An Index of California Regulations Affecting Rice Growers

A Senior Project

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Bachelor of Science

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Abstract

The purpose of this project was to identify and compile California regulations that affect rice growers. The final product was an index designed for rice growers and their representatives to be used lobbying efforts with regulators and elected officials. The index serves to illustrate the intensive regulations that rice growers face in California. Areas of focus include water quality, air quality, labor and pesticides indirectly.
Acknowledgment

The author appreciates the extensive support from the staff at the California Rice Commission (CRC). Without the advice, guidance, expertise and resources of CRC this project would not have been the success that it is. Thank you Tim Johnson, Jim Morris, Paul Buttner and Roberta Firoved. The author also appreciates the help of Amy Wolfe, President and CEO of AgSafe.
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Chapter One

Introduction

California is the most productive agriculture state in the United States. In 2011, California agriculture produced nearly $43.5 billion in food and fiber from over 250 different commodities. Among these commodities, rice represents the 14th largest crop worth $774 million in 2011 (Ross, 2013). However, the prowess of California agriculture is not reflected in the population of the state. In March 2013, the California Employment Department reported the total number employed by farms was 406,400 compared to total nonfarm employment totaling 14,591,800.

This imbalance leads to a disconnect between producers and consumers. As a result, an even deeper disconnect has grown between agriculture producers and legislators who represent more urban areas that lack a strong agricultural presence. Although the agriculture industry thrives, legislation and government regulation often work against the producers. California producers face regulations for an array of rationales including water quality, air quality, pesticide application, conservation of fish and wildlife species and their habitats, and labor.

This senior project will look specifically at the California rice industry and those state regulations impacting rice producers. Northern California provides a uniquely ideal growing region for short and medium grain rice. The warm Mediterranean climate and the heavy clay soils of the Sacramento Valley have been found to be the most productive cultivation climate in the United States. Rice producers have also developed the most advanced technological methods in the world, resulting in the highest efficiency. However, with ever-imposing regulations, the industry has been forced to continually change and adapt at the expense of the producer and ultimately the consumer – whether this is apparent to consumers or not.
Statement of the Problem

California agriculture is continually being hit with new legislation that creates burdensome regulations for farmers in the rice industry. Often times, these regulations are a result of a lack of understanding on the part of the legislators and voters. It is important for rice farmers, and the interest groups who represent them, to be able to bring facts and figures to legislators to show how the regulations are hurting the rice industry and the world food supply. The problem is a lack of organized information that demonstrates to legislators exactly what regulations rice farmers must comply with and the costs to these farmers.

The Importance of the Project

The importance of this project is to aid rice farmers and the interest groups who represent them in educating legislators on regulations that have become burdensome to producers. Equipped with this organized information, rice producers and the interest groups who represent them, will be able to dissuade legislators from passing legislation that would negatively impact growers and to stop agencies from implementing regulation that hinders safe and productive farming practices.

Purpose(s) of the Project

The purpose of this project is to provide rice farmers and the interest groups who represent them, with a reference guide to share with legislators. This document will serve as a tool in times of new legislation to show legislators exactly what regulations rice producers already face and the cost of these regulations. Secondarily, this document can serve as a template for other commodity groups to develop and use for the same purposes.
Objectives of the Project

The objectives of this project are to create a useful document by:

- Identifying regulations that affect rice farmers
- Separate regulations by administering agency (i.e. Department of Pesticide Regulations)
- Report costs associated with regulations
- Organize information into an attractive and easy to use format

Definition of Important Terms

**Statute:** A statue is a bill that has been voted on by the Assembly and the Senate and signed into law by the Governor.

**Regulation(s):** Regulations are overseen and carried out by administrative agencies under the power given to the agency by a statute.

**Northern California:** In the context of this project, Northern California is meant to describe the northern Sacramento Valley as illustrated in the map bellow.

Figure 1-1: Map of rice growing counties in Northern California (Linquist, 2011)

**Short-grain rice:** A variety of rice grown in Northern California. The rice grain is less than twice as long as it is wide. When cooked, the rice is sticky and is often used in Japanese foods.
Medium-grain rice: More than 90 percent of the rice grown in California is of the medium grain variety. The rice grain is less than three times as long as it is wide. Primary varieties of medium-grain rice grown in the Sacramento Valley are Calrose and “New Variety” (California Rice Commission, 2013).

Crop dusters: Small airplanes that fly over rice fields to spread seed, pesticides and fertilizers.

Bank Out Wagons: Specialized tractors that collect harvested rice from the rice harvester in the field and transport it to rice trucks waiting roadside.

Rice Straw: When rice is harvested, the remaining stalk that had once supported the grain is left behind and sometimes bailed into a hay-like substance. Rice straw does not have many viable uses and is generally an unwanted by-product of rice harvest.

Summary

The California rice industry adds over a billion dollars to California agriculture and the California economy as a whole. Producers have continually used innovation to develop more sustainable and productive growing methods. Through this innovation, industry practices have also developed an environmental standard for the entire agriculture industry. Rice fields now provide habitat for hundreds of different wildlife species in the off season.

While rice growers have sought progressive and sustainable growing methods, many changes in the industry have been due to regulation. In some cases the regulations are warranted and needed. In many cases however, regulations come out of a lack of understanding about the rice industry by legislators. A deeper root of the problem is that while California has the highest agriculture production in the United States, most of the population is disconnected from agriculture and votes on laws they don’t understand the impacts of.

This paper will further discuss this issue culminating in a document meant for rice producers and the interested groups who represent them. This document will be a helpful tool in educating interested
parties (i.e. legislators) in the number of regulations rice producers must face. As California tends to be the origin of most legislation for the United States, particularly for food and agriculture, it is vital to see that legislation is beneficial to all affected parties. Effective legislation is a result of educated and informed parties.
Chapter Two

Review of Literature

The uniqueness of the California rice industry stems from several factors. These factors include: the Mediterranean climate of the Sacramento Valley, characteristics of the growing methods of short and medium grain rice, the economic presence of the industry, and the environmental value of the crop working among California’s governmental structure, political climate and regulatory agencies. Taking a deeper look into these facets explains the reasoning and effects of state regulations on California rice growers.

California Government

Understanding how California government works is an essential component in discussing current regulations. The organization of California government influences how law is drafted, adopted and implemented.

The Legislative Process

Similar to the federal government, the state government is divided into three branches: the executive branch, the legislative branch and the judicial branch. The executive branch includes the governor. The judicial branch consists of the court system, including the trial courts, Courts of Appeal and the California Supreme Court (State of California, 2007). The legislative branch is made up of two houses representing Californians. The California State Senate is made up of 40 Senators while the California State Assembly contains 80 Assembly Members (Boyer-Vine, 2012).

In order for new legislation to be introduced, a Senator or Assembly Member must first author a bill. The Legislative Counsel does the actual drafting of the bill. Once the draft is complete, it is returned to the legislator and then introduced to the other house. Senators introduce their bills to the Senate while
Assembly Members introduce their bills to the Assembly (Boyer-Vine, 2012). The introductions go as follows:

The reading of the bill number, the bill author and the title of the bill on the floor of either the Senate or the Assembly. After the first reading, the bill goes to the Office of State Printing. Thirty days must pass before any official action on the bill can be made (Boyer-Vine, 2012).

After the 30 days, the bill will move on to committee hearings. The bill will start out in the Rules Committee of either corresponding house to which the bill originated. The Rules Committee will assign the bill to a policy committee related to the contents of the bill for its first hearing. If a bill involves state funds, the bill must be heard in the fiscal committee for its house. For the Senate, the committee is the Senate Appropriations Committee, and for the Assembly, the committee is the Assembly Appropriations Committee (Boyer-Vine, 2012). Bills related to agriculture will be heard in the Assembly Committee on Agriculture or the Senate Committee on Agriculture (California Counsel Bureau, 2003).

The author will present the bill to the appropriate committee. Testimony in favor or opposition of the bill may also be included. Letters in support or opposition of the bill may be sent to the author of the bill or committee members. This can be an effective way for constituents or stakeholders to share their opinions, concerns and approval of the bill. A bill analysis is the final component submitted to the committee for consideration. This analysis is completed by a neutral committee staff member who explains current related laws, pros and cons of the bill, background information and stakeholders affected by or interested in the bill. The committee’s members will vote to pass the bill, amend the bill, or defeat the bill. To pass the bill a majority of all committee members (present or not) must vote yes (Boyer-Vine, 2012).

If the bill makes it out of committee, it will then return to the house floor that it was introduced in for the second reading and then will be assigned to a third reading. The third reading will include a bill analysis, just as in the committee reading. During the third reading, the author of the bill may explain the bill and the Members may discuss the bill. Following all discussion, a roll call vote is taken. For bills requiring appropriations or immediate action, a two-thirds yes vote is required. Most other bills only
require a majority vote. If the bill fails, the author of the bill may ask for reconsideration and another vote (Boyer-Vine, 2012). Amendments may also be made during any point.

If the bill passes, it will repeat this entire process in the other house. If the second house makes amendments to the bill, the original house must agree to the amendments, a process known as concurrence. If the Assembly and the Senate do not agree on the amendments, the bill must go to a conference committee with three members of both houses to resolve differing opinions on the bill’s pending amendments. When the committee reaches a consensus, the bill’s amendments go back to each house for a vote (Boyer-Vine, 2012).

If both houses pass the bill, it will be sent to the Governor. The Governor has the power and authority to sign the bill into law, veto the bill or allow the bill to become law without signature. A veto can be overridden by a two-thirds vote from both houses. If the bill is an urgent matter (requiring a two-thirds vote to pass) the bill will go into effect immediately after passing. Most bills however will take effect on January 1st of the following year (Boyer-Vine, 2012).

New laws are assigned a chapter number by the Secretary of State. These chaptered laws, now statutes, become part of the California Codes. The California Codes contains all laws organized by subject matter. If the bill concerns the California Constitution, the bill will become an official amendment to the state constitution only after it has been approved by California voters (Boyer-Vine, 2012).

*Regulatory Agencies*

Once the statute is official, agencies that govern over matters outlined in the statute write regulations to carry out the statute. Regulations interpret the intent of the law. Regulations are what most people think of as new laws. One law or statute may spark several complicated and layered regulations. It is generally the job of regulatory agencies to implement and oversee the compliance of such regulations. While there are over 200 state agencies, the agencies are grouped under larger cabinet level agencies that report directly to the governor. The cabinet level agencies include:

- California Business, Transportation and Housing Agency (BTH)
The Office of Administrative Law (OAL) is charged with the oversight of agency made regulations. The OAL requires the regulations to be clear, necessary, legally valid and available to the public. According to the official California Office of Administrative Law website:

“OAL is responsible for reviewing administrative regulations proposed by over 200 state agencies for compliance with the standards set forth in California’s Administrative Procedure Act (APA), for transmitting these regulations to the Secretary of State and publishing regulations in the California Code of Regulations,” (State of California, 2007).

The California Code of Regulations is the official source of all state regulations including adopted, amended or repealed regulations by state agencies. The code of regulations is organized by titles and divisions containing the regulations of state agencies (State of California, 2007).

Title 1, sections 1-280 of the California Code of Regulations is the Administrative Procedure Act (APA). The APA requires standards for regulations adopted by state agencies. The APA allows for public participation in the adoption of state regulations (State of California, 2007).

