch and of course union policy consideration.
2. File a complaint with Cal/OSHA.

EXTRACTS OF THE CODES OR REGULATIONS VIOLATED:1. Cal/OSHA Safety Code3556. *Hand Tools.*

(a) *The employer shall be responsible for the safe condition of tools when furnished by him and user shall inspect tools to assure safe condition. All tools shall be restricted to the use for which they are intended, and should be used only by those employees who are required and qualified to use such tools.*

(b) *Hand tools shall be kept in good condition, and be safely stored. Unsafe hand tools shall not be used.*

## 8. A WORKER COMPLAINS THERE ARE NO FIRST-AID MATERIALS ON THE RANCH OR AT THE WORKSITE.

DISCUSSION: Both state and many county and local ordinances require that every employer must have provision for minimum first aid for workers.

CODES OR REGULATIONS VIOLATED:

## 1. Cal/OSHA Safety Code 3439(a)(b).

SUGGESTED COURSES OF ACTION:

1. Take up the issue with the grower as a grievance.
2. File a complaint with Cal/OSHA.
3. File a complaint with county health authorities.

EXTRACTS OF CODES OR REGULATIONS VIOLATED:1. Cal/OSHA Safety Code3439. *First Aid Kit.*

(a) *There shall be adequate first-aid materials immediately available at the farm headquarters and/or on worker transportation buses. Such materials shall be kept in a sanitary and usable condition. A frequent inspection shall be made of all first-aid materials, which shall be replenished as necessary. In the case of employers whose workers are widely scattered in small crews that are contacted by a traveling foreman, adequate protection may be accomplished by having a first-aid kit in the foreman's car or vehicle.*

(b) *At isolated locations, provisions must be made in advance for prompt medical attention in case of serious injuries. This may be accomplished by on-the-site facilities or proper equipment for prompt transportation of the injured person to a*

*physician or telephone communication system for contacting a doctor or combinations of these that will avoid unnecessary delay in treatment. There shall be at least 1 man with training for the rendering of emergency first aid at any isolated location where 20 or more men are employed.*

9. A WORKER COMPLAINS THAT THERE ARE HIGH VOLTAGE LINES ON THE RANCH WHERE WORKERS MUST USE METAL POLES OR OPERATE MACHINERY.

DISCUSSION: This is a clear violation of Cal/OSHA agricultural safety rules. Again you may wish to consider stopping work until the danger is repaired or if that is not possible, call Cal/OSHA on their "hot line" and demand an immediate inspection on the basis that an imminent hazard exists. Send a direct wire with a confirming copy to the OSHA office you called as proof that you notified them and let them know you are sending them a wire when you speak to them. Cal/OSHA inspectors have the right to "yellow tag" or stop any unsafe situation. So make every effort to get them on the property as soon as possible.

CODES OR REGULATIONS VIOLATED:

1. Cal/OSHA Safety Code 3455, 5003.

SUGGESTED COURSES OF ACTION:

1. Take up the issue with the grower as a grievance.
2. Call OSHA and demand an immediate inspection.
3. File a formal complaint with Cal/QSHA.

EXTRACTS OF CODES OR REGULATIONS VIOLATED:

1. Cal/OSHA Safety Code

*3455. Metal Fruit Picking Poles.*

*Metal or any other electrically conductive poles shall not be used for fruit picking, nut-knocking, or any other similar agricultural operations within 50 feet of overhead electrical power lines.*

*Effective July 1, 1982, metal or any other electrically conductive poles shall not be used for fruit picking, nut-knocking or any other similar agricultural operation.*

*5003. Provisions for Preventing Accidents in the Area of High-Voltage Lines.*

*Provisions for preventing accidents due to overhead high-voltage lines shall be in conformance with the High-Voltage Electrical Safety Orders, Article 86.*

10. A WORKER WANTS TO KNOW IF YOU HAVE A SUMMARY OF THE KEY SAFETY CODES FOR AGRICULTURE.

DISCUSSION: Listed below are the most frequently violated safety codes in agriculture. It will pay you to re-read them from time to time. The code designations are indicated in the text:

SAFETY CHECKLIST FOR AGRICULTURAL OPERATIONS

#	description	safety order	explanation
1	<u>Accident Pre-vention Program</u>	3203, 3341, 3438	Instruction must be given in safe work practices and the safe use of equipment, vehicles, materials, and pesticides. Training must be given in the employees' language.
2	<u>Work Areas</u>	3210(a)	Railing must be installed on the open sides of work platforms and runways over 30 inches high.
		3273(a)	Floors and platforms must be reasonably clean and in good repair.
		3273(c)	Work platforms and runways which are 30 inches above the ground must be at least 24 inches wide with a 6-1/2 foot clearance.
3	<u>Water &amp; Sanitation</u>	3363(a)-(g)	Adequate supply of clean water for drinking separate from toilet facility, with individual cups or sanitary drinking spout--no common drinking cup.
		3364(a)-(h)	Toilet facilities separate for men and women with number of toilets in proportion to number of workers. If there are fewer than five workers one facility complies with the law. Toilet facilities shall be clean, accessible to workers, supplied with toilet paper and with hand-washing facilities.
4	<u>First Aid</u>	3439(a)	Available and sanitary first-aid kit shall be maintained for workers on crew buses or foremen's truck or ranch headquarters.

#	description	safety order	explanation
		3439(b)	Make emergency precautions in isolated areas.
5	<u>Agricultural Equipment</u>	3440(a)	Tractors shall be equipped with fenders of equivalent protection between driver and rear wheels.
		3440(c)	Power take-off shaft shall be guarded.
		3440(e)	Guards, shields and access to moving parts shall be in place when equipment is operating.
		3440(e)(B)	Safety sign to warn of rotation.
		3441	Operators shall be instructed in the safe operation of machinery.
		3441(b)	Self-propelled vehicle must have operator at vehicular controls.
		3441(c)	Safe access to a safe place for personnel riding on mobile machinery
		3441(d)	Self-propelled equipment must be equipped with braking device.
		3441(g)	Strong head lamp (at least one) for operation at night.
	- ROPS	3651	Rollover protective structures (ROPS) required on all tractors manufactured after Oct. 25, 1976.
		3653(a)	Seatbelts must be provided on all equipment with ROPS.
	- Forklift Operation	3660(a)	Forklift capacity must be visibly marked on forklift.
		3661(c)	Must be equipped with warning device (horn).
		3661(b)	Must have parking brake.
		3664(a)(1)	All drivers must be authorized by the employer and trained.
		3664(a)(3)	All riders are prohibited.
		3664(a)(7)	Vehicles must be checked at least once during a shift.
	- Operating Instructions	3669	Post, explain and maintain operating instructions for industrial trucks and agricultural tractors.

#	description	safety order	explanation
		3669(c)	Check tractor and report unsafe condition and do not use until it has been made safe.
	- Cleaning and Fueling	3314	Stop equipment and disengage power source to clean moveable parts.
		3319	Shut off motor to fuel. "NO OPEN FLAMES" "NO SMOKING" warning signs.
	- Warning Devices	3706	Trucks must have horn. May have backup warning device.
6	<u>Guarding</u>	3445(a)	Power-driven cutters, choppers grinders must be guarded.
		3446(a)	Portable screw conveyors must be guarded.
	- Conveyors	3999(b)	Nip points must be guarded.
	- Revolving and Reciprocating	4002	Guarded, if not already guarded by frame of machinery.
	- Shafting	4051	Protruding shaft only 1/2 diameter out from bearing.
	- V-belt	4070(c)	Shall be enclosed within 7' of floor.
	- Chain and Sprocket	4077	Shall be guarded.
7	<u>Transportation</u>		
	- License	3701	Valid chauffeurs license for crew transportation of 10 or more people in buses or trucks.
	- Buses and Trucks	3702	Safe condition, adequate seats properly secured in position. Emergency exit. Communication between driver and passengers.
8	<u>High Voltage</u>	2940.6(h)	The use of or storage of irrigation pipes or other long metal pipes near high voltage lines is prohibited.
		3455	Metal fruit and nut harvesting poles are prohibited.
		2947	Equipment such as cranes, derricks, power shovels, and hay loaders must have a sign on it: "Unlawful to Operate this Equipment Within 10 Feet of High-Voltage Lines in Excess of 50,000 Volts."

#	description	safety order	explanation
		5003	Prohibited to operate machinery or handle long pipe in close vicinity to high-voltage lines. 10' could be 6' in the near future.
9	<u>Injurious Materials</u>		
	- Medical Supervision	3450(a)	Where regular contact with organo-phosphates there shall be medical supervision and cholinesterase testing.
	- Application Rigs	3453	Tank of 100 gallons or more must have level indication to prevent overfilling and splashing if liquid may cause injury.
	- Tanks	3453	Storage tanks shall indicate clearly contents of tank and safety precautions of prescribed label shall also be affixed on tank.
		3453(g)	Accessible eye wash solution (5 gallons) when working with anhydrous ammonia.
	- Respirators	5144(a)	Methyl bromide gas mask or self-contained air unit.
	- Airborn Contaminants	5155	Table and regulations regarding ceiling concentration values and time-weighted average for exposure.
10.	<u>Hand Tools</u>	3556(b)	Unsafe hand tools shall not be used. No short-handled hoe or tool used for hoeing.
11.	<u>Noise</u>	5099(a)	Ear protection for noise levels over 90 dBA (8 hour time-weighted average).

11. A WORKER ASKS IF WORKERS ARE ENTITLED TO GET COPIES OF THE GROWER'S ACCIDENTS AND INJURIES REPORTS SUBMITTED TO CAL/OSHA EACH YEAR.

DISCUSSION: The California administrative law of Cal/OSHA was amended to require that all employers must give to any employee, former employee or their representatives, copies of a form 200. This form is a detailed summary of all the injuries and illnesses connected with work that have been reported by the grower for the previous year. This information is often very useful in court cases. Worker Compensation claims, and for ranch safety committees in pinpointing the major sources of accidents on the ranch. The best way to get the information is to have the ranch committee show the employer the exact language of the law. This will be found in the extract below. If the grower still refuses to comply and furnish the information, then file a complaint with Cal/OSHA.

CODES OR REGULATIONS VIOLATED:

1. Cal/OSHA, Reporting Risks.
2. Cal. Labor Code 6409(a), 6410.

SUGGESTED COURSES OF ACTION:

1. File a complaint with Cal/OSHA.

EXTRACTS OF CODES AND REGULATIONS VIOLATED:

1. An interpretative bulletin, mailed by Cal/OSHA to all employers, provides for the following:

*WHO HAS ACCESS TO CAL/OSHA RECORDS*

*An employer must provide upon request the log and individual employer's reports for inspection and copying by authorized representatives of the U.S. Department of Labor, Department of Health, Education and Welfare or State of California. The Annual Summary (CAL/OSHA Form 102 or 102A) kept prior to 1978 should also be available for inspection and copying.*

*In addition, employees, former employees, and their representative must be provided access to the Log and Summary of Occupational Injuries and Illnesses for examination and copying in a reasonable manner and at a reasonable time. If requested, an employer must make available all logs and summaries (CAL/OSHA Forms 100, 100A, 102, 102A and 200) covering the five-year period during which they are required to be retained at the establishment.*

2. The following provisions of the Labor Code provide the legal basis for the above ruling.



6409. (a) Every physician as defined in Section 3209.3 who attends an injured employee shall file a complete report of every occupational injury or occupational illness to each employee with the employer, or if insured, with the employer's insurer, on forms prescribed for that purpose by the Division of Labor Statistics and Research. If the treatment is for an occupational illness, or a condition suspected to be an occupational illness, pesticide poisoning, or a condition suspected to be pesticide poisoning, the employer or insurer, as the case may be, shall file a copy of the physician's report with the Department of Industrial Relations, through its Division of Labor Statistics and Research, within five days of receipt. Each such report of occupational injury or occupational illness shall indicate the social security number of the injured employee. If the treatment is for pesticide poisoning or a condition suspected to be pesticide poisoning, the physician shall also file a complete report with the Division of Labor Statistics and Research.

6410. The reports required by subdivision (a) of Section 6409, subdivision (a) of Section 6409.1, and Section 6413 shall be made in the form and detail and within the time limits prescribed by reasonable rules and regulations adopted by the Division of Labor Statistics and Research in accordance with the provisions of Chapter 4.5 (commencing with Section 11371) of Part 1 of Division 3 of Title 2 of the Government Code.

Nothing in this chapter requiring recordkeeping and reporting by employers shall relieve such employer of maintaining records and making reports to the assistant secretary, United States Department of Labor, as required under the Federal Occupational Safety and Health Act of 1970 (P.L. 91-596). The Division of Labor Statistics and Research shall prescribe and provide the forms necessary for maintenance of the required records, and the Division of Occupational Safety and Health shall enforce by citation and penalty assessment any violation of the recordkeeping requirements of this chapter.

All state and local government employers shall maintain records and make reports in the same manner and to the same extent as required of other employers by this section.

(Amended by Stats. 1979, Ch. 889, Effective September 22, 1979.)



### SECTION III -- MEDICAL PROBLEMS OF FARMWORKERS

12. A WORKER WANTS TO BE TREATED BY THE UFW CLINIC OR HIS/HER OWN PHYSICIAN WHEN INJURED ON THE JOB OR BECOMES ILL WHILE WORKING.