Being able to understand and navigate through the legislative process in California is essential. Laws and regulations are always being introduced to the legislature and to voters that could be highly beneficial or detrimental to California agriculture and California rice.
California Rice Industry

The California Rice Industry is a unique industry to the state and to the United States. The industry is characterized by environmental innovations, unique varieties and a large domestic and global market. Each of these factors plays a role in the adoption and gravity of related regulations. While the Southern United States is known for producing large quantities of high quality long-grain rice, California is the largest producer of short and medium grain japonica rice in the United States (California Rice Commission, 2013).

Size and Scope

The California rice industry generates $1.8 billion dollars annually. Contributions range from growers and millers to environment and cuisine (California Rice Commission, 2013). Additionally, farmers contributed $997 million to the state Gross Domestic Product (GDP) (Agricultural and Food Policy Center, 2010).

Of the 10,431 rice farms in the United States, 24 percent of operations are in California. California is home to 615,919 base acres of rice from 2,518 farmers. There are also 18 millers and merchants in California (Agricultural and Food Policy Center, 2010).

In terms of jobs, the California rice industry provides 7,772 direct jobs and 1,381 indirect jobs and an induced employment of 3,503 jobs. In total, California Rice supports 12,297 jobs (Agricultural and Food Policy Center, 2010). For rural agriculture communities like Colusa, Butte, Sutter, Yuba, Glenn, Tehama, Placer, Sacramento and Yolo counties, rice is either the predominant crop or adds to allied industries in significant ways. Without the rice industry, these counties would lose thousands of jobs and dollars (California Rice Commission, 2013).

California rice is used in processed food, in breweries, in pet food, and in many other uses including exports. The value of the industry cannot be disputed. The scope and size of California rice should be an important factor in deciding what regulations will be implemented and careful consideration should be taken to assess how such regulations will affect the industry.
The Growing Process

When the U.S. Department of Agriculture first suggested the cultivation of rice in California, japonica rice was identified to be an ideal variety. The Sacramento Valley’s climate, soil and water supply made Northern California an ideal region for short-grain and medium-grain rice farming. Over the century, growing methods and biotechnology have allowed farmers to maximize yields and develop new varieties (Johnson, 2012).

Cultivation begins in March of each year with extensive field preparation. Using state of the art laser-guided equipment, fields are leveled and graded. It is essential rice fields are as level as possible to achieve efficient water levels later on in the growing process. After the fields have been graded, fertilizers are added. By April, the fields are ready for planting (California Rice Commission, 2013).

Next, fields are flooded so that five inches of standing water covers the ground. The water is necessary for germination and growth of the rice seed, but also allows the rice plant to acquire essential nutrients and sunlight while competing against invasive weeds. This type of growing efficiency reduced the need for herbicides. The flooded fields receive rice seed from planes known as “crop dusters” flying at 100 mph over the fields (California Rice Commission, 2013).

Over the next four to five months, the seeds will grow into grain. During this time, weed control is essential. It is typical for farmers to apply one to two applications of herbicides. Pesticides may also be needed to control insects such as the rice water weevil. Each of the chemicals is applied responsibly and ensures maximum yields at harvest. During the growing period, farmers carefully monitor water levels to maintain five inches of overall depth. At maturity, the rice will reach up to three feet in height (California Rice Commission, 2013).

As rice reaches maturity, farmers will begin to drain water from the fields to prepare for harvest. Highly technical rice harvesters will collect rice grain from the stalks quickly and gently for maximum yields. When full, the harvester will unload the rice grains into unique tractors known as “bank out
wagons” to transport the rice from the field to the trucks. The trucks, waiting alongside the fields, transport the rice from the fields to nearby mills (California Rice Commission, 2013).

The mill is where the rice will be processed. The first step is to dry the rice to the appropriate temperature for storage. The rice is stored until an order is placed. The protective hull must be removed from the rice. After this step, the grain is known as brown rice. If the customer wants white rice, outer layers of the rice, called the bran, must be gently polished away until only the shiny white rice is left. Advancements in technology have put California rice mills among the most advanced in the world. This technology allows the mills to process, sort and package rice to the highest industry standards (California Rice Commission, 2013).

*California’s Ideal Growing Region*

The Sacramento Valley of Northern California is the ideal growing region for short and medium grain rice. The bulk of the crop is grown in Colusa, Butte, Sutter and Yuba counties. The Mediterranean climate, soil composition and water supply specifically qualify the region.

During the growing season there is little rainfall with hot days and cooler nights (Hill, 2006). The heat of the Sacramento Valley summers helps the rice to reach high yields. The 90 to 100 degree heat provides the environment for the rice stalk to develop multiple shoots of the main stalk with many heads of rice (Doherty, 2010). The clay soils keep water from draining into the ground. The rice fields need to maintain five inches of standing water during the growing season.

As with many of the crops in California, rice must compete for California’s limited water supply. Rice is traditionally thought of as a water-intensive crop due to the need for constant standing water during the duration of the growing season. Through innovation and improved growing methods, rice farmers have changed the way rice is grown to be more water efficient. To produce one serving of brown rice only 16 gallons of water is needed. One serving of white rice requires 25 gallons (California Rice
The water comes from nearby reservoirs fed by the Sierra Nevada Mountains, groundwater and the Sacramento River (Hill, 2006).

**The Environmental Crop**

A crop once known for severe damage to water and air quality, California rice has improved growing methods to become one of the most environmentally friendly crops in agriculture. While many wetlands have been lost over the years, California rice provides habitat for 230 wildlife species (PRBO Conservation Science, 2010).

For 80 years, the ideal practice for disposing of rice straw, post-harvest, was to burn fields. This practice helped to return the fields and the soil to the state they needed to be in for next year’s planting. Air quality was getting continually worse and with the passing of the Rice Straw Burning Reduction Act in 1991, rice farmers were forced to phase out the practice. Through extensive research, farmers found a new, environmentally friendly method to get rid of the rice straw (Stap, 2011).

By adding water to the fields after harvest, farmers found that over time, this condition would break down the rice straw naturally. It also provided for the perfect habitat for hundreds of wildlife species. Wildlife from raptors to ducks to the long-billed crew use the fields as wetland habitat from post-harvest fall months through the winter. Of these species, there are 187 bird species and 28 of those are listed as species of “special concern” or “endangered” (Stap, 2011).

In a time when regulations against agriculture are consistently increasing, California rice farmers have worked to add value to their crop in terms of environmental standards. The rice industry has become a standard of environmental stewardship for all of agriculture.

**California Rice Stakeholders**

In accordance with Division 22 Chapter 9.5 Section 71000-71138 (2011) of the California Food and Agricultural Code, the California Rice Commission (CRC) represents the California rice industry
under the oversight of the California Secretary of Agriculture. The CRC represents growers, handlers, and processors of California Rice by engaging in regulatory programs on behalf of industry measures. The CRC is run by a board of directors, comprised of industry leaders, and staffed by a President and CEO, an Environmental Affairs Manager, an Industry Affairs Manager, an International Promotion Manager, a Communications Manager, and a Finance and Administration Manager (California Rice Commission, 2013).

History of California Rice Industry and Regulations

The California rice industry is no stranger to transformation by regulation. Many of the traditional practices were deemed detrimental to the environment by law makers. The most impactful issues have been the practice of post-harvest rice straw burning and the effect of pesticides on water quality.

Water Quality

Beginning in the late 1970’s, the quality of water being drained off of rice fields and returned to the Sacramento River became an area of great concern. Many endangered fish species make their home in the Sacramento River. This river is also the main source of drinking water for the city of Sacramento. Sacramento water users began to complain of a taste in the water that was a result of pesticide application in flooded rice fields. At this time, fish kills in the Sacramento River began to increase, also as a result of applied pesticides (California Rice Commission, 2012).

In the 1990’s, the Central Valley Regional Water Quality Control Board (CVRWQCB) amended an existing water quality program, the Basin Plan, to monitor and establish minimum water quality levels. Specific herbicides used in rice were targeted, including thiobencarb and molinate. This amendment to
the Basin Plan lead to the Rice Pesticide Program. Over the years, the Basin Plan has been further amended to increase the scope of pesticides the program monitors (California Rice Commission, 2012).

The Department of Pesticide Regulations originally managed the monitoring program, splitting the cost of monitoring with the California Rice Commission (CRC). By 2003, the CRC took over full management of monitoring and monitoring costs (California Rice Commission, 2012).

The CVRWQCB has extended water quality monitoring programs to all areas of agriculture through the Irrigated Lands Regulatory Program (ILRP). The CRC and its members adapted to increasing water monitoring requirement by modifying the Rice Pesticide Program. However, monitoring and compliance costs have continued to rise, and ultimately fall on the shoulders of the growers. Since the introduction of the ILRP, fees have increased from 12 cents an acre to 56 cents per acre (California Rice Commission, 2012).

Air Quality

The story goes that rice straw burning, mixed with a strong south wind, blew the smoky air into the state capitol, setting off the building’s smoke alarms. Rice straw burning was a post-harvest practice used to eliminate the stubble and disease left behind after the grain had been collected. This practice was used by virtually all rice growers just one generation ago. After this breaking point, growers were left in search of a way to reinvent their industry.

After years of research, many growers now use post-harvest flooding to decompose left over rice straw. The new practice not only helped to clean up, the air but provided habitat for hundreds of wildlife species. Other growers bail the straw for use in construction, erosion control and livestock feed supplements. While rice growers completely changed their industry with the phase-out of rice straw burning, cleaning up the air is an ongoing process. In more recent years, the California rice industry’s air quality issues include greenhouse gas emissions and diesel emissions from trucks and tractors (California Rice Commission, 2012).
Labor

While rice is not a labor intensive crop, the industry is subject to labor regulations. Most notably, rice growers are adapting to new overtime regulations that will add costs to all agriculture operations. Other substantive labor regulations include Cal OSHA and Agricultural Labor Relations Act requirements.

Summary

Many factors including climate and growing technology have made rice growers in California prosperous and successful. However, California’s political climate has adopted regulations that sometime improve growing methods and sometimes hinder the efforts of rice farmers. Mainly in the areas of water quality, air quality and labor, California rice growers have been forced legislatively to adapt and change growing practices.
Chapter Three

Methods and Materials

In order to complete an *Index of State Regulations Affecting California Rice Growers*, research and understanding are key. The author’s main sources included various staff members of the California Rice Commission (CRC) and Amy Wolf, President and CEO of AgSafe. These contacts are essential in completing this project because of their expertise in regulations, the rice industry and related regulations. Both CRC’s website and AgSafe’s website are also reliable resources. The author conducted other preliminary research of California Government. The State of California and all of its agencies have websites containing necessary information for identifying specific regulations. Finally, there is a design component required in this project. The intent of this project is to be an actual hard copy booklet that can be used by interested parties. As such, the booklet needed to be designed in a functional and appealing manner.

Preliminary Research

To understand regulations in California, one must first understand the California Government. This is where the author initiated research. The sources most helpful included the Official California Legislative Information website, the California State Senate and Assembly Committees on Agriculture websites, and the California Office of Administrative Law website. These resources help to explain how laws and regulations are formed. These websites also describe California’s basic government structure. This information is needed in order to be able to effectively communicate about the regulations and agencies that will be featured in the index.
California Rice Industry Research

To find a comprehensive look at the rice industry and its key issues, the author turned to CRC. Its’ website and staff members were essential in compiling both background information and the actual regulations to be featured in the index. After reading annual reports, environmental reports, blogs and various other materials featured on the website, the author contacted President and CEO Tim Johnson, Industry Affairs Manager Roberta Firoyed, Environmental Affairs Manager Paul Buttner and Communications Manager Jim Morris.

For an outside look of the industry the author used sources such as The Audobon, the California Department of Food and Agriculture, PRBO Conservation Science, the Agriculture Food and Policy Center and various agriculture journals. These sources provided a more technical look at the California Rice industry’s importance to the environment and the economy as well as some very technical growing practices.

Identifying Key Issues and Associated Regulations

Tim Johnson, President & CEO of CRC, helped the author to identify the key issues facing rice growers with the largest regulatory burden. The CRC website has several publications that helped to efficiently identify these issues. The areas of high regulatory burden were water quality (including pesticide use), air quality, and labor.

The Office of Administrative Law website hosts the California Code of Regulations which is the official listing of all state regulations. This listing served as the author’s official source of actual regulation text and language.

After regulations are identified, the author read each regulation and identified the parts of the regulation that are relevant to rice growers in California. The author limited relevant information to mean
the actual specification of the rules. This excludes sections of the regulations that identify penalties. The section number of sections including penalties may be added to the index at the end of each section, but the text of that section should not be included in the interest of length and relevance.

**Water Quality**

Roberta Firoved and Tim Johnson helped to identify water quality issues and regulations. Firoved handles CRC’s water quality monitoring program and pesticide issues. Firoved is an industry expert in both pesticide and water quality issues. The author was able to contact Firoved for interviews as well as receive several materials from her used in the author’s research and compilation of the report. Information from Firoved included water monitoring program history, current policies and costs. The State Water Resource Control Board (SWRCB) and the Regional Water Quality Control Board (RWQCB) provided official information on water quality issues and related regulations.

**Air Quality**

Paul Buttner and Tim Johnson served as primary sources for information regarding air quality issues and regulations. As CRC’s Environmental Affairs manager, Buttner has been instrumental in negotiating air quality regulations for the rice industry. This, combined with his previous position at the Air Resources Board, qualified him as an air quality expert and trusted source. Buttner was able to provide the author with background information on air quality issues and development of current regulations. Buttner also provided the author with “Environmental Laws Affecting California Agriculture” a project of the National Association of State Departments of Agriculture Research Foundation through the National Center for Agricultural Law Research and Information. This report identified several environmental regulations that effect California agriculture. The California Air Resources Board provides up to date information on regulations and technical information.
**Labor**

Tim Johnson and Amy Wolf, President and CEO of AgSafe, served as primary sources for state labor issues and regulations. AgSafe’s mission is to provide employers and employees in the agricultural industry with the education and resources needed to prevent injuries, illnesses and fatalities. As such, Wolf is an expert of current issues and regulations affecting the agricultural labor force. Wolf was able to provide the author with specific information on labor requirements. The rice industry is not highly labor intensive and has some nuances different than closely related industries. Johnson, as well as the CRC website resources, gave the author information on specific labor requirements and regulations that applied to the rice industry. The California Labor and Workforce Development Agency provided additional official information in areas including workforce oversight.

**Pesticides**

Under the advisement of Roberta Firoved, the author included a brief section on pesticides. Pesticides play a vital role in the California rice industry. However, many regulations only indirectly influence pesticide use. For example, many of the water quality regulations are aimed at monitoring and regulating pesticide levels. Firoved and the California Department of Pesticide regulations served as a source.

**Developing the Index**

Functionality should be kept in mind when designing the index. The index’s ultimate use will be a pocket book style booklet that can be easily transported and referenced. In creating the index, the author consulted Agricultural Communication Professors Megan Silcott and Dr. J. Scott Vernon, and CRC Communications Manager Jim Morris regarding content, layout and ease of use. The author used

In designing the booklet, the author utilized tabs and color coding to easily differentiate between regulatory areas. This design helps the user to easily move between issues to locate the regulations or area of concern they want to look up. A table of contents should also be included to assist in this function. The author designed the index to be small enough to carry around with a spiral binding making it easy to navigate through. Elements of the booklet were designed in Adobe Photoshop, InDesign and Illustrator.

The author also included hyperlinks in the design to make the index more user friendly for digital copies. Each regulation section code is hyperlinked to the official online posting of that regulation. This feature assures that the reader is able to access the most up to date version of the regulation. There are also hyperlinks at the beginning of each section to regulatory agency websites that would provide the reader with additional background information if they so desired.

Summary

In creating the project, the author relied on industry experts. The index was designed to be clear enough that uninformed legislators and regulators could understand, but specific enough to communicate the weight of the regulations. Consulting industry experts and professionals insured that the project would be a resource actually used by parties representing rice growers in legislative and regulatory efforts. The author relied on research to make the index detailed enough to effectively show the weight and complexity of the regulatory burden rice growers face in California.
Chapter Four

Results and Discussion

This project was designed to be a pocket sized, bound index that can be easily carried around. Each page is 4 1/4” x 11”. The index contains a table of context directing readers and users to four different sections. Sections include introduction, water quality, air quality, and labor. The index will be spiral bound so that is can be easily flipped through and printed on a heavy enough paper to withstand repeated use.
An Index of California Regulations Affecting Rice Growers

By: Maddie Dunlap
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Photo courtesy of: Lauren McConkie
Introduction

California is the most productive agriculture state in the United States. In 2011, California agriculture produced nearly $43.5 billion in food and fiber from over 250 different commodities. Among these commodities, rice represents the 14th largest crop worth $774 million in 2011 (Ross, 2013). However, the prowess of California agriculture is not reflected in the population of the state. In March 2013, the California Employment Department reported the total number employed by farms was 406,400 compared to total nonfarm employment totaling 14,591,800.

This imbalance leads to a disconnect between producers and consumers. As a result, an even deeper disconnect has grown between agriculture producers and legislators who represent more urban areas that lack a strong agricultural presence. Although the agriculture industry thrives, legislation and government regulation often work against the producers. California producers face regulations for an array of rationales including water quality, air quality, pesticide application, conservation of fish and wildlife species and their habitats, and labor.

The California rice industry adds over a billion dollars to California agriculture and the California economy as a whole. Producers have continually used innovation to develop more sustainable and productive growing methods. Through this innovation, industry practices have also developed an environmental standard for the entire agriculture industry. Rice fields now provide habitat for hundreds of different wildlife species in the off season.

While rice growers have sought progressive and sustainable growing methods, many changes in the industry have been due to regulation. In some cases the regulations are warranted and needed. In many cases however, regulations come out of a lack of understanding about the rice industry by legislators. A deeper root of the problem is that while California has the highest agriculture production in the United States, most of the population is disconnected from agriculture and votes on laws they don’t understand the impacts of.

This document will be a helpful tool in educating interested parties (i.e. legislators) in the number of regulations rice producers must face. As California tends to be the origin of most legislation for the United States, particularly for food and agriculture, it is vital to see that legislation is beneficial to all affected parties. Effective legislation is a result of educated and informed parties.
Beginning in the late 1970’s, the quality of water being drained off of rice fields and returned to the Sacramento River became an area of great concern. Many endangered fish species made their home in the Sacramento River. This river is also the main source of drinking water for the city of Sacramento. Sacramento water users began to complain of a taste in the water that was a result of pesticide application in flooded rice fields. At this time, fish kills in the Sacramento River began to increase, also as a result of applied pesticides (California Rice Commission, 2012).

In the 1990’s, the Central Valley Regional Water Quality Control Board (CVRWQCB) amended an existing water quality program, the Basin Plan, to monitor and establish minimum water quality levels. Specific herbicides used in rice were targeted, including thiobencarb and mollinate. This amendment to the Basin Plan led to the Rice Pesticide Program. Over the years, the Basin Plan has been further amended to increase the scope of pesticides the program monitors (California Rice Commission, 2012).

The Department of Pesticide Regulations originally managed the monitoring program, splitting the cost of monitoring with the California Rice Commission (CRC). By 2003, the CRC took over full management of monitoring and monitoring costs (California Rice Commission, 2012).

The CVRWQCB has extended water quality monitoring programs to all areas of agriculture through the Irrigated Lands Regulatory Program (ILRP). The CRC and its members adapted to increasing water monitoring requirement by modifying the Rice Pesticide Program. However, monitoring and compliance costs have continued to rise, and ultimately fall on the shoulders of the growers. Since the introduction of the ILRP, fees have increased from 12 cents an acre to 56 cents per acre (California Rice Commission, 2012).
Water Quality Regulations

WATER CODE

DIVISION 7. WATER QUALITY [13000 - 16104]

( Division 7 repealed and added by Stats. 1969, Ch. 482. )

CHAPTER 4. Regional Water Quality Control [13200 - 13286.9]

ARTICLE 4. Waste Discharge Requirements [13260 - 13275]

13260.

(a) Each of the following persons shall file with the appropriate regional board a report of the discharge, containing the information that may be required by the regional board:

(1) A 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.

(2) A 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.

(3) A person operating, or proposing to construct, an injection well.

(b) No report of waste discharge need be filed pursuant to subdivision (a) if the requirement is waived pursuant to Section 13269.

(c) Each person subject to subdivision (a) shall file with the appropriate regional board a report of waste discharge relative to any material change or proposed change in the character, location, or volume of the discharge.

THE FOLLOWING SECTIONS CONTAIN FEE INFORMATION

(d) (1) (A) Each person who is subject to subdivision (a) or (c) shall submit an annual fee according to a fee schedule established by the state board.

(B) The total amount of annual fees collected pursuant to this section shall equal that amount necessary to recover costs incurred in connection with the issuance, administration, reviewing, monitoring, and enforcement of waste discharge requirements and waivers of waste discharge requirements.

(C) Recoverable costs may include, but are not limited to, costs incurred in reviewing waste discharge reports, prescribing terms of waste discharge requirements and monitoring requirements, enforcing and evaluating compliance with waste discharge requirements and waiver requirements, conducting surface water and groundwater monitoring and modeling, analyzing laboratory samples, adopting, reviewing, and revising water quality control plans and state policies for water quality control, and reviewing documents prepared for the purpose of regulating the discharge of waste, and administrative costs incurred in connection with carrying out these actions.

SECTIONS NOT RELEVANT TO RICE GROWERS WERE REMOVED

(THE FOLLOWING SECTIONS CONTAIN FEE INFORMATION

(2) (A) Subject to subparagraph (B), the fees collected pursuant to this section shall be deposited in the Waste Discharge Permit Fund, which is hereby created. The money in the fund is available for expenditure by the state board, upon appropriation by the Legislature, solely for the purposes of carrying out this division.

SECTIONS NOT RELEVANT TO RICE GROWERS WERE REMOVED

THE FOLLOWING SECTIONS CONTAIN FEE INFORMATION

(e) Each person that discharges waste in a manner regulated by this section shall pay an annual fee to the state board. The state board shall establish, by regulation, a timetable for the payment of the annual fee. If the state board or a regional board determines that the discharge will not affect, or have the potential to affect, the quality of the waters of the state, all or part of the annual fee shall be refunded.

(f) (1) The state board shall adopt, by emergency regulations, a schedule of fees authorized under subdivision (d). The total revenue collected each year through annual fees shall be set at an amount equal to the revenue levels set forth in the Budget Act for this activity. The state board shall automatically adjust the annual fees each fiscal year to conform with the revenue levels set forth in the Budget Act for this activity. If the state board determines that the revenue collected during the preceding year was greater than, or less than, the revenue levels set forth in the Budget Act, the state board may further adjust the annual fees to compensate for the over and under collection of revenue.