DISCUSSION: Since 1978 workers can be treated for work related illnesses or accidents by the doctor of their own choice, provided that the employer has prior notice in writing of the name of the doctor from the worker involved. It has taken fifty years of struggle in California to win this right. The key problem in many areas where there is no UFW clinic is to find physicians who are sympathetic and knowledgeable about pesticide poisons and is also willing to report pesticide illnesses. Also, encouraging workers to pre-select their doctors presents many difficulties. Nevertheless for members of the union this approach can be of great benefit and will help force the grower to protect the health and safety of workers. A sample of the card to be filed with the employer is included in the extracts section.

#### CODES OR REGULATIONS VIOLATED:

1. Cal. Labor Code 4600.

#### SUGGESTED COURSES OF ACTION:

If possible, work out with the grower in advance the procedures that will be followed in relation to workers going to their own physicians. It is best that an understanding be arrived at so as to minimize any efforts by the grower to refuse to comply with this important law. In most cases it is the insurance company that should be talked to. All insurance companies are familiar with the new legal requirements. If an insurance company refuses to honor claims filed by a worker's own physician, the remedy is to immediately file a claim with the nearest Workers' Compensation Appeals Board. Workers who are off on an illness or accident may, in disputed cases, file a claim under State Disability Insurance and collect from that source while the dispute is being settled with the Workers' Compensation Appeals Board. When the issue is settled, the disability fund is reimbursed from Workers' Compensation. Formal complaints against a specific insurance company or employer failing to honor workers' selection of their own physicians can be filed with the State Workers' Compensation Board. Specific actions which may be taken are:

1. Take up the issue with the grower as a grievance.
2. File a claim for the worker with the Workers' Compensation Appeals Board.

3. Write a formal letter of complaint to Franklin Grady,  
Division of Industrial Relations, 455 Golden Gate Avenue,  
San Francisco, CA 94102.

#### EXTRACTS OF CODES OR REGULATIONS VIOLATED:

1. Cal Labor Code

(Article 2. Medical and Hospital Treatment)

4600. Medical, surgical, chiropractic, and hospital treatment, including nursing, medicines, medical and surgical supplies, crutches, and apparatus, including artificial members, which is reasonably required to cure or relieve from the effects of the injury shall be provided by the employer. In the case of his neglect or refusal seasonably to do so, the employer is liable for the reasonable expense incurred by or on behalf of the employee in providing treatment. After 30 days from the date the injury is reported, the employee may be treated by a physician of his own choice or at a facility of his own choice within a reasonable geographic area. However, if an employee has notified his employer in writing prior to the date of injury that he or she has a personal physician, the employee shall have the right to be treated by such physician from the date of injury. For the purpose of this section, "personal physician" means the employee's regular physician and surgeon, licensed pursuant to Chapter 5 (commencing with Section 2000) of Division 2 of the Business and Professions Code, who has previously directed the medical treatment of the employee, and who retains the employee's medical records, including his or her medical history.

2. Sample union card to be mailed to employer in advance of medical treatment.

-----

#### CHOICE OF DOCTOR FORM

Date \_\_\_\_\_

I, \_\_\_\_\_ state that  
(employee's name)

\_\_\_\_\_ whose phone number is (\_\_\_\_\_) \_\_\_\_\_  
(name of physician or medical facility) area code

and whose address is \_\_\_\_\_  
(address of physician or medical facility)

is my regular physician/medical facility who has previously directed my medical treatment and has my medical records. I request the right to be treated by the above named physician/medical facility from the date of any work injury. In case of emergency, my employer is directed to take me to the nearest medical doctor and/or medical facility available, and to notify my regular physician/medical facility thereafter.

\_\_\_\_\_  
(employee signature)

\_\_\_\_\_  
(social security number)

13. A GROWER REFUSES TO PAY THE MEDICAL BILLS  
OF A WORKER ON THE GROUNDS THAT THE ILLNESS  
OR INJURY DID NOT OCCUR ON THE JOB.

DISCUSSION: Every employer must provide medical care and all expenses in connection with treatment for any injury or illness that arises out of the work done on the job. Sometimes the employer will contend, as with back injuries, that a worker hurt himself away from the job. It is always important to have workers report any injuries, no matter how slight, to the boss, and with a witness present if possible. In this way, if later on the grower tries to contend that the injury or illness did not happen on the job, the worker will have a witness to back him up.

In any event, workers should be encouraged to file complaints with the Workers' Compensation Appeals Board in all disputed cases. As explained in (1) above they should also file with the California State Disability Insurance plan to receive benefits while their case is being fought out. Any monies advanced from the disability fund or from the Robert F. Kennedy Fund to pay expenses will be reimbursed when the appeal is won.

When pesticide illnesses are involved, many of the immediate or accute effects are closely similar to other kinds of illnesses. It is particularly important to know the name of the pesticide a worker was exposed to, the date of spraying if possible and other particulars, first to convince a doctor that a pesticide poisoning is involved so that the illness can be clearly identified as work related. Then the grower will have to pay for the office visits of the workers.

CODES OR REGULATIONS VIOLATED:

1. Cal. Labor Code 4600.

SUGGESTED COURSES OF ACTION:

1. Take up the issue with the grower as a grievance.
2. File a complaint under the Labor Code, Section 4600.
3. File a complaint with the State Insurance Commissioner.
4. File a claim for benefits under the Workers' Compensation Act.
5. File a claim under State Disability Insurance laws.
6. If hospitalization or medical treatment is needed, work something out through RFK if the physician won't wait for his fees.

EXTRACTS OF THE CODES OR REGULATIONS VIOLATED:

## 1. Cal. Labor Code 4600.

In accordance with the rules of practice and procedure of the appeals board, the employee, or the dependents of a deceased employee, shall be reimbursed for expenses reasonably, actually, and necessarily incurred for X-rays, laboratory fees, medical reports, medical testimony, and, as needed, interpreter's fees, to prove a contested claim. The reasonableness of and necessity for incurring such expenses to prove a contested claim shall be determined with respect to the time when such expenses were actually incurred. Expenses of medical testimony shall be presumed reasonable if in conformity with the fee schedule charges provided for impartial medical experts appointed by the administrative director.

14. A GROWER FAILS OR REFUSES TO PROVIDE IMMEDIATE TRANSPORTATION AND MEDICAL TREATMENT TO A WORKER OR WORKERS WHO HAVE BECOME ILL ON THE JOB FROM PESTICIDE POISONING.

DISCUSSION: The law is very clear that an employer is responsible for medical care and all aspects of such protection, including providing transportation for emergency medical treatment. This is very important to protect workers who may have come to work by bus to a field where public transportation is far away. In practical terms, should this kind of case arise, fellow workers should arrange transportation, if the grower refuses and then the union should file a complaint afterward. It is fairly rare that an employer violates this provision of the law. But there is a lesser known right of workers, and that is to be reimbursed the cost of transportation when making visits to a doctor's office for follow-up treatment or check-ups. The law now provides that if a worker uses his own transportation to visit a physician he shall receive 21¢ per mile. Workers sustaining injuries of work related illnesses should be advised of these rights.

CODES OR REGULATIONS VIOLATED:

## 1. Cal. Labor Code 4600

Where at the request of the employer, the employer's insurance carrier, the administrative director, the appeals board or a referee, the employee submits to examination by a physician, he shall be entitled to receive in addition to all other benefits herein provided all reasonable expenses of transportation, meals and lodging incident to reporting for such examination, together with one day of temporary disability indemnity for each day of wages lost in submitting to such an examination. "Reasonable expenses of transportation" includes mileage fees from the employee's home to the place of the examination and back at the rate of twenty-one cents (\$0.21) a mile, plus any bridge tolls. Such mileage and tolls shall be paid to the employee at the time he is given notification of the time and place of the examination.

(Amended by Stats. 1980, Ch. 1247.)

SUGGESTED COURSES OF ACTION:

1. Take up the issue with the grower as a grievance. If he fails or refuses to comply, have someone else provide the transportation.
2. File a complaint with Cal/OSHA and the Labor Commissioner.
3. File a claim with the Worker's Compensation Board.
4. Write a letter of complaint to Franklin Grady, Division of Industrial Relations, 455 Golden Gate Avenue, San Francisco, CA 94102.

15. A PHYSICIAN REFUSES TO DIAGNOSE A WORKER FOR A PESTICIDE ILLNESS, CLAIMING THAT THE ILLNESS IS UNRELATED TO WORK.

DISCUSSION: This is at the core of the problem in relation to workers' health and pesticides. Physicians are typically untrained to be sensitive to pesticide illness. The problem is further complicated if workers don't know they have been exposed to a pesticide and hence don't tell the doctor this fact. The acute or aggravating symptoms are identical to having a cold, upset stomach, etc. So, typically, physicians will not diagnose a pesticide poisoning. Then there is an even more important problem; this is the political issue. It takes a brave doctor who is willing to trigger off the potential controversy which may arise if he reports --as he is required by law--that a worker or worker is suffering from pesticide poisoning. It is an open scandal that only a handful of cases are reported each year. There are many factors to account for this. At the heart of it, though, is that physicians are untrained; workers have no way of knowing what pesticide hit them; or they don't find out and no connection is made between the symptoms and the real cause. Even though by law, physicians are required to report even if they only suspect a pesticide related illness (see below), most such illnesses are not reported.

So in the event that a worker or group of workers go to a grower's physician with a pesticide complaint, the ranch committee should find out the name or names of the most recent pesticides applied at the ranch and send the names along with the group. If the physician denies that the illness is pesticide related, send the workers to a community physician who is willing to work with the union. It is crucial to have the information about which chemicals were used.

Finally, the more aware ranch committee members and other union members are of the symptoms of pesticide poisoning, the better it will be. Then when a worker, or more commonly, a group of workers starts making health complaints on the job; alert union representatives will be able to send such workers to a physician for treatment fully advised as to the pesticide to which they were exposed and what to tell the physician when they see him.

CODES OR REGULATIONS VIOLATED:

1. Cal. Labor Code 6409(a), 6409.3.
2. Cal/OSHA Safety Code 2950.

SUGGESTED COURSES OF ACTION:

1. Take the workers to another physician. Take the issue up directly with the physician concerned, orally and then putting down the facts in a letter. Send copies of the letter to a) county health authorities, and b) Franklin Grady, Division of Industrial Relations, 455 Golden Gate Ave., San Francisco CA 94102.
2. File complaints with Cal/OSHA, Division of Labor Law Enforcement, county health offices, and the CDFA. Be sure to document each letter and complaint fully, giving the name of the grower, the name or names of the pesticides the workers were exposed to, dates of exposures; describe briefly the medical symptoms.

EXTRACTS OF THE CODES OR REGULATIONS VIOLATED:

1. Cal. Labor Code 6409(a), see above, p. 18.
2. Cal/OSHA Safety Code

*2950. Reports by physicians and local health officers; treatment deemed first aid; violations; civil penalty; citation and notice; appeal*

*Any physician and surgeon who knows, or has reasonable cause to believe, that a patient is suffering from pesticide poisoning or any disease or condition caused by a pesticide shall promptly report such fact to the local health officer by telephone within 24 hours and by a copy of the report required pursuant to subdivision (a) of Section 6400 of the Labor Code within seven days, except that the information which is available to the physician and surgeon is all that is required to be reported as long as reasonable efforts are made to obtain such information.*

*Each local health officer shall immediately notify the county agricultural commissioner and, at his or her discretion, shall immediately notify the state department of \* \* \* each such report received and shall report to the Director of Food and Agriculture, the State Director of Health Services, and the Director of Industrial Relations, on a form prescribed by the State Director of Health Services, each case reported to him pursuant to this section within seven days after receipt of any such report.*



The state department shall designate a phone number or numbers for use by local health officers in the immediate notification of the state department of a pesticide poisoning report. The state department shall from time to time establish criteria for use by the local health officers in determining whether the circumstances of a pesticide poisoning warrants the immediate notification of the state department.

In no case shall the treatment administered for pesticide poisoning or a condition suspected as pesticide poisoning be deemed to be first aid treatment.

Any physician and surgeon who fails to comply with the reporting requirements of this section or any regulations adopted pursuant to this section shall be liable for a civil penalty of two hundred fifty dollars (\$250). For the purposes of this section, failure to report a case of pesticide poisoning involving one or more employees in the same incident shall constitute a single violation. The Division of \* \* \* Occupational Safety and Health of the Department of Industrial Relations shall enforce these provisions by issuance of a citation and notice of civil penalty in a manner consistent with Section 6317 of the Labor Code. Any physician and surgeon who receives a citation and notice of civil penalty may appeal to the Occupational Safety and Health Appeals Board in a manner consistent with Section 6319 of the Labor Code.

Each local health officer shall maintain the ability to receive and investigate reports of pesticide poisoning at all times pursuant to Section 12982 of the Food and Agricultural Code.

16. YOU HAVE SENT WORKERS TO A PHYSICIAN BECAUSE OF A PESTICIDE POISONING AND YOU WANT TO CHECK WHETHER THE DOCTOR FILED A PESTICIDE ILLNESS REPORT. CAN A DOCTOR BE FINED?

DISCUSSION: The law clearly provides that physicians must report within 24 hours, any injury or illness arising out of the job. Specifically reports are required for any case of suspected pesticide poisoning. These reports trigger off investigations at many levels. The reason for requiring them is so that state and county authorities can immediately investigate the situation and force the grower and/or pesticide applicator to take corrective action.