(2) The emergency regulations adopted pursuant to this subdivision, any amendment thereto, or subsequent adjustments to
the annual fees, shall be adopted by the state board in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. The adoption of these regulations is an emergency and shall be considered by the Office of Administrative Law as necessary for the immediate preservation of the public peace, health, safety, and general welfare. Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, any emergency regulations adopted by the state board, or adjustments to the annual fees made by the state board pursuant to this section, shall not be subject to review by the Office of Administrative Law and shall remain in effect until revised by the state board.

(g) The state board shall adopt regulations setting forth reasonable time limits within which the regional board shall determine the adequacy of a report of waste discharge submitted under this section.

(b) Each report submitted under this section shall be sworn to, or submitted under penalty of perjury.

(i) The regulations adopted by the state board pursuant to subdivision (f) shall include a provision that annual fees shall not be imposed on those who pay fees under the national pollutant discharge elimination system until the time when those fees are again due, at which time the fees shall become due on an annual basis.

SECTION NOT RELEVANT TO RICE GROWERS WERE REMOVED

(As amended by Stats. 2011, Ch. 2, Sec. 28. Effective March 24, 2011.)

**SEE SECTION 13261 AND 13262 CONTAIN PENALTY INFORMATION**

13263.

(a) The regional board, after any necessary hearing, shall prescribe requirements as to the nature of any proposed discharge, existing discharge, or material change in an existing discharge, except discharges into a community sewer system, with relation to the conditions existing in the disposal area or receiving waters upon, or into which, the discharge is made or proposed. The requirements shall implement any relevant water quality control plans that have been adopted, and shall take into consideration the beneficial uses to be protected, the water quality objectives reasonably required for that purpose, other waste discharges, the need to prevent nuisance, and the provisions of Section 13241.

(b) A regional board, in prescribing requirements, need not authorize the utilization of the full waste assimilation capacities of the receiving waters.

(c) The requirements may contain a time schedule, subject to revision in the discretion of the board.

(d) The regional board may prescribe requirements although no discharge report has been filed.

(e) Upon application by any affected person, or on its own motion, the regional board may review and revise requirements. All requirements shall be reviewed periodically.

(f) The regional board shall notify in writing the person making or proposing the discharge or the change therein of the discharge requirements to be met. After receipt of the notice, the person so notified shall provide adequate means to meet the requirements.

(g) No discharge of waste into the waters of the state, whether or not the discharge is made pursuant to waste discharge requirements, shall create a vested right to continue the discharge. All discharges of waste into waters of the state are privileges, not rights.

(h) The regional board may incorporate the requirements prescribed pursuant to this section into a master recycling permit for either a supplier or distributor, or both, of recycled water.

(i) The state board or a regional board may prescribe general waste discharge requirements for a category of discharges if the state board or the regional board finds or determines that all of the following criteria apply to the discharges in that category:

1. The discharges are produced by the same or similar operations.
2. The discharges involve the same or similar types of waste.
3. The discharges require the same or similar treatment standards.
4. The discharges are more appropriately regulated under general discharge requirements than individual discharge requirements.
5. The state board, after any necessary hearing, may prescribe waste discharge requirements in accordance with this section.

(As amended by Stats. 1995, Ch. 421, Sec. 2. Effective January 1, 1996.)

13264.

(a) No person shall initiate any new discharge of waste or make any material changes in any discharge, or initiate a discharge to, make any material changes in a discharge to, or construct, an injection well, prior to the filing of the report required by Section 13260 and no person shall take any of these actions after filing the report but before whichever of the following occurs first:

1. The issuance of waste discharge requirements pursuant to Section 13263.
(2) The expiration of 140 days after compliance with Section 13260 if the waste to be discharged does not create or threaten to create a condition of pollution or nuisance and any of the following applies:

(A) The project is not subject to the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code).

(B) The regional board is the lead agency for purposes of the California Environmental Quality Act, a negative declaration is required, and at least 105 days have expired since the regional board assumed lead agency responsibility.

(C) The regional board is the lead agency for the purposes of the California Environmental Quality Act, and environmental impact report or written documentation prepared to meet the requirements of Section 21080.5 of the Public Resources Code is required, and at least one year has expired since the regional board assumed lead agency responsibility.

(D) The regional board is a responsible agency for purposes of the California Environmental Quality Act, and at least 90 days have expired since certification or approval of environmental documentation by the lead agency.

(3) The issuance of a waiver pursuant to Section 13269.

(b) The Attorney General, at the request of a regional board, shall petition the superior court for the issuance of a temporary restraining order, preliminary injunction, or permanent injunction, or combination thereof, as may be appropriate, prohibiting any person who is violating or threatening to violate this section from doing any of the following, whichever is applicable:

(1) Discharging the waste or fluid.

(2) Making any material change in the discharge.

(3) Constructing the injection well.

(c)(1) Notwithstanding any other provision of law, moneys collected under this division for a violation pursuant to paragraph (2) of subdivision (a) shall be deposited in the Waste Discharge Permit Fund and separately accounted for in that fund.

(2) The funds described in paragraph (1) shall be expended by the state board, upon appropriation by the Legislature, to assist regional boards, and other public agencies with authority to clean up waste or abate the effects of the waste, in cleaning up or abating the effects of the waste on waters of the state or for the purposes authorized in Section 13443.

(Amended by Stats. 2003, Ch. 653, Sec. 1. Effective January 1, 2004.)

SECTION 13267 INCLUDES INFORMATION ON INVESTIGATIONS OF VIOLATORS

13269.

(a) (1) On and after January 1, 2000, the provisions of subdivisions (a) and (c) of Section 13260, subdivision (a) of Section 13263, or subdivision (a) of Section 13264 may be waived by the state board or a regional board as to a specific discharge or type of discharge if the state board or a regional board determines, after any necessary state board or regional board meeting, that the waiver is consistent with any applicable state or regional water quality control plan and is in the public interest. The state board or a regional board shall give notice of any necessary meeting by publication pursuant to Section 11125 of the Government Code.

(2) A waiver may not exceed five years in duration, but may be renewed by the state board or a regional board. The waiver shall be conditional and may be terminated at any time by the state board or a regional board.

The conditions of the waiver shall include, but need not be limited to, the performance of individual, group, or watershed-based monitoring, except as provided in paragraph (3). Monitoring requirements shall be designed to support the development and implementation of the waiver program, including, but not limited to, verifying the adequacy and effectiveness of the waiver’s conditions. In establishing monitoring requirements, the regional board may consider the volume, duration, frequency, and constituents of the discharge; the extent and type of existing monitoring activities, including, but not limited to, existing watershed-based, compliance, and effectiveness monitoring efforts; the size of the project area; and other relevant factors. Monitoring results shall be made available to the public.

(3) The state board or a regional board may waive the monitoring requirements described in this subdivision for discharges that it determines do not pose a significant threat to water quality.

(b) (A) The state board or a regional board may include as a condition of a waiver the payment of an annual fee established by the state board in accordance with subdivision (f) of Section 13260.

(B) Funds generated by the payment of the fee shall be deposited in the Waste Discharge Permit Fund for expenditure, upon appropriation by the Legislature, by the state board or appropriate regional board for the purpose of carrying out activities limited to those necessary to establish and implement the waiver program pursuant to this section. The total amount of annual fees collected pursuant to this section shall not exceed the costs of those activities necessary to establish and implement waivers of waste discharge requirements pursuant to this section.
(C) In establishing the amount of a fee that may be imposed on irrigated agriculture operations pursuant to this section, the state board shall consider relevant factors, including, but not limited to, all of the following:

(i) The size of the operations.
(ii) Any compliance costs borne by the operations pursuant to state and federal water quality regulations.
(iii) Any costs associated with water quality monitoring performed or funded by the operations.
(iv) Participation in a watershed management program approved by the applicable regional board.

SECTIONS NOT RELEVANT TO RICE GROWERS WERE REMOVED

(5) The state board or a regional board shall give notice of the adoption of a waiver by publication within the affected county or counties as set forth in Section 6061 of the Government Code.

(b) (1) A waiver in effect on January 1, 2000, shall remain valid until January 1, 2003, unless the regional board terminates that waiver prior to that date. All waivers that were valid on January 1, 2000, and granted an extension until January 1, 2003, and not otherwise terminated, may be renewed by a regional board in five-year increments.

SECTIONS NOT RELEVANT TO RICE GROWERS WERE REMOVED

(c) Upon notification of the appropriate regional board of the discharge or proposed discharge, except as provided in subdivision (d), the provisions of subdivisions (a) and (c) of Section 13260, subdivision (a) of Section 13263, and subdivision (a) of Section 13264 do not apply to a discharge resulting from any of the following emergency activities:

(1) Immediate emergency work necessary to protect life or property or immediate emergency repairs to public service facilities necessary to maintain service as a result of a disaster in a disaster-stricken area in which a state of emergency has been proclaimed by the Governor pursuant to Chapter 7 (commencing with Section 8550) of Division 1 of Title 2 of the Government Code.

(d) Subdivision (c) is not a limitation of the authority of a regional board under subdivision (a) to determine that any provision of this division shall not be waived or to establish conditions of a waiver. Subdivision (c) shall not apply to the extent that it is inconsistent with any waiver or other order or prohibition issued under this division.

(e) The regional boards and the state board shall require compliance with the conditions pursuant to which waivers are granted under this section.

(f) Prior to renewing any waiver for a specific type of discharge established under this section, the state board or a regional board shall review the terms of the waiver policy at a public hearing. At the hearing, the state board or a regional board shall determine whether the discharge for which the waiver policy was established should be subject to general or individual waste discharge requirements.

(Amended by Stats. 2004, Ch. 183, Sec. 360. Effective January 1, 2005.)

13274.

(a) (1) The state board or a regional board, upon receipt of applications for waste discharge requirements for discharges of dewatered, treated, or chemically fixed sewage sludge and other biological solids, shall prescribe general waste discharge requirements for that sludge and those other solids. General waste discharge requirements shall replace individual waste discharge requirements for sewage sludge and other biological solids, and their prescription shall be considered to be a ministerial action.

(2) The general waste discharge requirements shall set minimum standards for agronomic applications of sewage sludge and other biological solids and the use of that sludge and those other solids as a soil amendment or fertilizer in agriculture, forestry, and surface mining reclamation, and may permit the transportation of that sludge and those other solids and the use of that sludge and those other solids at more than one site. The requirements shall include provisions to mitigate significant environmental impacts, potential soil erosion, odors, the degradation of surface water quality or fish or wildlife habitat, the accidental release of hazardous substances, and any potential hazard to the public health or safety.

(b) The state board or a regional board, in prescribing general waste discharge requirements pursuant to this section, shall comply with Division 13 (commencing with Section 21000) of the Public Resources Code and guidelines adopted pursuant to that division, and shall consult with the State Air Resources Board, the Department of Food and Agriculture, and the Department of Resources Recycling and Recovery.

(c) The state board or a regional board may charge a reasonable fee to cover the costs incurred by the board in the administration of the application process relating to the general waste discharge requirements prescribed pursuant to this section.

(d) Notwithstanding any other law, except as specified in
subdivisions (f) to (i), inclusive, general waste discharge requirements prescribed by a regional board pursuant to this section supersede regulations adopted by any other state agency to regulate sewage sludge and other biological solids applied directly to agricultural lands at agronomic rates.