Pesticides are a relatively new development for the human race, and information as to their short and long term effects on humans is very limited. Each reported case of poisoning adds to our knowledge. On the other hand, chemical companies and other groups, for economic reasons, are not anxious to have such knowledge accumulated. So every report of a poisoning is a political act. When you send workers to a physician, they should be advised to tell

the doctor of his responsibilities. There are a few physicians who "plead ignorance of the law" as their reason for not reporting the cases they do treat. Your organization might wish to consider sending a form letter to all the physicians in a particular area alerting them to the requirements of the law.

#### CODES OR REGULATIONS VIOLATED:

1. Cal. Labor Code 6409, see above p. 18.
2. Cal/OSHA Safety Code 2950, see above p. 24.

#### SUGGESTED COURSES OF ACTION:

1. Take the workers to another physician. Take the issue up directly with the physician concerned, orally and then putting down the facts in a letter. Send a copy of the letter to a) the County health authorities, and b) Franklin Grady, Division of Industrial Relations, 455 Golden Gate Avenue San Francisco, CA 94102.
2. File complaints with Cal/OSHA, the Division of Labor Law Enforcement, County health offices, and the CDFA. Be sure to document each letter and complaint fully, giving the name of the grower, the name or names of the pesticides the workers were exposed to, dates of exposure, and describe briefly the medical symptoms.

17. YOU ARE ABOUT TO GO WITH A WORKER TO A PHYSICIAN TO TRANSLATE MEDICAL SYMPTOMS OF SUSPECTED PESTICIDE POISONING, OR YOU ARE SENDING WORKERS ON THEIR OWN TO A CLINIC. WHAT SHOULD YOU TELL THE PHYSICIAN?

DISCUSSION: Tragically, most doctors know little or nothing about pesticides. On top of this many only speak English. Some are prejudiced and only want to serve the upper middle class white community. And yet the need for immediate professional medical care cannot be stressed too much. Death rates and disability rates among farmworkers are extremely high. Many workers suffer from ailments which could have been avoided if professional care had been promptly available.

Here are some ways of getting effective medical care for victims of pesticide poisoning:

- a. Try to send a ranch committee representative or bilingual person with the victim or victims.
- b. Make every effort to find out the chemical names of the pesticides to which the workers have been exposed.

c. Know ahead of time how the victim or victims were exposed: overhead spraying, skin contact, breathing, or drinking contaminated water.

d. Know the symptoms as completely as possible. The key problem is that many of the immediate and acute effects of pesticide poisoning resemble symptoms of many common ailments such as running noses, flu symptoms, stomach flu, sweating and the like. So it is critical that the physician be informed what the workers were exposed to. Promptness of treatment and analysis is also necessary since after 24 hours frequently the signs of poisoning have disappeared.

If only the worker or workers can go to the hospital or physician be sure to tell them what they must say to make certain that the case is identified as a pesticide poisoning.

e. Check what the doctor does. Remember, as described in question 16 above, the doctor has only to suspect that pesticide poisoning is the cause of the illness and then he must file a report.

## 18. A WORKER WANTS ADVICE ABOUT EMERGENCY FIRST-AID ON THE RANCH

DISCUSSION: It is a good idea to insist with the grower that people be trained in advance in emergency first-aid procedures and from time to time check up to see that there are currently employed people capable of administering first-aid. Show them a copy of the following California Dept. of Food and Agriculture regulation on first-aid procedures for farmworkers.

### PESTICIDE SAFETY INFORMATION SERIES A-4

#### PESTICIDE POISONING: GENERAL FIRST AID AND DECONTAMINATION PROCEDURES

--Worker Health and Safety Unit

CDFA -- HS-716 rev. 8/1/81

1220 N St., Sacramento 95814

*This information was prepared for use in the training of individuals who are required to handle pesticide chemicals in the course of their employment. The information is of a general nature and is intended to supplement information found on product labels relative to the first aid treatment of individuals who become ill while working with pesticide chemicals or come in contact with concentrated or dangerous amounts of pesticide materials.*

#### First Aid for Individuals Who Become Ill While Working with Pesticides:

*A person working with pesticides who becomes ill should stop work immediately, notify the supervisor or a fellow employee of the situation, and take whatever measures are necessary to eliminate any source of continued pesticide absorption. Go to a source of fresh air, remove work clothing, shower completely, including washing the hair, and change into clean clothing. If shower facilities are not*

immediately available, remove all contaminated clothing immediately and use whatever water source is available to clean the body. This may be water from a faucet or hose, a jug or other containerized source of water, or irrigation water from a canal or ditch. In all cases, DO NOT WAIT--DECONTAMINATE IMMEDIATELY. The person should then be taken to the nearest emergency medical care facility. Under no circumstances should a person be left alone once symptoms of illness develop, nor should the person be allowed to leave the work area alone.

If a person collapses suddenly while working with pesticides, he should be removed from the pesticide use area immediately and given whatever resuscitation may be necessary. Remember, a sudden collapse may be due to a heart attack or medical emergency other than pesticide-related illness. Training of all persons in cardio-pulmonary resuscitation as taught by the American Red Cross or the American Heart Association is highly desirable. Arrangements for training of individuals or groups can be made by contacting the local chapter of either of these two organizations. Contaminated clothing should be removed and skin areas washed with soap and water. Use any readily available source of water as discussed above. Once stabilized (the victim is breathing on his own and not in immediate distress), he should be transported immediately to the nearest emergency medical care facility. Rescuers should be careful not to contaminate themselves while caring for a victim whose skin and clothing may be saturated with pesticide chemicals.

The series of steps to be taken in treating individuals who become ill while working with pesticide chemicals can be summarized as follows:

1. Stop exposure.
2. Resuscitate (if necessary) and decontaminate.
3. Transport immediately to the nearest emergency medical care facility.

It is extremely helpful and very important to supply the physician or emergency room personnel where the victim is taken with as much information as possible regarding the circumstances under which an illness began. Know the name of the product or products the victim was handling or was exposed to, and be able to tell the doctor. If at all possible, a clean copy of the product label or labels should be taken to the doctor with the victim. If necessary, a clean, empty, labeled container or a sealed, labeled container may be taken to the doctor along with the victim. If a label cannot be taken with the victim, write down the exact names of the product and active ingredients, if possible, to be given to the doctor.

First Aid for Immediate or Sudden Contamination with Pesticide Chemicals: Pesticide chemicals can be absorbed into the body by--

1. Breathing in dusts or vapors.
2. Being absorbed through the skin or by contact with eyes.
3. Being swallowed.

Some chemicals are absorbed very rapidly, while others are absorbed more slowly. It is important that any pesticide chemicals which come into contact with the body be removed or eliminated. It

is especially important to remove immediately any concentrated material or direct spills of such chemicals from the body.

1. BREATHING DUSTS OR VAPORS: In the event of a sudden unexpected release of pesticide dust or vapors into the air, leave the area immediately.

If in an open area, go upwind at least 100 feet away from the dust or vapor. If indoors or in a confined area, leave the area immediately and go outdoors or to a well ventilated area away from the dusts or vapors. If you find someone else overcome by dusts or vapors, immediately move him/her to an area away from the pesticides, and proceed as described for persons who suffer from sudden collapse while working with pesticides.

2. IF PESTICIDE CHEMICALS GET INTO THE EYES: Immediately rinse the eyes with water. It is best to hold the eyelids open and slowly pour water over the eye allowing a gentle stream of water to flow over the eyes. Never use a forceful stream of water directly into the eye as damage may occur. Water flowing slowly and gently from a faucet or hose may be used. Rinsing of the eye should continue for a minimum of 15 minutes. If symptoms of pain, discomfort, or visual problems are present after thoroughly rinsing the eyes, the affected person should be taken immediately to the nearest emergency medical care facility.

3. IF PESTICIDE CHEMICALS ARE SPILLED ONTO THE CLOTHING OR SKIN: Immediately remove all contaminated clothing. Wash all affected skin areas with soap and water. If available, a complete shower including hair wash is recommended. Use any available noncontaminated water source as discussed earlier. DO NOT WAIT--DECONTAMINATE! DO NOT REUSE contaminated clothing until it has been properly laundered. Pesticide chemicals can eventually penetrate protective clothing even if it is waterproof. It is therefore important to remove protective clothing immediately if it becomes contaminated and replace it with clean equipment. If symptoms of illness occur after pesticide materials have been spilled onto the clothing or skin, the affected person should be TAKEN immediately to the nearest emergency medical care facility.

4. IF PESTICIDE CHEMICALS ARE SWALLOWED: In the event a pesticide is swallowed, the victim should immediately drink the equivalent of at least two (2) large glasses of water or milk. In most cases, if the victim is conscious and alert, vomiting should then be induced. This can be done by stimulating the back of the throat with a blunt object such as a finger or the blunt end of a spoon. NEVER INDUCE VOMITING IN AN UNCONSCIOUS OR SEMI-ALERT PERSON. Such individuals should be transported immediately to the nearest emergency medical care facility.

Vomiting may also be induced by administering once ounce (30 ml) of syrup of ipecac to adults if it is immediately available. Vomiting is usually delayed by 15 to 20 minutes after administration of syrup of ipecac. For children the dose of ipecac syrup must be proportionately reduced (2 to 4 teaspoonfuls--10-20 ml).

For certain pesticide products, vomiting should NOT be induced. Information on the product label should indicate whether or not to induce vomiting. Regardless of whether or not vomiting is indicated, the victim should be given water or milk to dilute any material that has been swallowed. Do NOT give fluids to an unconscious or semi-alert person.

Do NOT administer salt water or mustard solutions to induce vomiting as may be recommended on some outmoded labels. Salt and mustard solutions have been shown to be dangerous to use for this purpose.

A person who has swallowed a pesticide chemical should be taken to the nearest emergency medical care facility for observation and possible additional treatment.

REMEMBER: It is important to supply the physician or emergency room personnel with as much information as possible regarding the circumstances under which the victim became ill, and to supply a copy of the product label or labels to the doctor when taking a victim in for evaluation. At least be able to supply the name of the pesticide(s) involved.

## 19. A WORKER WANTS TO KNOW HOW TO FIND A POISON CONTROL CENTER.

DISCUSSION: Many areas are served by regional poison information and control centers. In the event a worker is involved in a possible poisoning incident, immediate contact with the regional poison information center will provide professional guidance on how to proceed in the administration of first aid and resuscitation measures. Give the center as much information as possible regarding what took place and the identify of the pesticide products involved. If a victim is being transported to an emergency care facility, advance notification to the facility by phone will allow for preparation for the potential emergency care of the victim.

### A Partial List of California Poison Information Centers:

#### FRESNO

209/445-1222  
Fresno Community Hospital  
Fresno and R Streets  
PO Box 1232  
Fresno 93715

#### ORANGE

714/634-5988  
University of Calif.  
Irvine Medical Center  
101 City Drive, So.  
Irvine 92668

#### OAKLAND

415/547-2928  
Children's Hospital  
Medical Center of  
No. California  
51st and Grove Streets  
Oakland 94609

#### SACRAMENTO

800/852-7221  
916/453-3692  
Emergency Medical Services  
Sacramento Medical Center  
University of Calif. Davis  
2315 Stockton Blvd.  
Sacramento 95817

SAN DIEGO

714/294-6000  
 University of California  
 San Diego Medical Center  
 225 Dickinson Street  
 San Diego 94102

SAN FRANCISCO

800/792-0720  
 415/666-2845  
 San Francisco Bay Area  
 Poison Center,  
 San Francisco General  
 Hospital  
 1001 Potrero Ave. 1E-6  
 San Francisco 94110

SAN JOSE

408/279-5122  
 Santa Clara Valley  
 Medical Center  
 751 S. Bascom Ave.  
 San Jose 95128

20. A WORKER HAS BEEN GIVEN BLOOD OR OTHER TESTS  
 FOR PESTICIDE POISONING BUT HAS NOT BEEN  
 GIVEN THE RESULTS.

DISCUSSION: Under the law, workers exposed to pesticides which may affect the cholinesterase levels in their bodies are entitled to have a baseline test of their blood against which to measure potential changes in the blood after working with pesticides. Thereafter, regulations further require that periodic tests be taken (see Section V, below). A variety of regulations require that a worker be given access to this data. Only in this way can a worker be reasonably confident that his/her health is being protected. Most UFW agreements provide for this kind of protection for mixers, applicators and loaders.

CODES OR REGULATIONS VIOLATED:

1. UFW Agreement, Article 14.
2. Fed. OSHA Right to Know Regulation 1910.20.
3. Cal. Admin. Code, Title 3, Art. 23, 2477(d)(1).

SUGGESTED COURSES OF ACTION:

1. Take up the issue as a grievance with the grower. In this connection it is suggested that routinely each season, the procedure for blood tests and the information to be supplied to the workers be reviewed with each grower.
2. File a complaint with the CDFA.
3. File a complaint with Cal/OSHA.

EXTRACTS OF CODES OR REGULATIONS VIOLATED:

1. Federal OSHA Right to Medical Records regulation. (Cal/OSHA enforces this regulation until they adopt one of their own which must be as good or better than the federal regulation.)

1910.20 Access to employee exposure and medical records.

(a) Purpose. The purpose of this section is to provide employees and their designated representatives a right of access to relevant exposure and medical records; and to provide representatives of the Assistant Secretary a right of access to these records in order to fulfill responsibilities under the Occupational Safety and Health Act. Access by employees, their representatives, and the Assistant Secretary is necessary to yield both direct and indirect improvements in the detection, treatment, and prevention of occupational disease. Each employer is responsible for assuring compliance with this section, but the activities involved in complying with the access to medical records provisions can be carried out, on behalf of the employer by the physician or other health care personnel in charge of employee medical records. Except as expressly provided, nothing in this section is intended to affect existing legal and ethical obligations concerning the maintenance and confidentiality of employee medical information, the duty to disclose information to a patient/employee or any other aspect of the medical care relationship, or affect existing legal obligations concerning the protection of trade secret information.

2. Cal. Admin. Code 2477(d)(1), as enforced by CDFA.

(d) Medical Supervision. For any employee whose exposure period exceeds 30 hours in any 30-day period where any pesticide in toxicity category one or two containing an organophosphate or a carbamate is being used, the employer shall engage the service of a licensed physician to provide medical supervision. Medical supervision shall include monitoring of the work force by means of red cell and plasma cholinesterase determination to be made on each employee before any exposure to such pesticides and as often thereafter as recommended by the physician.

(1) The employer shall have written evidence signed by a physician that the physician has agreed to provide medical supervision as required by this section. The employer shall request the physician to provide to the employer all cholinesterase test results and recommendations applicable to this medical supervision. The employer shall keep a record of all recommendations received from the medical supervisor and all cholinesterase test results obtained on his employees. These records and this evidence shall be maintained for three years and shall be available for inspection by the employee, the director, commissioner, county health official, or state health official.



21. A WORKER COMPLAINS THAT S/HE TOOK A PRE-EMPLOYMENT PHYSICAL, OR LATER TOOK A PHYSICAL EXAM FROM A GROWER'S DOCTOR AND WAS REFUSED EMPLOYMENT OR FIRED AS A RESULT OF SOMETHING IN THE EXAMINATION FINDINGS.

DISCUSSION: The law protects workers from being discriminated against in being hired, or from being refused work, or being discharged for a medical condition which does not interfere with their ability to work nor is aggravated or made worse by the job. If such a case arises, be sure to get a full statement from the worker's physician as to his ability to work to offset whatever the employer's physician alleges.

CODES OR REGULATIONS VIOLATED:

1. Cal. Labor Code 1420.

SUGGESTED COURSES OF ACTION:

1. Take up the issue with the grower as a grievance since a job is at stake.
2. Get a second medical opinion to back up the worker's claim that he can work.
3. File a complaint with the state FEPC.

EXTRACTS OF CODES OR REGULATIONS VIOLATED:

1420. It shall be an unlawful employment practice, unless based upon a bona fide occupational qualification, or, except where based upon applicable security regulations established by the United States or the State of California:

(a) For an employer, because of the race, religious creed, color, national origin, ancestry, physical handicap, medical condition, marital status, or sex of any person, to refuse to hire or employ him or to refuse to select him for a training program leading to employment, or to bar or to discharge such person from employment or from a training program leading to employment, or to discriminate against such person in compensation or in terms, conditions or privileges of employment.

(1) Nothing in this part shall prohibit an employer from refusing to hire or discharging a physically handicapped employee, or subject an employer to any legal liability resulting from the refusal to employ or the discharge of a physically handicapped employee, where the employee, because of his physical handicap, is unable to perform his duties, or he cannot perform such duties in a manner which would not endanger his health or safety or the health and safety of others.

(2) Nothing in this part shall prohibit an employer from refusing to hire or discharging an employee who, because of his medical condition, is unable to perform his duties, or cannot perform such duties in a manner which would not endanger his health or safety or the health or safety of others. Nothing in this part shall subject an employer to any legal liability resulting from the refusal to employ or the discharge of an employee who, because of his medical condition, is unable to perform his duties, or cannot perform such duties in a manner which would not endanger his health or safety or the health or safety of others.

22. A WORKER WANTS TO KNOW IF WORKERS COMPENSATION WILL PAY FOR TREATMENT RECEIVED FROM A DOCTOR PRACTICING IN MEXICO.

DISCUSSION: Yes. Workers compensation insurance companies must pay for services rendered by clinics and physicians licensed to practice in Mexico, or for that matter, Canada.

CODES OR REGULATIONS VIOLATED: 42 C.C.C. 47 (Arroyo), 42 C.C.C. 47 (Arroyo). C.C.C. stands for California Compensation Cases. In dealing with any insurance carrier, this citation should be sufficient.

SUGGESTED COURSES OF ACTION: File a claim for benefits with the nearest Workers Compensation office.

23. A WORKER WANTS TO KNOW IF S/HE HAS ACCESS TO HIS/HER OWN MEDICAL RECORDS.

DISCUSSION: Yes, under Federal and State law workers are entitled to access to their own medical records as are union representatives.

CODES OR REGULATIONS VIOLATED:

1. Cal/OSHA Safety Code, 3204.
2. Cal. Labor Code 6408.

SUGGESTED COURSES OF ACTION:

1. Take up the issue with the grower as a grievance.
2. File a complaint with Cal/OSHA
3. File a complaint with the Labor Commissioner.

EXTRACTS OF CODES OR REGULATIONS VIOLATED:

1. Cal/OSHA Safety Code

**3204. Access to Employee Exposure and Medical Records.**

(a) Purpose. The purpose of this section is to provide employees and their designated representatives and authorized representatives of the Chief of the Division of Occupational Safety and Health (DOSH) a right of access to relevant exposure and medical records. Access by employees, their representatives, and representatives of DOSH is necessary to yield both direct and indirect

improvements in the detection, treatment, and prevention of occupational disease. Each employer is responsible for assuring compliance with this section, but the activities involved in complying with the access to medical records provisions can be carried out, on behalf of the employer, by the physician or other health care personnel in charge of employee medical records. Except as expressly provided, nothing in this section is intended to affect existing legal and ethical obligations concerning the maintenance and confidentiality of employee medical information, the duty to disclose information to a patient/employee or any other aspect of the medical-care relationship, or affect existing legal obligations concerning the protection of trade secret information.

(b) Scope and Application.

(1) This section applies to each employer who makes, maintains, contracts for, or has access to employee exposure or medical records, or analyses thereof, pertaining to employees exposed to toxic substances or harmful physical agents.

(2) This section applies to all employee exposure and medical records, and analyses thereof, of employees exposed to toxic substances or harmful physical agents, whether or not the records are related to specific occupational safety and health standards.

(3) This section applies to all employee exposure and medical records, and analyses thereof, made or maintained in any manner by the employer, both on an in-house and on a contractual (e.g., fee-for-service) basis. Each employer shall assure that the preservation and access requirements of this section are complied with regardless of the manner in which records are made or maintained.

## 2. Cal. Labor Code

6408. All employers shall provide information to employees in the following ways, as prescribed by authorized regulations:

(a) Posting of information regarding protections and obligations of employees under occupational safety and health laws.

(b) Posting prominently each citation issued under Section 6317, or a copy or copies thereof, at or near each place a violation referred to in the notice of violation occurred.

(c) The opportunity for employees or their representatives to observe monitoring or measuring of employee exposure to hazards conducted pursuant to standards promulgated under Section 142.3.

(d) Allow access by employees or their representatives to accurate records of employee exposures to potentially toxic materials or harmful physical agents.

(e) Notification of any employee who has been or is being exposed to toxic materials or harmful physical agents in concentrations or at levels exceeding those prescribed by an applicable standard, order, or special order, and informing any employee so exposed of corrective action being taken.

(Repealed and added by Stats. 1973, Ch. 993.)

## 24. A WORKER WANTS TO KNOW IF THE EMPLOYER MUST KEEP A RECORD OF ALL MEDICAL RECOMMENDATIONS MADE BY THE DOCTOR.

DISCUSSION: The employer must keep such records.

### CODES OR REGULATIONS VIOLATED:

1. Cal/OSHA Safety Code, 3450(b).

SUGGESTED COURSES OF ACTION:

1. Take up as a complaint with the grower.
2. File a complaint with Cal/OSHA.

EXTRACTS OF CODES OR REGULATIONS VIOLATED:

1. Cal/OSHA Safety Code

(b) Record of Physician's Recommendations. The employer shall keep a record of all recommendations made by the medical supervisor and such record shall be made available to the Division of Industrial Safety on request.

25. A WORKER ASKS WHETHER NEW EMPLOYEES MUST BE ADVISED BY THE EMPLOYER THAT THEY ARE PROTECTED BY WORKERS COMPENSATION.

DISCUSSION: The Labor Code now requires that every employer must notify every new worker orally or in writing, at the time of hire or at the end of the first pay period, that the worker is entitled to Worker Compensation benefits.

CODES OR REGULATIONS VIOLATED:

1. Cal. Labor Code 3714.

SUGGESTED COURSES OF ACTION:

1. Take up as a complaint with the employer.
2. File a complaint with the Labor Commissioner.

EXTRACTS OF CODES OR REGULATIONS VIOLATED:

1. Cal. Labor Code

3714. Every employer subject to the compensation provisions of this code, except employers of employees defined in subdivision (d) of Section 3351, shall give every new employee, either at the time the employee is hired or by the end of his first pay period, written notice of the employee's right to receive workers' compensation benefits should he be injured on the job at any time while in the employer's employ. The information required by this section shall be in addition to the requirements of Section 3713.

(Amended by Stats. 1980, Ch. 852)

26. A WORKER WANTS TO KNOW IF THERE IS A WAY TO  
GET A HEALTH HAZARD EVALUATION OF CONDITIONS  
ON A SPECIFIC RANCH.

DISCUSSION: From time to time groups of workers in particular workplaces come down with health problems with no easily determined cause. NIOSH, the National Institute of Occupational Safety and Health, is a governmental agency that can help in these sorts of situations. They operate as medical detectives, investigating health problems. They do not have any power to fine or cite an employer but they do have the right to enter the workplace and make extensive investigations. Their recommendations often wind up being written into health codes and standards. Unfortunately right now their budget is severely cut and you may have to wait quite a while before getting an investigation. But it is worthwhile trying.

SUGGESTED COURSES OF ACTION: File a request for a health hazard evaluation with NIOSH. The form for this is included in the Appendix.



## SECTION IV -- PESTICIDE PROBLEMS

### 27. A WORKER WANTS TO KNOW THE SYMPTOMS OF PESTICIDE POISONING

DISCUSSION: There are two kinds of symptoms, one group known as acute, or immediately felt and visible; the others are called chronic and develop very slowly over a relatively long period of time because of long term repeated exposure to pesticides.

The acute, or obvious, symptoms are very like those of common afflictions. What is crucial is to be sensitive to situations on a ranch where several workers come down with the same symptoms at the same time. When this happens there is good reason to suspect pesticide poisoning. Under the law the grower is required to get immediate medical attention.

Here are the major physical symptoms:

<u>Mild Poisoning</u>	<u>Moderate Poisoning</u>	<u>Severe Poisoning</u>
skin rash	chest pains	drowsiness
headache	muscle twitchings	bronchial secretions
dizziness	inability to walk	convulsions
blurred vision	pinpoint pupils	
excessive sweating		
fatigue		
stomach cramps		
salivation		
loss of appetite		
nausea and vomiting		
swelling		
watery eyes		

SUGGESTED COURSES OF ACTION: Tell the workers to demand that the grower provide them with immediate medical attention. If he refuses, have the workers seek medical attention at the nearest clinic and approach the physicians with the information suggested in question 17 above.

### 28. A WORKER WANTS TO KNOW WHAT PESTICIDES ARE

DISCUSSION: Pesticides are chemical poisons designed to kill pests. This chart shows the pesticide by usage and by its scientific name:

Pest	Scientific name
Insects, bugs	Insecticide
Weeds, grasses, trees, etc.	Herbicide
Rats, mice, gophers, etc.	Rodenticide
Mold, fungus, rot, blight	Fungicide
Snails, slugs	Molluscicide
Eelworms, nematodes, plant-eating soil worms	Nematicide, Nematocide, or Nemacide

Pesticides are classified by chemical and common names. The chart below shows chemical and trade name for some pesticides most commonly used:

Insecticides			
Abate*	Dursban*	Mevinphos	
Banvel*	Fenthion	Parathion	
Barban	Dasanit*	Phorate	
Carbaryl	DDT	Phosvel*	
Carbon tetrachloride	Guthion*	Ronnel	
Diazinon*	Lindane	Rotenone	
Dichlorvos	Malathion	Ruelene*	
Dimethoate	Meta-Systox R*	Systox*	
Disulfoton	Methomyl	TEPP	
	Methyl Parathion	Toxaphene	
Herbicides			
AAtrex*	Diquat	Paraquat	Sutan*
Benefin	DSMA	Picloram	2,4,5-T
2,4-D	Eptam*	Probe*	TCA
Dalapon	Lasso*	Ramrod*	Vernam*
Dinitro	MSMA	Silvex	
Rodenticides			
Antu	Fumarin*	MGK*	Rodenticide
Diphacin*	Gophacide*	Warfarin	
Molluscicides			
Bayluscide*	Brestan*	Matacil*	
Fungicides			
Benomyl	Chloropicrin	Thiram	Ziram
Captan	Maneb	Zineb	
Nematocides			
EDB	Methyl Bromide	Nemacur*	
DBCP	Nellite*	Vapam*	

\*Proprietary names



29. A WORKER WANTS TO KNOW WHICH PESTICIDES  
ARE USED MOST COMMONLY ON THE CROP S/HE  
IS WORKING WITH.

DISCUSSION: It is strongly urged that readers obtain Fruits of Your Labor which contains 25 individual crop sheets with information on pesticide use for each specific crop in California.