(e) The state board or a regional board shall review general waste discharge requirements for possible amendment upon the request of any state agency, including, but not limited to, the Department of Food and Agriculture and the State Department of Public Health, if the board determines that the request is based on new information.

(f) This section is not intended to affect the jurisdiction of the Department of Resources Recycling and Recovery to regulate the handling of sewage sludge or other biological solids for composting, deposit in a landfill, or other use.

(g) This section is not intended to affect the jurisdiction of the State Air Resources Board or an air pollution control district or air quality management district to regulate the handling of sewage sludge or other biological solids for incineration.

(h) This section is not intended to affect the jurisdiction of the Department of Food and Agriculture in enforcing Sections 14591 and 14631 of the Food and Agricultural Code and any regulations adopted pursuant to those sections, regarding the handling of sewage sludge and other biological solids sold or used as fertilizer or as a soil amendment.

(i) This section does not restrict the authority of a local government agency to regulate the application of sewage sludge and other biological solids to land within the jurisdiction of that agency, including, but not limited to, the planning authority of the Delta Protection Commission, the resource management plan of which is required to be implemented by local government general plans.

(Amended by Stats. 1998, Ch. 485 by Stats. 2010, Ch. 288, Sec. 23. Effective January 1, 2011.)

Water Code

DIVISION 7. WATER QUALITY [13000 - 16104]

( Division 7 repealed and added by Stats. 1969, Ch. 482. )

CHAPTER 5.5. Compliance With the Provisions of the Federal Water Pollution Control Act as Amended in 1972 [13370 - 13389]

( Chapter 5.5 added by Stats. 1972, Ch. 1256. )

13370. The Legislature finds and declares as follows:

(a) The Federal Water Pollution Control Act (33 U.S.C. Sec. 1251 et seq.), as amended, provides for permit systems to regulate the discharge of pollutants and dredged or fill material to the navigable waters of the United States and to regulate the use and disposal of sewage sludge.

(b) The Federal Water Pollution Control Act, as amended, provides that permits may be issued by states which are authorized to implement the provisions of that act.

(c) It is in the interest of the people of the state, in order to avoid direct regulation by the federal government of persons already subject to regulation under state law pursuant to this division, to enact this chapter in order to authorize the state to implement the provisions of the Federal Water Pollution Control Act and acts amendatory thereof or supplementary thereto, and federal regulations and guidelines issued pursuant thereto, provided, that the state board shall request federal funding under the Federal Water Pollution Control Act for the purpose of carrying out its responsibilities under this program.

(Amended by Stats. 1987, Ch. 1180, Sec. 1.)

13372.

(a) This chapter shall be construed to ensure consistency with the requirements for state programs implementing the Federal Water Pollution Control Act and acts amendatory thereof or supplementary thereto. To the extent other provisions of this division are consistent with the provisions of this chapter and with the requirements for state programs implementing the Federal Water Pollution Control Act and acts amendatory thereof or supplementary thereto, those provisions apply to actions and procedures provided for in this chapter. The provisions of this chapter shall prevail over other provisions of this division to the extent of any inconsistency. The provisions of this chapter apply only to actions required under the Federal Water Pollution Control Act and acts amendatory thereof or supplementary thereto.

(b) The provisions of Section 13376 requiring the filing of a report for the discharge of dredged or fill material and the provisions of this chapter relating to the issuance of dredged or fill material permits by the state board or a regional board shall be applicable only to discharges for which the state has an approved permit program, in accordance with the provisions of the Federal Water Pollution Control Act, as amended, for the discharge of dredged or fill material.

(Amended by Stats. 2003, Ch. 683, Sec. 5. Effective January 1, 2004.)

13373.

The terms “navigable waters,” “administrator,” “pollutants,” “biological monitoring,” “discharge” and “point sources” as used in this chapter shall have the same meaning as in the Federal
Water Pollution Control Act and acts amendatory thereof or supplementary thereto. (Amended by Stats. 1987, Ch. 1189, Sec. 4.)

13374.

The term “waste discharge requirements” as referred to in this division is the equivalent of the term “permits” as used in the Federal Water Pollution Control Act, as amended. (Added by Stats. 1972, Ch. 1256.)

13376.

A person who discharges pollutants or proposes to discharge pollutants to the navigable waters of the United States within the jurisdiction of this state or a person who discharges dredged or fill material or proposes to discharge dredged or fill material into the navigable waters of the United States within the jurisdiction of this state shall file a report of the discharge in compliance with the procedures set forth in Section 13260. Unless required by the state board or a regional board, a report need not be filed under this section for discharges that are not subject to the permit application requirements of the Federal Water Pollution Control Act, as amended. A person who proposes to discharge pollutants or dredged or fill material or to operate a publicly owned treatment works or other treatment works treating domestic sewage shall file a report at least 180 days in advance of the date on which it is desired to commence the discharge of pollutants or dredged or fill material or the operation of the treatment works. A person who owns or operates a publicly owned treatment works or other treatment works treating domestic sewage, which treatment works commenced operation before January 1, 1988, and does not discharge to navigable waters of the United States, shall file a report within 45 days of a written request by a regional board or the state board, or within 45 days after the state has an approved permit program for the use and disposal of sewage sludge, whichever occurs earlier. The discharge of pollutants or dredged or fill material or the operation of a publicly owned treatment works or other treatment works treating domestic sewage by any person, except as authorized by waste discharge requirements or dredged or fill material permits, is prohibited. This prohibition does not apply to discharges or operations if a state or federal permit is not required under the Federal Water Pollution Control Act, as amended. (Amended by Stats. 2010, Ch. 288, Sec. 32. Effective January 1, 2011.)

13377.

Notwithstanding any other provision of this division, the state board or the regional boards shall, as required or authorized by the Federal Water Pollution Control Act, as amended, issue waste discharge requirements and dredged or fill material permits which apply and ensure compliance with all applicable provisions of the act and acts amendatory thereof or supplementary, thereto, together with any more stringent effluent standards or limitations necessary to implement water quality control plans, or for the protection of beneficial uses, or to prevent nuisance. (Amended by Stats. 1978, Ch. 746.)

13378.

Waste discharge requirements and dredged or fill material permits shall be adopted only after notice and any necessary hearing. Such requirements or permits shall be adopted for a fixed term not to exceed five years for any proposed discharge, existing discharge, or any material change therein. (Amended by Stats. 1978, Ch. 746.)

13380.

Any waste discharge requirements or dredged or fill material permits adopted under this chapter shall be reviewed at least every five years and, if appropriate, revised. (Amended by Stats. 1978, Ch. 746.)

13381.

Waste discharge requirements or dredged or fill material permits may be terminated or modified for cause, including, but not limited to, all of the following:

(a) Violation of any condition contained in the requirements or permits.

(b) Obtaining the requirements by misrepresentation, or failure to disclose fully all relevant facts.

(c) A change in any condition that requires either a temporary or permanent reduction or elimination of the permitted discharge. (Amended by Stats. 1978, Ch. 746.)

13382.

Waste discharge requirements shall be adopted to control the disposal of pollutants into wells or in areas where pollutants may enter into a well from the surrounding groundwater. (Amended by Stats. 1984, Ch. 1461, Sec. 1.)

13383.

(a) The state board or a regional board may establish monitoring, inspection, entry, reporting, and recordkeeping requirements, as authorized by Section 13160, 13376, or 13377 or by subdivisions (b) and (c) of this section, for any person who discharges, or proposes to discharge, to navigable waters, any person who introduces pollutants into a publicly owned treatment works, any person who owns or operates, or proposes to own or operate, a
publicly owned treatment works or other treatment works treating
domestic sewage, or any person who uses or disposes, or proposes
to use or dispose, of sewage sludge.

(b) The state board or the regional boards may require any person
subject to this section to establish and maintain monitoring
equipment or methods, including, where appropriate, biological
monitoring methods, sample effluent as prescribed, and provide
other information as may be reasonably required.

(c) The state board or a regional board may inspect the facilities
of any person subject to this section pursuant to the procedure set
forth in subdivision (c) of Section 13267.

(Amended by Stats. 2003, Ch. 683, Sec. 6. Effective January 1, 2004.)

SECTION 13384 DESCRIBES THE RESPONSIBILITIES OF
THE STATE

SECTIONS 13385, 13385.1 AND 13387 DESCRIBE
VIOLATIONS AND PENALTIES FOR SUCH VIOLATIONS
The story goes that rice straw burning, mixed with a strong south wind, blew the smoky air into the state capitol, setting off the building’s smoke alarms. Rice straw burning was a post-harvest practice used to eliminate the stubble and disease left behind after the grain had been collected. This practice was used by virtually all rice growers just one generation ago. After this breaking point, growers were left in search of a way to reinvent their industry.

After years of research, many growers now use post-harvest flooding to decompose left over rice straw. The new practice not only helped to clean up the air but provided habitat for hundreds of wildlife species. Other growers bale the straw for use in construction, erosion control and livestock feed supplements. While rice growers completely changed their industry with the phase-out of rice straw burning, cleaning up the air is an ongoing process. In more recent years, the California rice industry’s air quality issues include greenhouse gas emissions and diesel emissions from trucks and tractors (California Rice Commission, 2012).
Air Quality Regulations

17 CAADC
Barclays Official California Code of Regulations
Title 17. Public Health
Division 3. Air Resources
Chapter 1. Air Resources Board
Subchapter 2. Smoke Management Guidelines for Agricultural and Prescribed Burning
Article I General Provisions

§ 80100. Purpose

The Smoke Management Guidelines for Agricultural and Prescribed Burning, henceforward referred to as Guidelines, are to provide direction to air pollution control and air quality management districts (air districts) in the regulation and control of agricultural burning, including prescribed burning, in California. The Guidelines are intended to provide for the continuation of agricultural burning, including prescribed burning, as a resource management tool, and provide increased opportunities for prescribed burning and agricultural burning while minimizing smoke impacts on the public. The regulatory actions called for are intended to assure that each air district has a program that meets air district and regional needs.

§ 80101. Definitions

(a) “Agricultural burning” is defined in Health and Safety Code section 39011 as follows:

(1) “Agricultural burning” means open outdoor fires used in agricultural operations in the growing of crops or raising of fowl or animals, or open outdoor fires used in forest management, range improvement, or the improvement of land for wildlife and game habitat, or disease or pest prevention.

(2) “Agricultural burning” also means open outdoor fires used in the operation or maintenance of a system for the delivery of water for the purposes specified in paragraph (1).

SECTIONS NOT RELEVANT TO RICE GROWERS WERE REMOVED

(b) “Air Pollution Control District” (APCD), “Air Quality Management District” (AQMD), “air district,” or “district” means an air pollution control district or an air quality management district created or continued in existence pursuant to provisions of Health and Safety Code section 40000 et seq.

c) “Air quality” means the characteristics of the ambient air as indicated by state ambient air quality standards which have been adopted by the state board pursuant to section 39606 of the Health and Safety Code and by National Ambient Air Quality Standards which have been established pursuant to sections 108 and 109 of the federal Clean Air Act pertaining to criteria pollutants and section 169A of the federal Clean Air Act pertaining to visibility.

d) “Ambient air” means that portion of the atmosphere, external to buildings, to which the general public has access.

e) “ARB” or “state board” means the Air Resources Board.

(f) “Basinwide air quality factor” means an air quality factor which equals the 4:00 am to 6:00 am two hour average soiling index (COH/10) ending at 6:00 am PST. The basinwide council may use other particulate matter measurements as an indicator of air quality if appropriate for its program.

g) “Blind Inspection Site” means an inspection site chosen, at the discretion of a field inspector, based upon the presence or anticipated presence of disease symptoms. 