Take a few minutes to familiarize yourself with these crop sheets. Then they can be used most successfully for training sessions with ranch committees and farmworkers who work one crop most of the time. The crop sheets simplify greatly the amount of information needed to deal with pesticide issues. The following summary of the families of pesticides and their affects on the human body should be read carefully also before proceeding to use the crop sheets.

**ORGANOPHOSPHATES**--These pesticides affect the nerves and cause symptoms like twitching eyelids. Mild acute poisonings may cause headache, vomiting, stomach cramps, diarrhea, salivation, trouble walking, tight chest, pinpoint pupils and muscle twitching. Symptoms can resemble the flu. A "cholinesterase" blood test is the only sure check for organophosphate poisoning.

**CARBAMATES**--Symptoms develop within 12 hours of exposure or during exposure. They include headache, dizziness, weakness and pinpoint pupils. More severe exposures may result in tremors, nausea, slowed heartbeat, salivation and breathing problems.

**ORGANOCHLORINES**--These pesticides also affect the nerves and can cause long term problems because they are stored in body fat. Symptoms include dizziness, nausea and vomiting, abdominal pain, loss of balance, irritability and excitement, seizures, breathing difficulties, and coma. Low level long term exposures may produce itchy skin rashes, soreness, appetite and weight loss.

**PHENOXY WEEDKILLERS**--These compounds may cause cancer, kidney damage, nervous disorders and birth defects. Severe symptoms are burning throat and cough if breathed in, vomiting and diarrhea if swallowed, dizziness and skin rashes.

**PARAQUAT WEEDKILLER**--Probably fatal if swallowed. Nose bleeds, discolored irregular fingernails, irritated eyes.

**SULPHUR**--Soreness, itching, red skin, dryness, swelling, soreness and redness of the eyes.

**DIMETHYLDITHIOCARBAMATES**--Chemicals to kill fungus. Symptoms are irritation of skin, eyes, mouth, throat and lungs.

**METHYLBROMIDE**--Fumigant for soils. Symptoms of acute poisoning appear 4-12 hours after exposure and include dizziness, headache, nausea and vomiting, abdominal pain, eye and throat irritation,

PENTACHLOROPHENOL--Weedkiller, fungicide, slug killer. Symptoms are skin, eye, nose and throat irritation. Acute poisonings include sweating, headache, nausea, fever, rapid heartbeat, chest and stomach pain, and thirst. Long term exposure may cause liver, kidney and bone marrow damages.

30. A WORKER OR GROUP OF WORKERS GET SICK ON THE JOB AND THE SYMPTOMS SEEM TO BE THOSE OF PESTICIDE POISONING.

DISCUSSION: First find out what pesticides have recently been applied on the ranch. The union agreements require the grower to give you this information. If the grower hired a professional firm to apply pesticides, you may have to phone the firm. Permits from the County Agricultural Commissioner are required for application of many of the most hazardous pesticides. In such cases you have to get the information from the County Agricultural Commissioner's office.

After you know the name or names of pesticides used in the past several weeks, check the crop sheet in the Fruits of Your Labor for this pesticide. The necessary information about the pesticide can be obtained there. There are many cases in which the grower strictly observed the re-entry dates and does not permit workers into the field until the waiting period is over. DON'T TAKE THE RE-ENTRY DATES AS GOSPEL. The times are only approximate and need revision. Sometimes pesticide residues don't break down as quickly as they are supposed to.

As soon as you know the name of the pesticide, arrange for medical attention for the affected workers. It is very important that ALL of the cases be reported.

31. A WORKER BRINGS YOU A LABEL FROM A PESTICIDE CONTAINER AND WANTS TO KNOW HOW TO READ IT, WHAT THE INGREDIENTS ARE AND WHAT THE HEALTH HAZARDS ARE

DISCUSSION: The fastest way to do this is to call the Hazard Evaluation System and Information Service office in Berkeley (HESIS) 415/540-2115. This is a new group, set up by Governor Brown, which functions out of the State Health Department. Their single mission is to answer such calls. They have quite a bit of clout with chemical manufacturers and can get quick information from them as well. This organization has easy access to a tremendous amount of information. They may want you to follow-up with a short letter for their files as well.

32. A WORKER HAS ASKED THE GROWER FOR INFORMATION ABOUT WHICH PESTICIDES ARE USED OR HAVE BEEN USED ON THE RANCH IN THE CURRENT SEASON. THE GROWER REFUSES TO GIVE THIS INFORMATION.

DISCUSSION: First, of course, UFW Union agreements provide that the growers shall provide extensive information to the ranch committees and union organization. The grower, therefore, is violating the contract. Second, a new law, Senate Bill 1874, was passed which requires that employers give workers and their representatives information about toxic substances which they may have been or are being exposed to. Lastly the general intent of the food and agricultural regulations governing worker safety and health provide a basis for complaining to the CDFA.

CODES OR REGULATIONS VIOLATED:

1. UFW Union Agreement, Article 14.
2. Senate Bill 1874.
3. CDFA regulations, Cal. Admin. Code, Title 3, Agriculture, Sections 12981, 2475.

SUGGESTED COURSES OF ACTION:

1. Take up the issue as a grievance with the grower.
2. File a complaint with Cal/OSHA.
3. File a complaint with the CDFA.
4. Check the California Agricultural Commissioner's files for names of pesticides used on the ranch.

EXTRACTS FROM CODES OR REGULATIONS VIOLATED:

1. UFW Union Agreement

*Article 14: HEALTH AND SAFETY*

*A. The Company and Union are interested in the health and safety of employees while working with the Company. It is understood and agreed that it is necessary in the sophisticated farming practices of today that certain agriculture chemicals must be used for the control of pests and growth of the product. The Company recognizes that the use of such chemicals that may be injurious to farm workers must be used in such a manner as not to cause injury to Company's employees. In order to assure the protection of Company's employees from injurious chemicals which may be applied by third parties with whom the Company may be engaged in a joint venture, partnership, or other agricultural*

arrangement, the Company agrees to insert a provision in all such contracts with third parties which provides that the third party will comply with all applicable laws relating to the health and safety of farm workers. Company will not use banned chemicals such as, but not limited to, DDT, DDD, DDE, Aldrin, and Dieldrin. Upon request by the Union to the Company, the Company shall provide Union with all records which would disclose the following information:

1. location of field treated with injurious materials;
2. name of materials used by brand name and chemical name and registration number;
3. date and time material was applied or to be applied and its formulation;
4. amount of material applied and its formulation and concentration;
5. method of application;
6. applicator's name and address, if any

B. The Company shall use its best efforts to ascertain from third parties with whom Company has entered into joint venture, partnership or other agricultural arrangement the records of such third party which would disclose the above information and provide the same to Union.

## 2. Senate Bill 1874

6430. This chapter shall be known and may be cited as the Hazardous Substances Information and Training Act.

6361. (a) The Legislature finds and declares the following:

(1) Hazardous substances in the workplace in some forms and concentrations pose potential acute and chronic health hazards to employees who are exposed to these substances.

(2) Employers and employees have a right and a need to know the properties and potential hazards of substances to which they may be exposed, and such knowledge is essential to reducing the incidence and cost of occupational disease.

6399.1. Compliance with regulations of the Director of Food and Agriculture issued pursuant to Section 12981 of the Food and Agricultural Code shall be deemed compliance with the obligations of an employer toward his or her employees under this chapter.

## 3. Cal. Admin Code

12981. The director shall adopt regulations to carry out the provisions of this article effective as soon as practicable, however, no later than the first calendar day of the 1974 Regular Session of the Legislature. Such regulations shall include, but are not limited to, all of the following subjects.

(a) Time limits for worker entry into areas treated with pesticides as determined by the director to be hazardous to worker safety.

- (b) Handling of pesticides.
- (c) Handwashing facilities.
- (d) Farm storage and commercial warehousing of pesticides.
- (e) Protective devices, including, but not limited to, respirators and eyeglasses.
- (f) Posting, in English and Spanish, of fields, areas, adjacent areas or fields, or storage areas.

The State Department of Public Health, until the operative date of Governor's Reorganization Plan Number 1 of 1970, and on after such date, the Department of Health shall participate in the development of any regulations adopted pursuant to this article. Such regulations that relate to health effects shall be based upon the recommendations of the Department of Public Health, until the operative date of Governor's Reorganization Plan Number 1 of 1970, and on and after such date, the Department of Health. The original written recommendations of the State Department of Public Health, any subsequent revisions of those recommendations, and the supporting evidence and data upon which the recommendations were based shall be made available upon request to any person.

#### 2475. Purpose of Article

(a) This article specifies work practices for employees who mix, load, apply, store, or otherwise handle pesticides for agricultural uses as defined in Section 11408, through subsection (c), of the Food and Agricultural Code, and for employees who are exposed to residues of these pesticides after application. In general, the work practices and safety requirements stated in this article are designed to reduce risk of exposure and to assure availability of medical services for employees who mix, load, apply or otherwise handle pesticides, and to provide safe working conditions for field and other workers.

(b) It is the express duty of employers to provide a safe workplace for employees and to order employees to follow safe work practices. Employers shall inform employees of pesticide safety hazards and pesticide safety regulations applicable to all activities they may perform. The employer is responsible for ordering that employees handle and use pesticides in accordance with the requirements of law, regulations, and label requirements.

### 33. A WORKER CALLS WITH THE NAME OF A SPECIFIC PESTICIDE AND WANTS TO KNOW WHAT ITS HAZARDS ARE AND WHAT HEALTH PRECAUTIONS ARE NECESSARY

DISCUSSION: Consult the crop sheet for the ranch where the worker is employed. All crop sheets list the high-hazard pesticides most commonly used on that crop. See the Appendix of this manual regarding re-entry level restrictions for such pesticides. If the information is not found on the crop sheet because the

pesticide is not listed, call one or more of the following--in this order: (1) HESIS 415/540-2115; (2) Dr. Maddy, California Department of Food and Agriculture, 1220 N. Street, Sacramento, 916/445-9280; (3) Labor Occupational Health Project, Berkeley 415/642-5507.

34. A WORKER REPORTS THAT THE DRIFT FROM AN AIRPLANE SPRAY HAS HIT THE CREW AND MANY FEEL SICK AND DISABLED.

DISCUSSION: The workers should be allowed to wash up as completely as possible and then should be taken for medical examinations and treatment immediately. And the grower should be required to get the name of the pesticide applicator from the neighboring grower. If possible, use a car to track down where the plane finally lands. The CAC should immediately be called and a verbal protest made about the spraying drift.

CODES OR REGULATIONS VIOLATED:

1. CDFA regulations, Cal. Admin. Code 2479(b).
2. CDFA regulations, airplane application of pesticides, 3090.1.

SUGGESTED COURSES OF ACTION:

1. Take up the issue with the grower as a grievance. He is required by the contract to provide safe and healthy working conditions. The situation would certainly seem ideal for a stop-work action. Only by pressuring the grower will it be possible to use his clout with his neighbors to see that all workers are protected from overruns.
2. File a complaint with the CDFA.
3. If local health ordinances exist, file a complaint. Even if there are none, write a strong letter to the Board of Supervisors and the county health department.

EXTRACTS FROM CODES OR REGULATIONS VIOLATED:

1. Cal. Admin. Code

*2479(b) Field Work During Pesticide Application*

*No person shall apply any pesticide in such manner that it contaminates the body or clothing of any employee during the*

application process, except for employees who are involved in the application process and who are wearing the appropriate protective clothing and/or equipment.

## 2. CDFA regulations

3090.1. Reports of Vehicle Accidents, Forced Landings, Emergency or Accidental Release. Each person engaged for hire in the business of pest control shall report to the commissioner, or to the director in any county where there is no commissioner, any vehicle accident, forced landing, emergency or accidental release of pesticides involving vehicles, aircraft or other equipment used to transport, mix or apply any pesticide. Such report shall be made promptly, in any event within 12 hours, and shall include the name of the pilot if an aircraft was involved, the licensed pest control operator, the location, name of the property owner or operator, the name of the pesticide and estimated amount. The report shall be made as quickly as practicable by telephone or radio if the pesticide poses a hazard of immediate danger to man, animals, marine life, or the environment, or substantial injury to property.

35. A WORKER CALLS AND SAYS THE GROWER IS ORDERING PEOPLE TO WORK DESPITE THE POSTED WARNING SIGN TELLING WORKERS NOT TO RE-ENTER THE FIELD.

DISCUSSION: The grower is in clear violation of the CDFA rules. Workers should refuse to work. Call the CAC immediately and lodge a protest. Point out to the grower that he is in violation of the law.

## CODES OR REGULATIONS VIOLATED:

1. UFW Union Agreement Article 14
2. CDFA regulation, Cal Admin Code 2479(c)

## SUGGESTED COURSES OF ACTION:

1. Take up the issue with the grower as a grievance. Don't let anyone go to work in the field until the required re-entry date has passed.
2. File a complaint with CDFA.