(h) “Burn plan” means an operational plan for managing a specific fire to achieve resource benefits and specific management objectives. The plan includes, at a minimum, the project objectives, contingency responses for when the fire is out of prescription with the smoke management plan, the fire prescription (including smoke management components), and a description of the personnel, organization, and equipment.

(i) “Burn project” means an active or planned prescribed burn or a naturally ignited wildland fire managed for resource benefits.

(j) “Class I Area” means a mandatory visibility protection area designated pursuant to section 169A of the federal Clean Air Act.

(k) “Conditional Rice Straw Burn Permit” means a permit issued pursuant to sections 4165(f) and (h) of the Health and Safety Code by an Air Pollution Control Officer (APCO) to conduct one burn, on one field, within one year or shorter time period, as specified.

(l) “Conditional Rice Straw Burn Permit Applicant” means the individual (or his/her agent) with control over the property containing the rice fields proposed for burning.

(m) “Designated agency” means any agency designated by the
Air Resources Board as having authority to issue agricultural burning, including prescribed burning, permits. An air district may request such a designation for an agency. The U.S. Department of Agricultural (USDA) Forest Service and the California Department of Forestry and Fire Protection (CDF) are so designated within their respective areas of jurisdiction.

(m) “Disease Significance Threshold” means an estimated amount (expressed as a percentage of diseased stems) of a qualifying disease expected to result in significant decreased grain production (during the current or next growing season).

(o) “Fire protection agency” means any agency with the responsibility and authority to protect people, property, and the environment from fire, and having jurisdiction within a district or region.

(p) “Forty-eight hour forecast” means a prediction of the meteorological and air quality conditions that are expected to exist for a specific prescribed burn in a specific area 48 hours from the day of the prediction. The prediction shall indicate a degree of confidence.

(q) “Growing Season” means the period of time from seedbed preparation through crop harvest.

(r) “Land manager” means any federal, state, local, or private entity that administers, directs, oversees, or controls the use of public or private land, including the application of fire to the land.

(s) “Marginal burn day” means a day when limited amounts of agricultural burning, including prescribed burning, for individual projects in specific areas for limited times is not prohibited by the state board and burning is authorized by the district consistent with these Guidelines.

(t) “National Ambient Air Quality Standards (NAAQS)” mean standards promulgated by the United States Environmental Protection Agency that specify the maximum acceptable concentrations of pollutants in the ambient air to protect public health with an adequate margin of safety, and to protect public welfare from any known or anticipated adverse effects of such pollutants (e.g., visibility impairment, soiling, harm to wildlife or vegetation, materials damage, etc.) in the ambient air.

(u) “Ninety-six hour trend” means a prediction of the meteorological and air quality conditions that are expected to exist for a specific prescribed burn in a specific area 96 hours from the day of the prediction.

(v) “No-burn day” means any day on which agricultural burning, including prescribed burning, is prohibited by the state board or the air district in which the burning will occur.

(w) “Open burning in agricultural operations in the growing of crops or raising of fowl or animals” means:

(1) The burning in the open of materials produced wholly from operations in the growing and harvesting of crops or raising of fowl or animals for the primary purpose of making a profit, of providing a livelihood, or of conducting agricultural research or instruction by an educational institution.

(2) In connection with operations qualifying under paragraph (1):

(A) The burning of grass and weeds in or adjacent to fields in cultivation or being prepared for cultivation.

(B) The burning of materials not produced wholly from such operations, but which are intimately related to the growing or harvesting of crops and which are used in the field, except as prohibited by district regulations. Examples are trays for drying raisins, date palm protection paper, and fertilizer and pesticide sacks or containers, where the sacks or containers are emptied in the field.

(x) “Particulate matter (PM)” means any airborne finely divided material, except uncombined water, which exists as a solid or liquid at standard conditions (e.g., dust, smoke, mist, fumes or smog).

“PM2.5” means particles with an aerodynamic diameter less than or equal to a nominal 2.5 micrometers.

“PM10” means particles with an aerodynamic diameter less than or equal to a nominal 10 micrometers (including PM2.5).

(y) “Permissive-burn day,” or “burn day” means any day on which agricultural burning, including prescribed burning, is not prohibited by the state board and burning is authorized by the district consistent with these Guidelines.

(z) “Pre-fire fuel treatment” means techniques which can reasonably be employed prior to prescribed burning in order to reduce the emissions that would otherwise be produced in a prescribed fire.

(aa) “Prescribed burning” - see (a) (3). Tule burning in wildlands or wildland/urban interface is considered to be prescribed burning.

(bb) “Prescribed fire” means any fire ignited by management actions to meet specific objectives, and includes naturally-ignited wildland fires managed for resource benefits.

(cc) “Qualified Rice Disease Inspector” means any person certified in accordance with the provisions of section 1057 of this regulation, other than agricultural commissioner staff, who conducts rice disease inspections on behalf of rice growers.

(dd) “Qualifying Disease” means a rice disease that may cause significant yield loss and which the Secretary for the California
Department of Food & Agriculture (CDF) finds is controlled or effectively managed by the burning of straw, provided the ARB and CDF have not determined, in accordance with section 41865(h) of the Health and Safety Code, that there are other economically and technically feasible alternative means of elimination that are not substantially more costly to the conditional rice straw burn permit applicant.

(cc) “Range improvement burning” means the use of open fires to remove vegetation for a wildlife, game, or livestock habitat or for the initial establishment of an agricultural practice on previously uncultivated land.

(ff) “Region” means two or more air districts within an air basin or adjoining air basins that sign a memorandum of understanding to implement a coordinated regional smoke management program pursuant to the requirements of Article 2 of this regulation.

(gg) “Residential burning” means an open outdoor fire for the disposal of the combustible or flammable solid waste of a single- or two-family dwelling on its premises. Residential burning is not considered to be prescribed burning.

(hh) “Seventy-two-hour outlook” means a prediction of the meteorological and air quality conditions that are expected to exist for a specific prescribed burn in a specific area 72 hours from the day of the prediction.

(ii) “Smoke Management Plan” means a document prepared for each fire by land managers or fire managers that provides the information and procedures required in section 80160.

(jj) “Smoke management prescription” means measurable criteria that define conditions under which a prescribed fire may be ignited, guide selection of appropriate management responses, and indicate other required actions. Prescription criteria may include, but are not limited to, minimizing smoke impacts, safety, health, economic, public health, environmental, geographic, administrative, social, or legal considerations such as complying with Health and Safety Code section 41700, public nuisance statute.

(kk) “Smoke Management Program” means the program defined in these Guidelines.

(ll) “Smoke sensitive areas” are populated areas and other areas where a district determines that smoke and air pollutants can adversely affect public health or welfare. Such areas can include, but are not limited to, towns and villages, campgrounds, trails, populated recreational areas, hospitals, nursing homes, schools, roads, airports, public events, shopping centers, and mandatory Class 1 areas.

(mm) “State ambient air quality standards” means specified concentrations and durations of air pollutants which reflect the relationship between the intensity and composition of air pollution to undesirable effects, as established by the state board pursuant to Health and Safety Code section 39606.

(mm) “Unbiased Inspection Site” means an inspection site at a specific location prescribed by a method that does not consider the location or anticipated location of disease symptoms.

(oo) “Wildfire” means an unwanted wildland fire.

(pp) “Wildland” means an area where development is generally limited to roads, railroads, power lines, and widely scattered structures. Such land is not cultivated (i.e., the soil is disturbed less frequently than once in 10 years), is not fallow, and is not in the United States Department of Agriculture (USDA) Conservation Reserve Program. The land may be neglected altogether or managed for such purposes as wood or forage production, wildlife, recreation, wetlands, or protective plant cover.

For CDF only, “Wildland” as specified in California Public Resources Code (PRC) section 4664(a) means any land that is classified as a state responsibility area pursuant to article 3 (commencing with section 4125) of chapter 1, part 2 of division 4 and includes any such land having a plant cover consisting principally of grasses, forbs, or shrubs that are valuable for forage. “Wildland” also means any lands that are contiguous to lands classified as a state responsibility area if wildland fuel accumulation is such that a wildland fire occurring on these lands would pose a threat to the adjacent state responsibility area.

(qq) “Wildland fire” means any non-structural fire, other than prescribed fire, that occurs in the wildland.

For CDF only, “wildland fire” as specified in PRC section 4664(c) means any uncontrolled fire burning on wildland.

(rr) “Wildland/urban interface” means the line, area, or zone where structures and other human development meet or intermingle with the wildland.

§ 80102. Scope and Applicability

(a) These Guidelines apply to the Air Resources Board and all air districts in California, and regulate agricultural burning, including prescribed burning. These Guidelines are intended to provide flexibility to districts in the development and implementation of their smoke management programs. Such programs shall be developed in consultation with the ARB and focus on minimizing any significant impacts that agricultural or prescribed burning may have on air quality or public health. These Guidelines are also intended to assure adequate state oversight, including initial program approval and periodic program assessment.
(b) Although any local or regional authority may establish stricter standards for the control and regulation of agricultural burning, including prescribed burning, than those set forth in these Guidelines, no local or regional authority may ban agricultural or prescribed burning.

(c) These Guidelines are not intended to permit open burning on days when such burning is prohibited by public fire protection agencies for purposes of fire control or prevention.

§ 80110. Permissive Burn, Marginal Burn, or No-Burn Days

(a) The ARB shall specify each day of the year as a permissive burn day, or a no-burn day for each air basin or other specified area.

(b) The ARB shall announce by 3:00 p.m. every day for each of the state’s air basins or other specified areas whether the following day is a permissive burn day or a no-burn day, or whether the decision will be announced the following day. If conditions preclude a forecast until the next day, the decision shall be announced by 7:45 a.m. Such notices shall be based on the Meteorological Criteria for Regulating Agricultural Burning and Prescribed Burning, set forth in sections 80179 through 80330 of these Guidelines.

(c) The ARB may declare a marginal burn day if meteorological conditions approach the criteria contained in sections 80179 through 80311 for permissive burn days, and smoke impacts are not expected. A marginal burn day allows a district to authorize limited amounts of burning for individual projects in an air basin or other specified area if the air district demonstrates that smoke impacts to smoke sensitive areas are not expected as a result of the burn. The ARB shall announce by 3:00 p.m. every day for each of the state’s air basins or other specified areas whether the following day is a marginal burn day, or whether the decision will be announced the following day. If conditions preclude a forecast until the next day, the decision shall be announced by 7:45 a.m.

(d) Agricultural burning, including prescribed burning, is prohibited on no-burn days, except as specified in section 80120(c), section 80145(n), and section 80160(h).

(e) A district and the ARB may develop mutually agreeable procedures to allow a district to demonstrate that a given day is a marginal burn day or a burn day through its own analysis of the expected meteorological conditions in the air basin and a comparison to the meteorological criteria in Article 3.

§ 80120. Burning Permits

(a) No person shall knowingly set or allow agricultural or prescribed burning unless he or she has a valid permit from a district or designated agency. No burning shall be conducted pursuant to such permit without specific district approval consistent with these Guidelines. Burning conducted pursuant to each permit must comply with all conditions specified on the permit. A violation of this subsection is a violation of section 41852 of the California Health and Safety Code.

(b) The form of burning permits shall be prepared by the air districts in consultation with the designated agencies.

(c) The form of the permit shall contain the following words or words of similar import: "This permit is valid only on those days during which agricultural burning, including prescribed burning, is not prohibited by the State Air Resources Board or by an air district pursuant to section 41855 of the Health and Safety Code, and when burning on the lands identified herein has been approved by the air district."

(d) Each air district shall provide the designated agencies within the district with a copy of these Guidelines, related information on state laws, air district rules and regulations, and other information as appropriate.

(e) An air district may, by special permit, authorize agricultural burning, including prescribed burning, on days designated by the ARB as no-burn days if the denial of such permit would threaten imminent and substantial economic loss. In authorizing such burning, a district shall limit the amount of material which can be burned in any one day and only authorize burning which is not likely to cause or contribute to exceedences of air quality standards or result in smoke impacts to smoke sensitive areas.

(f) Permits issued by designated agencies shall be subject to these Guidelines and to the rules and regulations of the district. Designated agencies shall submit to the air districts information as specified by the air district.

(g) Each applicant for a permit shall provide information required by the designated agency for fire protection purposes.

(h) Each applicant for a permit shall provide information requested by the district.

§ 80130. Burning Report

(a) A report of agricultural burning, including prescribed burning, conducted pursuant to these Guidelines during each calendar year shall be submitted to the ARB by each air district within 45 days of the end of each calendar year. The report shall include the estimated tonnage or acreage of each waste type burned from open burning in agricultural operations and the estimated tonnage of waste from prescribed burning, and the county where the burning was performed.

(b) A report of special permits issued pursuant to subsection (c) of section 80120 during each calendar year shall be submitted to the
ARB by each air district within 45 days of the end of the calendar year. The report shall include the number of such permits issued, the date of issuance of each permit, the person or persons to whom the permit was issued, an estimate of the amount of wastes burned pursuant to the permit, and a summary of the reasons why denial of each permit would have threatened imminent and substantial economic loss, including the nature and dollar amounts of such loss.

(c) The ARB Executive Officer may, on a district-by-district basis, alter the frequency or contents of the reports required pursuant to subsections (a) and (b) of this section, based on information needed to conduct or evaluate smoke management programs. The Executive Officer shall provide a justification and reasonable schedule for implementing any revisions.

§ 80150. Special Requirements for Open Burning in Agricultural Operations in the Growing of Crops or Raising of Fowl or Animals

(a) The district smoke management program shall include rules and regulations or, until April 1, 2003, other enforceable mechanisms that:

(1) Require rice, barley, oat, and wheat straw to be ignited only by stripping into the wind or by backfiring, except under a special permit of the district issued when and where extreme fire hazards are declared by a public fire protection agency to exist, or where crops are determined by the district not to lend themselves to these techniques.

(2) Require burning hours to be set so that no field crop burning shall commence before 10:00 a.m. or after 5:00 p.m. of any day, unless local conditions indicate that other hours are appropriate.

(b) A district with no agricultural operations in the growing of crops or raising of fowl or animals within its jurisdiction may request to be exempted from the requirements of this section.

(c) Rice Straw Burning Requirements. Districts within the boundaries of the Sacramento Valley Air Basin and the San Joaquin Valley Air Basin shall also include in the program rules and regulations that:

(1) Require all rice harvesting to employ a mechanical straw spreader to ensure even distribution of the straw, except that rice straw may be left in rows, provided it meets drying time criteria prior to a burn as described in paragraph (2) below. Rice straw may also be left standing provided it is dried and meets the crackle test criteria described below prior to burning.

(2) Require that after harvest no spread rice straw shall be burned prior to a three-day drying period, and no rowed rice straw shall be burned prior to a ten-day drying period, unless the rice straw makes an audible crackle when tested just prior to burning with the following testing method: When checking the field for moisture, a composite sample of straw from under the mat, in the center of the mat, and from different areas of the field shall be taken to ensure a representative sample. A handful of straw from each area will give a good indication. Rice straw is dry enough to burn if a handful of straw selected as described above crackles when it is bent sharply.

(3) Require that after a rain exceeding 0.15 inch (fifteen hundredths of an inch), rice straw shall not be burned unless the straw makes an audible crackle when tested just prior to burning with the testing method described in paragraph (2), above.

§ 80155. Sacramento Valley Basinwide Program

The Sacramento Valley Basinwide Air Pollution Control Council (Basinwide Council) shall submit a smoke management program to the ARB for review and approval. The smoke management program shall apply to all areas of the Sacramento Valley Air Basin. In addition to all other applicable requirements, it shall contain:

(a) A daily basinwide acreage equation establishing a theoretical maximum daily allocation which includes a basinwide meteorological factor (B.M.F.-determined from Tables 4 and 5 of section 80320) and a basinwide air quality factor.

(b) Procedures for refining the theoretical maximum allocation in order to establish an initial actual allocation, including consultation between the ARB duty meteorologist and the basin coordinator and considering additional real-time air quality and meteorological information.

(c) Procedures for distributing acreage allocations to each air district. The total acreage distributed shall not exceed the initial actual allocation determined by the ARB in consultation with the basin coordinator. The program may specify procedures to update the initial actual allocation, based on real-time meteorological information and the progress of burning the initial actual allocation.

(d) The hours to be permitted for burning.

(e) A description of the meteorological and air quality monitoring networks to be used to provide data for determining the basinwide meteorological and air quality factors.

(f) Other clarifying details mutually agreed upon by the Basinwide Council and the ARB.

§ 80156. Conditional Rice Straw Burning Permit Program for the Sacramento Valley Air Basin

(a) The Sacramento Valley Basinwide Air Pollution Control Council (Basinwide Council) shall, by February 15, 2001, develop and submit to the state board a proposed rice straw burning
permit program (program) for the issuance of conditional rice straw burning permits (permit) by the APCOs in the Sacramento Valley Air Basin. The program shall be adopted after a public notice hearing of the Basinwide Council and shall implement and ensure compliance with the following requirements established by subdivisions (b) through (h).

(b) The APCOs in the Sacramento Valley Air Basin may grant conditional rice straw burning permits only after the county agricultural commissioner has completed the following:

(1) Independently determined the significant presence of a pathogen located in the field proposed for burning in the county of his/her jurisdiction in an amount sufficient to constitute a rice disease during the growing season.

(2) Made a written finding, based upon the inspection results of methods specified in subdivision (c), that the existence of the pathogen will likely cause a significant, quantifiable reduction in yield in the field proposed for burning during the current or next growing season.

(3) Documented each applicant’s compliance with the following terms and conditions:

(A) The fields proposed for burning are specifically described.

(B) The applicant has not violated any provision of section 41865 of the Health and Safety Code within the previous three years.

(c) In making the finding and determinations described in subdivisions (b)(1) through (b)(3), the county agricultural commissioner may accept inspection reports from qualified rice disease inspectors. Prior to making the finding, the agricultural commissioner must review and evaluate the accuracy of all inspection reports prepared by qualified rice disease inspectors and conduct field inspections to confirm results on a minimum of five percent of all inspection reports.

(d) Until May 31, 2003, the Basinwide Council’s program shall require the county agricultural commissioners, in determining disease significance pursuant to subdivision (b)(2), to base their determinations upon the following disease significance thresholds:

(1) For stem rot (Sclerotium oryzae), the disease significance threshold shall be 15 percent of the total stems sampled.

(2) For aggregate sheath rot (Rhizoctonia oryzae-sativa), the disease significance threshold shall be 15 percent of the total stems sampled.

(3) For neck blast (Pyricularia grisea), the disease significance threshold shall be 1.8 percent of the total stems sampled.

(4) The disease significance thresholds shall be compared against inspection results averaged over the field proposed for burning, in accordance with subdivision (e). If no disease significance threshold has been specified for the disease impact being evaluated by a county agricultural commissioner, the county agricultural commissioner shall utilize professional judgment in determining the significance of disease. Beginning June 1, 2003, the Basinwide Council’s program may propose alternative methods for evaluating the severity of qualifying diseases in an applicant’s field.

(e) The Basinwide Council shall develop detailed procedures for each inspection method proposed for adoption. Such inspection methods shall be based upon sound field sampling principles. Biased or unbiased methods, or combinations thereof, may be considered. Until May 31, 2003, the Basinwide Council’s program shall comply with the requirements of paragraphs (1) through (4), below. Beginning June 1, 2003, the Basinwide Council’s program may propose alternative methods for approving fields for burning based upon the presence of qualifying diseases in accordance with paragraph (4), below.

(1) Stem sampling inspection procedures that combine biased and unbiased inspection sites shall include, but shall not be limited to, the following provisions:

(A) Use a maximum of one (1) biased inspection site per field.

(B) Collect a minimum of fifty (50) stem samples at all inspection sites.

(C) Maintain a minimum ratio of biased to unbiased sampling sites of one (1) to three (3) in fields of 50 acres or less, and one (1) to five (5) in fields of greater than 50 acres.

(D) Determine the percentage of diseased stems at each inspection site.

(E) Sum the percentage values from paragraph (1)(D), above, and divide the sum by the total number of inspection sites to estimate the average percentage of diseased plants in the field proposed for burning.

(F) Allow for a field inspector to cease sampling at any time after the first biased site if the results indicate that the field qualifies for burning even with the remaining unsampled sites assumed to equal zero percent.

(G) If the field inspector elects to qualify the field using only one biased sampling site, the inspector must collect a minimum of one hundred (100) stem samples at that site. In all other sampling scenarios, the inspector shall collect a minimum of fifty samples per site.

(2) Visual assessment inspection procedures shall be limited to fields with readily apparent macro disease symptoms and shall include, but shall not be limited to, the following provisions:
(A) Assess and map the entire field for macro disease symptoms.

(B) Inspect for micro disease symptoms at a minimum of one (1) biased site.

(C) Require that a minimum of five (5) groups of at least twenty (20) plants be inspected for micro disease symptoms at each site.

(D) Estimate the average percentage of diseased stems at each focussed site.

(E) Soil sampling inspection procedures that combine biased and unbiased inspection sites shall be restricted to assessment of stem rot and shall include, but shall not be limited to, the following provisions:

(A) Use a maximum of two (2) biased inspection sites per field.

(B) Collect a minimum of eight (8) soil samples per field, each at different locations.

(C) Maintain a minimum ratio of biased to unbiased sampling sites of one (1) to three (3).

(D) Determine the level of disease (in terms of average viable stem rot sclerotia per gram of soil) at each inspection site.

(E) Conduct the procedure in accordance with Webster’s soil inoculum potential protocol for stem rot (Krause, R.A. & R.K. Webster, 1972, Mycologia 64:1333-1337).

(F) Each procedure shall include, but is not limited to, the following information:

(A) Protocol for selecting inspection sites.

(B) Number of required inspection sites.

(C) Methods of plant/soil collection.

(D) Methods of collection, counting, and scoring of rice plants.

(E) Methods of collection, storage, and analysis of soil samples.

(F) Procedures for calculating percentage of disease, if required, at specific inspection sites and use of this information to estimate average percentage of disease in a total field.

(G) The applicant shall submit an application form to the county agricultural commissioner to request the findings of terms and conditions specified in subdivision (b). The applications shall be available for public inspection for a period of three years. Each application form shall include, but shall not be limited to, the following information:

(1) Applicant’s name.

(2) Applicant’s identification number.

(3) Mailing address (property address, city, state, and zip code).

(4) Business telephone and fax number.

(5) Total planted rice acres.