## EXTRACTS FROM CODES OR REGULATIONS VIOLATED:

1. UFW Union Agreement, Article 14, see above, p. 43.

1. Cal. Admin. Code Section 2479(c)(c) Field Reentry After Pesticide Application.

(1) Employees shall not be permitted to enter any area of a field treated with any pesticide until the pesticide spray has dried or the pesticide dust has settled unless that employee wears the same protective clothing and equipment specified for the applicator in the labeling of that pesticide. In no case does the waiting period for the drying or settling to occur need to exceed 24 hours.

2480. Warnings.

(a) Employees who might reasonably be anticipated to enter an area being treated or which has been treated with a pesticide for which the safety interval has not expired shall be orally warned by the employer. Oral warnings shall be given in English. When employees do not understand English such oral warning shall be in a language understood by such employees.

(b) When azinphosmethyl (Guthion), demeton (Systox), dimecron (Phosphamidon), carbophenothion (Trithion), EPN, ethion, Torak, phosalone (Zolone), parathion, and/or methyl parathion have been applied and the application results in a safety interval greater than four days, the posting of warning signs is also required.

(1) The farm operator, or his agent shall post warning signs at the usual point or points of entry and in addition in a manner prescribed by the commissioner. When treated fields requiring posting are adjacent to a public right-of-way and are unfenced, warning signs shall be posted at each corner and at intervals not exceeding 600 feet in addition to the normal points of entry.

(2) Posted warning signs shall be of such durability and construction that they will remain clearly legible for the duration of the safety interval, will be of such size so that the word "DANGER" is readable and two skull and crossbone symbols are clearly evident at a distance of 25 feet, and will read in the English and Spanish languages substantially as follows:

<u>DANGER</u>	<u>PELIGRO</u>	Use of a third language on sign is permissible.
skull & crossbones here	skull & crossbones here	
<u>name of pesticide</u> here	<u>name of pesticide</u> here	
DO NOT ENTER UNTIL <u>date</u>	DO NOT ENTER UNTIL <u>date</u>	
<u>growers name &amp; field identification</u>	<u>growers name &amp; field identification</u>	



(3) *These signs shall not be posted unless a pesticide application has been made or is scheduled within the next 24 hours.*

(4) *These signs shall not be removed during the safety interval.*

(5) *Warning signs shall be removed by the farm operator or his agent within 5 days after the end of the safety interval and before employees are allowed to enter to engage in an activity requiring substantial contact with treated plants.*

### 36. A WORKER REPORTS THAT THE RE-ENTRY SIGNS ARE POSTED ONLY IN ENGLISH.

DISCUSSION: This is a clear violation of regulations. The signs must be posted in at least Spanish and English and also other languages if, for example, Chinese or Filipinos or other Asians who work in the fields.

#### CODES OR REGULATIONS VIOLATED:

1. CDFA regulations, Cal. Admin. Code 2480, see p. 47.

#### SUGGESTED COURSES OF ACTION:

1. Take the issue up with the grower immediately because he has the responsibility for posting the correct signs.
2. File a complaint with the CDFA.

### 37. A WORKER REPORTS THAT THE SUPERVISORS ON THE RANCH KNOW LITTLE OR NOTHING ABOUT PESTICIDES OR THE SYMPTOMS OF PESTICIDE POISONING.

DISCUSSION: All growers are required by law to train their supervisors in the health hazards of pesticides and, in particular, the health symptoms so that when workers report they are sick, the supervisors can get prompt medical attention. This is the "theory" of the law. In practice, most supervisors receive no training; few growers want workers taking time off the job to get medical aid at the grower's expense.

CODES OR REGULATIONS VIOLATED:

1. CDFA regulations, Cal. Admin. Code 2749.

SUGGESTED COURSES OF ACTION:

1. Take up this issue with every grower at the start of each season. Point out that the law requires that supervisors receive training in pesticide hazards and ways to regulate the acute medical effects of residue exposure. Try to make sure the grower in fact does train his supervisors.
2. If you catch the grower in violation of this part of the law, file a complaint with the CDFA.
3. Write a letter to the Board of Supervisors, County Health Department; send a copy to Art Carter, Chief, Cal/QSHA.

EXTRACTS OF CODES OR REGULATIONS VIOLATED:

- 1: Cal. Admin. Code 2749.

*(3) Field work supervisors shall be informed of the usual symptoms of organophosphate and carbamate poisoning.*

38. A WORKER REPORTS THAT THE GROWER HAS NO PESTICIDE PROTECTION PROGRAM OF ANY KIND.

DISCUSSION: Every grower who applies pesticides in a field which is regulated by state law, must have a program designed to protect the safety and health of his workers. Failures to live up to these regulations are violations of the law. Getting the law enforced is not always so easy however. When an inspector from CDFA appears at the ranch, he is required to check all aspects of the pesticide program in effect, including worker safety and health.

CODES OR REGULATIONS VIOLATED:

1. CDFA regulations, Cal. Admin. Code 2475(a)(b), see p. 44, above.

SUGGESTED COURSES OF ACTION:

1. Show each grower the list of requirements he must meet to protect workers' safety and health with regard to pesticide poisoning. Try to make sure each grower complies with all requirements. If a grower refuses to cooperate, file a complaint.

39. A WORKER WANTS TO KNOW IF A GROWER IS IN VIOLATION OF THE LAW IF THEY FAIL TO COMPLY WITH PESTICIDE REGULATIONS.

DISCUSSION: The answer is yes. However, generally violations are considered misdemeanors and the penalty is only \$500, at the present time, for each specific offense. Moreover, it is necessary to get the District Attorney in the County to file the cases in court and usually this is politically difficult to achieve.

CODES OR REGULATIONS VIOLATED:

1. Food and Agricultural Code, Sections 9 and 11791.

SUGGESTED COURSES OF ACTION:

1. Visit the District Attorney and try to persuade him/her to take action.
2. Write to the Attorney General's office.
3. Write or wire the Governor's office, as well as other politicians.

EXTRACTS OF CODES AND REGULATIONS VIOLATED:

1. Food and Agricultural Code

*Section 9. Misdemeanor; general penalty*

*Unless a different penalty is expressly provided, a violation of any provision of this code is a misdemeanor. (Stats.1967,c.15.)*

*Section 11791. Unlawful acts*

*It is unlawful for any person that is subject to this division to do any of the following:*

*(a) Make any false or fraudulent claim, or misrepresent the effects of material or method to be applied, apply and worthless or improper material, or otherwise engage in any unfair practices.*

*(b) Operate in a faulty, careless or negligent manner.*

*(c) Refuse to neglect to comply with any provision of this division, or any regulations issued pursuant to it, or any lawful order of the commissioner.*

*(d) Refuse or neglect to keep and maintain the records which are required by this division, or to make reports when and as required. (Stats. 1967, c. 15.)*

40. A WORKER CAN NO LONGER ENTER A FIELD  
WITHOUT BREAKING OUT WITH AN ALLERGIC  
REACTION. WHAT CAN BE DONE ABOUT THIS?

DISCUSSION: The intensive use of pesticides has only been going on for a relatively short period of time. More and more cases are being reported of farmworkers who have worked in the fields for many years who now are so sensitized that they cannot even walk on a ranch without breaking out with some kind of reaction. What is even more alarming are reports of heart, lung, kidney damage, damage to the nervous system, abortions and birth defects as well as other medical problems.

It is of tremendous importance that all these cases be reported and documented. There are clinics available which will treat such workers who now have chronic pesticide poisoning that severely affects their ability to work or to have normal children.

SUGGESTED COURSES OF ACTION:

1. Take the worker to a clinic for a thorough check up. For advice as to names of clinics and/or doctors who will sympathetically handle these kinds of cases, call the Labor Occupational Health Project, 415/642-5507.

41. A WORKER WANTS TO KNOW IF THEY CAN SUE  
ANYONE BECAUSE OF BEING POISONED BY  
PESTICIDES.

DISCUSSION: The law provides for individual workers or groups of workers to be able to file what are called third party suits against suppliers of chemicals, machinery or other equipment which may injure a worker or group of workers.

SUGGESTED COURSES OF ACTION: Discuss this question with the Union attorneys.



## SECTION V -- HEALTH AND SAFETY JOB PROTECTION RIGHTS

42. A WORKER OR GROUP OF WORKERS REFUSES TO WORK BECAUSE OF AN UNSAFE OR UNHEALTHY CONDITION.

DISCUSSION: The Cal/OSHA law as incorporated into the Labor Code, gives workers the right to refuse to work if an unsafe or hazardous condition exists. The union agreements also provide this kind of protection. However, the language of the law is subject to differing interpretations. The best course of action is to handle refusals to work through the union organization and build a good case with the grower as to why people are refusing to work. However, in the event people have already stopped work and the grower takes disciplinary action by suspending or discharging the workers involved, then the following steps suggested under courses of action below may be appropriate.

### CODES OR REGULATIONS:

1. UFW Union Agreement, Article 14.
2. Cal. Labor Code 1140, 1152, 1153, 6311, 6312.

### SUGGESTED COURSES OF ACTION:

1. Take the issue up as a grievance.
2. File a complaint with the Agricultural Labor Relations Board.
3. File a complaint with the Division of Labor Law Enforcement.

### EXTRACTS OF CODES OR REGULATIONS VIOLATED:

1. UFW Union Agreement, Article 14, Section C.

*C. No worker shall be required to work in any work situation which would immediately endanger his health or safety.*

2. Cal. Labor Code

1140.2. It is hereby stated to be the policy of the State of California to encourage and protect the right of agricultural employees to full freedom of association, self-organization, and designation of representatives of their own choosing, to negotiate the terms and conditions of their employment, and to be free from the interference, restraint, or coercion of employers of labor, or their agents, in the designation of such representatives or in self-organization or in other concerted activities for the purpose of collective bargaining or other mutual aid or protection. For this purpose this part is adopted to provide for collective-bargaining rights for agricultural employees.

(Added by Stats. 1975 (3rd Ex. Sess.), Ch. 1.)

1152. Employees shall have the right to self-organization, to form, join, or assist labor organizations, to bargain collectively through representatives of their own choosing, and to engage in other concerted activities for the purpose of collective bargaining or other mutual aid or protection, and shall also have the right to refrain from any or all of such activities except to the extent that such right may be affected by an agreement requiring membership in a labor organization as a condition of continued employment as authorized in subdivision (c) of Section 1153.

1153. It shall be an unfair labor practice for an agricultural employer to do any of the following:

(a) To interfere with, restrain, or coerce agricultural employees in the exercise of the rights guaranteed in Section 1152.

6311. No employee shall be laid off or discharged for refusing to perform work in the performance of which this code, any occupational safety or health standard or any safety order of the division or standards board will be violated, where such violation would create a real and apparent hazard to the employee or his fellow employees. Any employee who is laid off or discharged in violation of this section or is otherwise not paid because he refused to perform work in the performance of which this code, any occupational safety or health standard or any safety order of the division or standards board will be violated and where such violation would create a real and apparent hazard to the employee or his fellow employees shall have a right of action for wages for the time such employee is without work as a result of such layoff or discharge; provided, that such employee notifies his employer of his intention to make such a claim within 10 days after being laid off or discharged and files a claim with the Labor Commissioner within 30 days after being laid off, or discharged or otherwise not paid in violation of this section.

(Repealed and added by Stats. 1973, Ch. 993.)

6312. Any employee who believes that he has been discharged or otherwise discriminated against by any person in violation of Section 6310 or 6311 may, within 30 days after the occurrence of the violation, file a complaint with the Labor Commissioner alleging the discrimination. Upon receipt of the complaint, the Division of Labor Law Enforcement shall cause such investigation to be made as it deems appropriate. If upon investigation it determines that the provisions of Section 6310 or 6311 have been violated, it shall bring an action in any appropriate court against the person who committed the violation. In any such action the courts shall have jurisdiction, for cause shown, to restrain violations of Section 6310 or 6311 and order all appropriate relief including rehiring or reinstatement of the employee to his former position with back pay.

Within 30 days of the receipt of a complaint pursuant to this section, the Division of Labor Law Enforcement shall review the facts of the employee's complaint, set a hearing date or notify the employee and the employer of its decision, and, where necessary, begin the appropriate court action to enforce such decision.

(Repealed and added by Stats. 1973, Ch. 993.)

#### 43. A WORKER OR GROUP OF WORKERS REFUSES TO WORK BECAUSE OF EXPOSURE TO PESTICIDE POISONS OR OTHER RELATED HEALTH PROBLEMS.

DISCUSSION: The California Department of Food and Agriculture has issued a number of regulations designed to protect the safety and health of farmworkers, particularly regarding pesticides.

Unfortunately the regulations have little teeth in them and the enforcement is vested in each separate County Agricultural Commissioner's office, in most instances. However, if a worker or group of workers is poisoned and requires medical care and refuses to work because of such poisoning; or if they are sprayed by an aerial applicator and walk off the job, there are regulations to back up and support such action if the grower attempts to take disciplinary action of any kind.

#### CODES OR REGULATIONS VIOLATED

1. CDFA regulations--Interdepartmental Manual.
2. Cal. Labor Code 6311, see above, p. 53.

#### SUGGESTED COURSES OF ACTION:

1. File a grievance under the terms of the Union Agreement.
2. File a complaint with the Agricultural Labor Relations Board.
3. File a complaint with the California Dept. of Food and Agriculture.
4. File a complaint with the Division of Labor Law Enforcement.

#### EXTRACTS OF CODES OR REGULATIONS VIOLATED:

1. Interdepartmental Pesticide Worker Safety Manual, Pertaining to Employee Complaints, Fatalities, Catastrophies, prepared by State of California Department of Food and Agriculture, Agricultural Chemicals and Feed, and Department of Industrial Relations, Div. of Industrial Safety.

p. 10.

*In addition, California law provides that no employee shall be discharged or penalized for refusing to perform work in performance of which the DFA Pesticide Worker Safety Regulations or any Occupational Safety and Health Standard or any safety order of the Division or Standards Board will be violated, where such violation would create a real and apparent hazard to the employee or his fellow employees.*



44. A CAL/OSHA INSPECTOR SHOWS UP ON THE RANCH  
AND THE GROWER WON'T LET A UNION REPRESENTATIVE  
ACCOMPANY THE INSPECTOR.

DISCUSSION: The law very clearly gives workers the right to have their own representatives accompany an OSHA inspector when s/he investigates a complaint or shows up for any reason on the job. It is best to have selected the union representative and briefed him/her on the nature of the complaint, the standards violated and what the ranch committee-person's rights are. However in cases of complaints filed by individuals, which are unknown to the union, the OSHA inspector MUST ask for the union representative on the job. If the grower won't permit the ranch representative to leave the job, file a complaint with Cal/OSHA.

CODES OR REGULATIONS VIOLATED:

1. Cal. Labor Code 6314.

SUGGESTED COURSES OF ACTION:

1. Take up the issue with the grower as a grievance.
2. File a complaint with Cal/OSHA.

EXTRACTS FROM CODES OR REGULATIONS VIOLATED:

1. Cal. Labor Code

6314. (a) To make an investigation or inspection, the chief of the division and all employees authorized by him shall, upon presenting appropriate credentials to the employer, have free access to any place of employment. Any person who obstructs or hampers such an investigation or inspection which is authorized by the division, is guilty of a misdemeanor.

(b) Any employer or authorized representative, who upon demand by the division neglects or refuses to furnish statistics, information or any physical materials in his possession or under his control, which is directly related to the purpose of the investigation or inspection, or who refuses to admit the chief or his authorized representatives engaged in the performance of their duties to a place of employment, is guilty of a misdemeanor.

(c) The chief and his authorized representatives may issue subpoenas to compel the attendance of witnesses and the production of books, papers, records, and physical materials, administer oaths, examine witnesses under oath, take verification or proof of written materials, and take depositions and affidavits for the purpose of carrying out the duties of the division.

(d) In the course of any investigation or inspection of an employer or place of employment by an authorized representative of the division, a representative of the employer and a representative authorized by his employees shall have an opportunity to accompany him on the tour of inspection. Any employee or employer, or their authorized representatives, shall have the right to discuss safety violations or safety problems with the inspector privately during the course of an investigation or inspection. Where there is no authorized employee representative, the chief or his authorized representative shall consult with a reasonable number of employees concerning matters of health and safety of the place of employment.

(Repealed and added by Stats. 1973, Ch. 993.)

45. A COUNTY AGRICULTURAL COMMISSIONER SHOWS UP ON THE RANCH TO MAKE AN INSPECTION. IS THE UNION REPRESENTATIVE REQUIRED TO PARTICIPATE IN THE INSPECTION?

DISCUSSION: By agreement between various agencies such as the CDFA and Cal/OSHA, a protocol has been worked out and a set of rules which require that a County Agricultural Commissioner must check out all aspects of worker health protection and the handling of pesticides when he appears on a ranch. Included in these regulations is the further requirement that he immediately ask for a union representative to accompany him in his investigations.

CODES OR REGULATIONS VIOLATED:

1. CDFA Regulations--Interdepartmental Manual, p. 11.
2. Cal. Labor Code 6314(d), see above, p. 55.

SUGGESTED COURSES OF ACTION:

1. File a complaint with the County Agricultural Commissioner.
2. If the County Agricultural Commissioner fails to uphold the rights of a union representative to participate in his inspection, file a complaint with the Director of the California Department of Food and Agriculture, 1220 N Street, Sacramento 95814.

EXTRACTS FROM CODES OR REGULATIONS VIOLATED:

1. Interdepartmental Manual, p. 11.
5. *Employees have the right to talk to compliance officers, to point out hazards during the inspection process, and to be notified of any relevant job hazards (Labor Code Section 6314(d).) The Labor Code requires that a representative of the employer and a representative authorized by the employees be given an opportunity to accompany the investigator during the inspection of a work place in order to give them an opportunity to point out hazardous conditions to the investigator. All of the above rights are conferred upon representatives of employees, as well as the workers themselves. Further, representatives of employees have the right to accompany the investigator during the inspection, and may request a closing conference explaining the outcome of the inspection.*

46. A WORKER OR GROUP OF WORKERS IS FIRED,  
DISCIPLINED OR DISCRIMINATED AGAINST  
BECAUSE THEY ENGAGED IN SAFETY AND  
HEALTH ACTIVITIES.

DISCUSSION: The law clearly provides protection for workers who raise safety complaints, questions about pesticides and related matters. Proving that this kind of activity is the reason for disciplinary action is not always easy. The more workers join together in working together on these kinds of problems so that there are plenty of witnesses available to support the union's position that a grower discriminated against a particular person or groups of workers, the better the chances will be to win the case.

CODES OR REGULATIONS VIOLATED:

1. Cal. Labor Code 6309-6310.
2. Interdepartmental Manual, see above p. 54.
3. Violates basic organizing rights under the Agricultural Labor Relations Board.

SUGGESTED COURSES OF ACTION:

1. File a complaint with the Division of Labor Law Enforcement.
2. File an Agricultural Labor Relations Board complaint.
3. File a grievance with the grower.

EXTRACTS OF CODES OR REGULATIONS VIOLATED:

1. Cal. Labor Code

6309. Whenever the division learns or has reason to believe that any employment or place of employment is not safe or is injurious to the welfare of any employee, it may, of its own motion, or upon complaint, summarily investigate the same, with or without notice or hearings. However, when the division secures a complaint from an employee, the employee's representative, or an employer of an employee directly involved in an unsafe place of employment, that his employment or place of employment is not safe, it shall, with or without notice or hearing, summarily investigate the same as soon as possible, but not later than three working days after receipt of a complaint charging a serious violation, and not later than 14 calendar days after receipt of a complaint charging a nonserious violation. For purposes of this section, a complaint shall be deemed to allege a serious violation if the division determines that the complaint charges that there is a substantial probability that death or serious physical harm could result from a condition which exists, or from one or more practices, means, methods, operations, or processes which have been adopted or are in use in a place of employment. All other complaints shall be deemed to allege nonserious violations. The division may enter and serve any necessary order relative thereto. The division is not required to respond to any complaint within such period where, from the facts stated in the complaint, it determines that the complaint is intended to willfully harass an employer or is without any reasonable basis.

The division shall keep complete and accurate records of any such complaints, whether verbal or written, and shall inform the complainant, whenever his identity is known, of any action taken by the division in regard to the subject matter of the complaint, and the reasons for such action. The division shall, pursuant to authorized regulations, conduct an informal review of any refusal by a representative of the division to issue a citation with respect to any such alleged violation. The division shall furnish the employee or the representative of employees requesting such review a written statement of the reasons for the division's final disposition of the case.

The name of any person who submits to the division a complaint regarding the unsafeness of an employment or place of employment shall be kept confidential by the division unless that person requests otherwise.

The requirements of this section shall not relieve the division of its requirement to inspect and assure that all places of employment are safe and healthful for employees. The division shall maintain the capability to receive and act upon complaints at all times.

(Amended by Stats. 1976, Ch. 544.)

6310. (a) No person shall discharge or in any manner discriminate against any employee because such employee has either (1) made any oral or written complaint, to the division, other governmental agencies having statutory responsibility for or assisting the division with reference to employee safety or health, his employer, or his representative, or (2) instituted or caused to be instituted any proceeding under or relating to his rights or has testified or is about to testify in any such proceeding or because of the exercise by such employee on behalf of himself or others of any rights afforded him.

(b) Any employee who is discharged, threatened with discharge, demoted, suspended, or in any other manner discriminated against in the terms and conditions of such employment by his employer because such employee has made a bona fide oral or written complaint to the division, other governmental agencies having statutory responsibility for or assisting the division with reference to employee safety or health, his employer, or his representative, of unsafe working conditions, or work practices, in his employment or place of employment shall be entitled to reinstatement and reimbursement for lost wages and work benefits caused by such acts of the employer. Any employer who willfully refuses to rehire, promote, or otherwise restore an employee or former employee who has been determined to be eligible for such rehiring or promotion by a grievance procedure, arbitration, or hearing authorized by law, is guilty of a misdemeanor.

(Amended by Stats. 1977, Ch. 460.)

#### 47. A WORKER IS DENIED PAY FOR PARTICIPATING IN A CAL/OSHA OR COUNTY AGRICULTURAL COMMISSIONER INSPECTION.

**DISCUSSION:** Payment of workers making safety and health walk-arounds with inspectors has been much disputed in the courts. Federal OSHA had to withdraw one regulation and now has proposed a new rule which provides for payment to worker representatives. This may also be challenged once again in the courts. However in California workers are entitled to these rights whether making a safety or health inspection. If a grower denies such pay, file a complaint.

CODES OR REGULATIONS VIOLATED:

1. Cal. Labor Code 6314(d), see above, p. 55.
2. CDFA regulation, Interdepartmental Manual, p. 15.

SUGGESTED COURSES OF ACTION:

1. Take up the issue as a grievance.
2. File a claim with the Division of Labor Law Enforcement.
3. File a Cal/OSHA complaint.
4. File a complaint with the California Department of Food and Agriculture.

EXTRACTS OF CODES OR REGULATIONS VIOLATED:

1. Interdepartmental Manual, p. 15

*In addition, the investigator must contact the employee representative (if there is one) or his designee to also accompany him during the inspection. The inspection should not be delayed to wait for the employer's or employee's representative longer than would be reasonably necessary for them to be present. If the work site does not have union representation, the investigator must interview several employees concerning matters of safety and health during the course of the inspection. Their interviews will be conducted privately.*

43. A WORKER IS KILLED ON THE RANCH OR FIVE OR MORE WORKERS ARE SERIOUSLY INJURED OR POISONED BY PESTICIDES.

DISCUSSION: Under the law, if a worker is killed or if five or more workers are seriously injured or poisoned by pesticide exposure, then all of the agencies become involved in an investigation of what has taken place. Specifically under California law there is an organization known as the Bureau of Investigations which is supposed to come in and make a thorough inquiry into what happened. The results of their investigations are then turned over to the District Attorney and the DA has the responsibility of taking legal action against the grower or his representatives (foremen), if workers were required to

perform unsafe acts or be exposed to dangerous pesticides such that they became ill. The union has the right to participate fully and have access to the results of the Bureau's work. Technically the employer is supposed to notify the Bureau when a serious accident or death occurs. Practically speaking, when such an event takes place, the union should notify Cal/OSHA and demand that the Bureau be sent in to investigate.

#### CODES OR REGULATIONS VIOLATED:

1. Cal. Labor Code 6315.
2. CDFA regulation, Interdepartmental Manual, p. 18.

#### SUGGESTED COURSES OF ACTION:

1. Through the union organization, worker ranch committees should get as many of the facts as soon as the incident occurs.
2. Call the Division of Occupational Safety and Health and demand that the Bureau of Investigation be assigned at once.
3. File complaints with Cal/OSHA and CDFA against the grower.

#### EXTRACTS OF CODES OR REGULATIONS VIOLATED:

1. Cal. Labor Code

6315. There shall be within the division a Bureau of Investigations. The bureau shall be responsible for directing accident investigations involving violations of standards, orders, or special orders, or Section 25910 of the Health and Safety Code, in which there is a serious injury to five or more employees, death, or request for prosecution by a division representative, and for preparing cases for prosecution, including evidence and findings.

(a) The supervisor of the bureau shall be the administrative chief of the bureau.

(b) The bureau shall be staffed by as many attorneys and investigators as are necessary to carry out the purposes of this chapter.

(c) The supervisor of the bureau and such investigators as are designated by him shall have a right of access to all places of employment necessary to the investigation, may collect any evidence or samples they deem necessary to an investigation, and shall have all of the powers enumerated in Section 6314.

(d) The supervisor and investigators of the bureau may serve all processes and notices throughout the state.

(e) In any case where the bureau is required to conduct an investigation, and in which there is a serious injury or death, the results of the investigation shall be referred by the bureau to the city attorney or district attorney having jurisdiction for appropriate action.

(Amended by Stats. 1977, Ch. 62. Effective May 18, 1977.)

2. Interdepartmental Manual, p. 18

The DIS is required by Labor Code Section 6313(a) to investigate the causes of any employment accident which is fatal to one or more employees or which results in a serious injury to five or more employees or requires hospitalization for more than 24 hours. However, the DFA will normally be the lead agency and in any case, will provide DIS with technical information. DFA, in cooperation with the CAC, will conduct an investigation as may be required by the Food and Agricultural Code. Reports of the investigation will be sent by DFA to DIS, DH, and EPA. Based upon the information provided, DIS will determine whether additional action by DIS is necessary, and if so, inform DFA.

CAC will immediately take any action under their authority to eliminate any hazard that may cause additional illness or injury, e.g., stop pesticide application near field workers, quarantine the field, require the employer to take additional exposed workers to a medical facility for treatment, etc.

49. AN AGENCY, OR GROUP OF AGENCIES, FAILS TO RESPOND TO A UNITED FARMWORKER COMPLAINT OR REFUSES TO ACT FAVORABLY ON THE COMPLAINT AFTER AN INVESTIGATION.

DISCUSSION: Each agency is very responsive to political pressure. Each also has an appeal procedure which can be utilized by the union. The key thing is not to take "no" for an answer, and to go over the head of the local people in a particular agency if need be.





## SECTION VI -- SPECIAL PROTECTION FOR MIXERS, APPLICATORS AND LOADERS OF PESTICIDES

GENERAL DISCUSSION: The law provides extra protection for workers in these occupations because they suffer the highest exposure to pesticides. Regulations have been developed covering protection for specific pesticides; regulations have been developed relative to respirators, the kinds of closed systems required for mixing pesticides and a variety of other subjects. This material is too bulky to include in this manual. However, persons representing mixers, applicators and loaders may secure additional information about precautions for specific crops and specific pesticides and related rights by:

1. Calling the Labor Occupational Health Project, 415/642-5507.
2. Calling the Worker Health and Safety Unit, California Department of Food and Agriculture, 916/445-8474.

Growers who employ their own mixers, applicators and loaders are required to have full knowledge of and comply with all of the relevant laws and regulations.

### A WORKER WANTS TO KNOW. . .

50. . . IF THE EMPLOYER MUST PROVIDE FOR MEDICAL CARE.
51. . . IF THE EMPLOYER MUST PAY FOR AND PROVIDE FOR REGULAR MEDICAL CHECK UPS.
52. . . IF THE EMPLOYER MUST POST A SIGN TELLING THE NAME, ADDRESS AND PHONE FOR A PHYSICIAN WHO CAN PROVIDE MEDICAL CARE.
53. . . IF THE EMPLOYER MUST KEEP MEDICAL RECORDS AND IF S/HE MAY HAVE ACCESS TO THEM.
54. . . IF S/HE IS ENTITLED TO BLOOD TESTS.
55. . . IF S/HE CAN CHOOSE THE LAB TO DO THE MEDICAL WORK.
56. . . IF S/HE IS ENTITLED TO BE TRAINED IN THE HAZARDS OF PESTICIDE USE.
57. . . IF THE EMPLOYER MUST PROVE THAT THEY HAVE PROVIDED ADEQUATE TRAINING.
58. . . IF S/HE IS ENTITLED TO PROTECTIVE CLOTHING AND OTHER EQUIPMENT.

- 59. . . IF S/HE IS ENTITLED TO SAFE EQUIPMENT.
- 60. . . IF S/HE IS ENTITLED TO HAVE ADEQUATE LIGHTING WHEN MIXING AND LOADING PESTICIDES.
- 61. . . IF S/HE MUST WORK ALONE IN APPLYING PESTICIDES.
- 62. . . IF S/HE IS ENTITLED TO A PLACE TO STORE REGULAR CLOTHING.
- 63. . . IF S/HE IS ENTITLED TO TAKE SHOWERS.
- 64. . . IF PEOPLE UNDER AGE 18 CAN WORK.

DISCUSSION: The answer to questions 49-63 above, is, in general, yes.

CODES OR REGULATIONS VIOLATED:

- 1. CDFA Regulations, Pesticide Safety Information Series A-6, Summary of Pesticide Worker Safety Regulations.
- 2. California Food and Agricultural Code, Art. 23, Sections 2475-2478. (Material too lengthy to be reprinted here.)

SUGGESTED COURSES OF ACTION:

- 1. Send a copy of the regulations reprinted below, covering mixers, applicators and loaders, to the employers. This puts it on record that they have direct knowledge of the safety and health conditions they are required to supply.
- 2. Use these regulations as a basis for the following:
  - a. taking up a complaint as a grievance with the grower;
  - b. filing a complaint with the CDFA, County Agricultural Commissioner in the event of any violation.

EXTRACTS FROM CODES OR REGULATIONS VIOLATED:

- 1. CDFA, Pesticide Safety Information Series A-6.

*The purpose of the pesticide worker safety regulations is to specify safe work practices for employees who mix, load, apply, store, or otherwise handle pesticides or enter treated areas. Important points covered by the regulations include:*

- 1. *Employees who mix or load pesticides with the signal word "DANGER" or "WARNING" shall not be under 18 years of age unless closed systems are used.*

2. Employees who work with pesticides shall be given adequate training in the use of the pesticides. When employees work with pesticides with the signal word "DANGER" this training shall be completed prior to working with these pesticides. When employees work with pesticides other than those with the signal word "DANGER" and training has not been completed, they shall be provided with direct supervision at least once every 2 hours during the daytime and once every hour at night.
3. Arrangements for emergency medical care for employees working with pesticides shall be made in advance, and the place to obtain this care shall be posted prominently at the work site.
4. Employees who work without closed systems and whose exposure period exceeds 30 hours in a 30-day period with organophosphate or carbamate pesticides that carry the signal word "DANGER" or "WARNING" shall be provided with appropriate medical supervision that includes periodic cholinesterase blood tests. Examples of organophosphates are parathion, Guthion, Phosdrin, TEPP, Thimet, ethion, and Diazinon; examples of carbamates are Lannate, Nudrin, Carzol, Temik, and Furadan.
5. Employees working with pesticides carrying the signal word "DANGER" shall have periodic contact with another person at least once every 2 hours during the daytime and at least once every hour at night.
6. A place shall be provided for employees to wash and change clothing after working with pesticides that carry the signal word "DANGER" or "WARNING".
7. Clean water, soap, and towels for personal washing shall be available at the site where employees mix or load pesticides that carry the signal word "DANGER" or "WARNING".
8. Employers shall provide all necessary protective clothing and safety equipment. Employers shall also provide clean outer clothing daily--such as coveralls--for employees who work with pesticides carrying the signal word "DANGER" or "WARNING".
9. Employers shall advise each employee of the necessary safety procedures he should follow and the safety equipment that he should use in accordance with requirements on the label. (A separate regulation requires that a pesticide be used in accordance with the label; this means that the employer must require his employees to follow safety procedures on the label.)
10. Pesticide mixing, loading, and application equipment used by employees shall be safe to use. This equipment is subject to inspection at any time.
11. Employees who service pesticide equipment shall be properly informed and protected from the hazards of working on that equipment.

12. When pesticides carrying the signal word "DANGER" or "WARNING" are handled by employees, the field equipment used shall have:
  - a. Shielded flexible hoses in aircraft containing such pesticides under pressure passing near a pilot.
  - b. Shut-off devices on hoses carrying such pesticides from the mix tank.
  - c. An external means of showing the liquid level in the applicator vehicle tank (sight guage, etc.) or an automatic means of preventing overfilling of the tank.
13. All tanks of pesticide application vehicles used by employees shall have hatches adequate to prevent spillage.
14. Closed systems shall be used by all employees who mix and load liquid pesticides carrying the signal word "DANGER".
15. Emergency medical care shall be planned in advance for employees who enter treated areas after pesticide applications.
16. No person shall apply any pesticide in such manner that it contaminates the body or clothing of any person.
17. Supervisors of employees working in areas that have been treated with pesticides shall be knowledgeable of common symptoms of pesticide poisoning.
18. If an employee enters a treated area before the pesticide has dried or dust has settled, he shall wear all protective equipment specified for the applicator.
19. A safety interval is the time between the pesticide treatment and the time employees may be allowed to enter treated areas. A number of pesticides require safety intervals.
20. Entry into a treated area may be permitted for an employee for any type of work after the pesticide has dried or the dust has settled, unless there is a specified safety interval in effect.
21. When a safety interval has not expired, the employer shall warn employees who might enter the treated area not to engage in any activity that might involve substantial body contact with treated foliage.
22. Warning signs must be posted by the grower for the duration of any safety interval in excess of 7 days that results from the application of: Guthion, Supracide, Phosphamidon, Trithion, Torak, EPN, ethion, Delnav, parathion, and/or methyl parathion.
23. If a treated area is suspected as having been a source of pesticide-related illness or of having a high probability of producing a pesticide-related illness, the director or commissioner may prohibit entry of employees to the treated area, or he may require the employer to provide medical supervision to employees who will enter the treated area to engage in substantial and prolonged body contact with the foliage.
24. Studies designed to set safety intervals to test shorter safety intervals must be evaluated and approved by the Department of Food and Agriculture if people are to be exposed.

*These regulations are enforced by County Agricultural Commissioners and the Department of Food and Agriculture.*

65. A WORKER WANTS TO KNOW IF S/HE IS  
ENTITLED TO USE CLOSE SYSTEMS FOR MIXING  
PESTICIDES

DISCUSSION: Closed systems are required, so that the answer to this question is yes. But there are also approved types of systems--regulations with respect to specific pesticides should be obtained for all ranches where the grower has direct responsibility and does not sub-contract the work which is then outside the direct jurisdiction of the union agreement.

CODES OR REGULATIONS VIOLATED:

1. CDFA Regulations, Pesticide Safety Information Series A-6 (see above, p. 63).
2. California Food and Agricultural Code, Art. 23, Sections 2475-2478. (Material too lengthy to be reprinted here.)

SUGGESTED COURSES OF ACTION:

1. Get copies of closed systems requirements and mail to all growers who employ mixers, applicators and loaders, so they have direct knowledge of their responsibilities.
2. Use these regulations as a basis for the following:
  - a. taking up a complaint as a grievance with the grower;
  - b. filing a complaint with the CDFA, County Agricultural Commissioner in the event of any violation.

66. A WORKER ASKS ABOUT PESTICIDES NOT FOUND  
IN THIS MANUAL.

DISCUSSION: There are thousands of pesticides in use and many different trade names for the same chemical compound. If you run into one and can't find it in the crop sheets contained in your Fruits of Your Labor, call the following organizations:

1. Hazard Evaluation System and Information Service, 415/540-2115.
2. California Department of Food and Agriculture, 916/445-8474.
3. The local County Agriculture Commissioner
4. Labor Occupational Health Project, 415/642-5507.

67. A WORKER WANTS TO KNOW IF THERE ARE SPECIFIC GUIDELINES FOR THE KIND OF PROTECTIVE DEVICES REQUIRED.

DISCUSSION: The answer is yes; see p. 68 for table on guidelines for protective devices.

GUIDELINES FOR INTERPRETING PESTICIDE LABEL STATEMENTS FOR PROTECTIVE DEVICE REQUIREMENTS  
CALIFORNIA DEPARTMENT OF FOOD AND AGRICULTURE

SUMMARIZED LABEL STATEMENT	MIXER-LOADER		GROUND APPL.		FLAGGER		AERIAL APPL.	
	I-II	III	I-II	III	I-II	III	I-II	III
Toxicity Category								
Take precautions necessary to prevent exposure.	A B C F G H R*	B C F G H	B C G H R*	C H	C H R*	C H	C R*	C
Protective clothing or protective equipment is to be worn or utilized.	A B C F G H R*	B C F G H	B C G H R*	C H R*	C H C	C H C	C	C
Wear clean clothing.	C	C	C	C	C H	C H	C	C
Avoid contact with clothing.	A B C	B C	B C	C	C	C	C	C
Avoid contact with shoes.	B	B	B	B				
Rubber boots or rubber foot coverings are to be worn.	B	B	B	B				
Avoid contact with skin.	A B C F G H	B C F G H	B C G H	C G* H	C H	C H	C	C
A cap or hat is to be worn.	H	H	H	H	H			
An apron is to be worn.	A	A						
Rubber gloves are to be worn.	G	G	G	G	G*	G*		
Avoid eye contact. Do not get in eyes.	F	F	F	F*	F	F*		
Goggles or faceshields are to be worn.	F	F	F	F	F*	F*		
Avoid inhalation, breathing or nose contact.	R	R	R*	R*	R*	R*	R*	R*
A respirator is to be worn.	R	R	R*	R*	R*	R*	R*	R*

Code Protective Device Requirement

A-----Apron (liquids only) - rubber, synthetic waterproof.

B-----Boots or foot coverings - rubber, synthetic waterproof.

C-----Coveralls or clean outer clothing - daily - (required for all employees handling Category I or II pesticides)  
- rainsuit if being wet with spray.

F-----Faceshield or goggles (use faceshield when handling liquid. Use goggles when handling dust, wettable powder, granule).

G-----Gloves - rubber or synthetic waterproof.

H-----Hat - waterproof, washable hard hat or cloth type if laundered daily.

R-----Respirator (faceshield is acceptable substitute only when mixing-loading liquid formulations that do not have a vapor or fume hazard). However, if the label (i.e., methyl bromide, sulfotapp) specifies that a canister-type gas mask is needed, a respirator is not adequate.

(\*)-----When there is a likelihood of exposure to spray mist, dust, or vapors.

(\*\*)-----Not applicable to (1) concentrate spraying in groves, orchards, or vineyards (less than 100 gal/A.) or

(2) enclosed greenhouse applications. - For concentrated greenhouse use I-II column.