(6) Site identification, location, and field acres proposed for burning.

(7) Description of diseases (type and indicator of severity).

(8) A statement that inspection reports are required as an attachment to the application before it can be considered complete.

(9) A statement authorizing the county agricultural commissioner to inspect the sites for rice disease.

(10) Signature of the applicant.

(11) A place for the signature of the agricultural commissioner verifying compliance with required findings and determinations described in subdivision (b).

(g) Qualified rice disease inspectors shall complete a field inspection reporting form for each inspection method and the grower shall submit the reporting form, with an application, to the county agricultural commissioner. The county agricultural commissioner must review and approve the submitted in accordance with the provisions of subdivisions (b), (c) and (d). Completed forms shall be filed in the county agricultural commissioner’s office and made available for public inspection for at least three years. Each inspection form shall include, but shall not be limited to, the following information:

(1) Applicant’s name.

(2) Applicant’s identification number.

(3) Mailing address (property address, city, state, and zip code).

(4) Business telephone and fax number.

(5) Location and description of inspected fields.

(6) Acreage of area proposed for burning.

(7) Description of diseases (type and indicator of severity).

(8) Estimated average disease infection level in the total area proposed for burning, if required.

(9) Total planted rice acres.

(10) Name, title, and signature of inspector.

(11) Qualified rice disease inspector’s certification number, if
applicable.

(b) Enforcement provisions shall be included to discourage false reporting. Inspectors who perform fraudulent inspections are subject to permanent revocation of certification and other penalties provided by law. Growers who file false reports shall be deemed in noncompliance with Health and Safety Code sections 41865 and 42402.2(b), and subject to penalties provided by law.

§ 80157. Inspection Training Requirements for Conditional Rice Straw Burning Permit Program for the Sacramento Valley Air Basin

(a) The Basinwide Council, in consultation with CDFA and ARB, shall establish a program to train and certify rice disease inspectors. The training program shall be implemented through an accredited agricultural educational facility, such as, but not limited to, the University of California Cooperative Extension. Successful completion of the training course shall be a prerequisite to certification. Trainers shall be experienced agricultural professionals with extensive in-field pest inspection and identification experience. Any individual, other than agricultural commissioners and their staff, performing inspections must be trained and certified. Agricultural commissioner staff shall be encouraged, though not required, to be trained through the program. The Basinwide Council may establish minimum criteria for entrance into the training program.

(b) The certifications shall be issued by the training facility. Basinwide Council, or agricultural commissioner and shall be revocable by the issuer for cause. Issuance of certification shall be based upon evidence of completion of the training program and demonstrated knowledge of the following subject matter:

1. Commonly occurring qualifying and nonqualifying rice diseases.
2. Life cycle or etiology of rice diseases.
3. Inspection methods and their statistical limitations.
4. Techniques of prioritizing suitable test methods based upon field and disease characteristics.
5. Penalties associated with fraudulent inspections and/or related documentation.
6. Estimation of acreage of fields, acreage of inspection areas, and acreage of disease infected areas.
9. Disease survey and detection techniques.
10. Visual inspection indicators, if available, that meet the disease significance thresholds defined in section 80101.

§ 80159. State Approval Procedures for Conditional Rice Straw Burning Permit Program for the Sacramento Valley Air Basin

(a) The Executive Officer shall approve, approve with conditions, disapprove, or indicate intent to disapprove any program, portion of a program, or amendment of a program within 90 days after submittal by the Basinwide Council. Reasons for disapproval, conditional approval, or intent to disapprove shall be provided to the Basinwide Council in writing. The Basinwide Council shall resubmit an amended plan addressing the ARB’s concerns within 90 days of the ARB’s communication of disapproval, conditional approval, or intent for disapproval.

(b) If the Basinwide Council does not submit a program by March 1, 2001, or if the Executive Officer has not approved a program submitted by the Basinwide Council by July 15, 2001, the Air Resources Board shall develop and adopt an alternative program. An alternative program shall be adopted by the Board at a public meeting in the Sacramento Valley Air Basin.

(c) An approved program may be amended by the Executive Officer with 90 days’ prior written notice to, and in consultation with, the Basinwide Council. The Basinwide Council may submit proposed program amendments to the Executive Officer for approval. The Executive Officer may request the submittal of program amendments from the Basinwide Council. No program, amendments, or portion thereof shall be implemented until approved in writing by the Executive Officer.
Labor

Overview

While rice is not a labor intensive crop, the industry is subject to labor regulations. Most notably, rice growers are adapting to new overtime regulations that will add costs to all agriculture operations. Other substantive labor regulations include Cal OSHA and Agricultural Labor Relations Act requirements.
Labor
Regulations

INDUSTRIAL WELFARE COMMISSION
ORDER NO. 4-2001
REGULATING
WAGES, HOURS AND WORKING CONDITIONS IN THE
PROFESSIONAL, TECHNICAL, CLERICAL, MECHANICAL
AND SIMILAR OCCUPATIONS

TAKE NOTICE: To employers and representatives of persons working in
industries and occupations in the State of California: The
Department of Industrial Relations amends and republishes the minimum wage
and meal and lodging credits in the Industrial Welfare
Commission’s Orders as a result of legislation enacted (AB 1835, Ch.
250, Stats of 2006, adding sections 1182.12 and 1182.13 to the
California Labor Code.) The amendments and republishing make no
other changes to the IWC’s Orders.

1. APPLICABILITY OF ORDER
This order shall apply to all persons employed in professional, technical,
clerical, mechanical, and similar occupations whether paid on
a time, piece rate, commission, or other basis, except that:
(A) Provisions of Sections 3 through 12 shall not apply to persons
employed in administrative, executive, or professional capacities.
The following requirements shall apply in determining whether an
employee’s duties meet the test to qualify for an exemption from those
sections:
(1) Executive Exception. A person employed in an executive capacity
means any employee:
(a) Whose duties and responsibilities involve the management of the
enterprise in which he/she is employed or of a customarily
recognized department or subdivision thereof; and
(b) Who customarily and regularly directs the work of two or more other
employees therein; and
(c) Who has the authority to hire or fire other employees or whose
suggestions and recommendations as to the hiring or firing
and as to the advancement and promotion or other exchange of status
of other employees will be given particular weight; and
(d) Who customarily and regularly exercises discretion and independent
judgment; and
(e) Who is primarily engaged in duties which meet the test of the
exemption. The activities constituting exempt work and nonexempt
work shall be construed in the same manner as such terms are construed
in the following regulations under the Fair Labor
Standards Act effective as of the date of this order: 29 C.F.R. Sections
541.201-205, 541.207-208, 541.210, and 541.215. Exempt work shall
include, for example, all work that is directly and closely related to
exempt work and work which is properly viewed as a means for carrying out exempt functions.

The work actually performed by the employee during the course of the
workweek must, first and foremost, be examined and the amount of
time the employee spends on such work, together with the employer’s
realistic expectations and the realistic requirements of the job, shall
be considered in determining whether the employee satisfies this
requirement.
(f) Such an employee must also earn a monthly salary equivalent to no
less than two (2) times the state minimum wage for
full-time employment. Full-time employment is defined in Labor Code
Section 515(c) as 40 hours per week.
(2) Administrative Exception. A person employed in an administrative
capacity means any employee:
(a) Whose duties and responsibilities involve either:
(i) The performance of office or non-manual work directly related to
management policies or general business operations
of his/her employer or his/her employer’s customer; or
(ii) The performance of functions in the administration of a school
system, or educational establishment or institution, or
of a department or subdivision thereof, in work directly related to the
academic instruction or training carried on therein; and
(b) Who customarily and regularly exercises discretion and independent
judgment; and
(c) Who regularly and directly assists a proprietor, or an employee
employed in a bona fide executive or administrative capacity
(as such terms are defined for purposes of this section); or
(d) Who performs under only general supervision work along specialized
or technical lines requiring special training,
experience, or knowledge; or
(e) Who executes under only general supervision special assignments and
tasks; and
(f) Who is primarily engaged in duties that meet the test of the
exemption. The activities constituting exempt work and nonexempt
work shall be construed in the same manner as such terms are construed
in the following regulations under the Fair Labor
Standards Act effective as of the date of this order: 29 C.F.R. Sections
541.201-205, 541.207-208, 541.210, and 541.215. Exempt work shall
include, for example, all work that is directly and closely related to
exempt work and work which is properly viewed as a means for carrying out exempt functions. The work actually performed by the employee
during the course of the workweek must, first and foremost, be examined and the amount of
time the employee spends on such work, together with the employer’s
realistic expectations and the realistic requirements of the job, shall
be considered in determining whether the employee satisfies this
requirement.
(g) Such an employee must also earn a monthly salary equivalent to no
less than two (2) times the state minimum wage for
full-time employment. Full-time employment is defined in Labor Code
Section 515(c) as 40 hours per week.
(3) Professional Exception. A person employed in a professional
capacity means any employee who meets all of the following
requirements:
(a) Who is licensed or certified by the State of California and is primarily
engaged in the practice of one of the following
recognized professions: law, medicine, dentistry, optometry, architecture,
Who is primarily engaged in an occupation commonly recognized as a learned or artistic profession. For the purposes of this subsection, "learned or artistic profession" means an employee who is primarily engaged in the performance of:

(i) Work requiring knowledge of an advanced type in a field of science or learning customarily acquired by a prolonged course of specialized intellectual instruction and study, as distinguished from a general academic education and from an apprenticeship, and from training in the performance of routine mental, manual, or physical processes, or work that is an essential part of or necessarily incident to any of the above work; or

(ii) Work that is original and creative in character in a recognized field of artistic endeavor (as opposed to work which can be produced by a person endowed with general manual or intellectual ability and training), and the result of which depends primarily on the invention, imagination, or talent of the employee or work that is an essential part of or necessarily incident to any of the above work; and

(iii) Whose work is predominantly intellectual and varied in character (as opposed to routine mental, manual, mechanical, or physical work) and is of such character that the output produced or the result accomplished cannot be standardized in relation to a given period of time.

Who customarily and regularly exercises discretion and independent judgment in the performance of duties set forth in subparagraphs (a) and (b).

Who earns a monthly salary equivalent to no less than two (2) times the state minimum wage for full-time employment.

Full-time employment is defined in Labor Code Section 515 (c) as 40 hours per week.

Subparagraph (b) above is intended to be construed in accordance with the following provisions of federal law as they existed as of the date of this wage order: 29 C.F.R. Sections 541.207, 541.301(c)(3a), 541.302, 541.306, 541.307, 541.308, and 541.310.

Notwithstanding the provisions of this subparagraph, pharmacists employed in the practice of pharmacy, and nurses employed to engage in the practice of nursing, shall not be considered exempt from coverage for the purposes of this subparagraph unless they individually meet the criteria established for exemption as executive or administrative employees.

Subparagraph (a) above shall not apply to the following advanced practice nurses:

(i) Certified nurse midwives who are primarily engaged in performing duties for which certification is required pursuant to Article 2.5 (commencing with Section 2746) of Chapter 6 of Division 2 of the Business and Professions Code.

(ii) Certified nurse anesthetists who are primarily engaged in performing duties for which certification is required pursuant to Article 7 (commencing with Section 2825) of Chapter 6 of Division 2 of the Business and Professions Code.

(iii) Certified nurse practitioners who are primarily engaged in performing duties for which certification is required pursuant to Article 8 (commencing with Section 2834) of Chapter 6 of Division 2 of the Business and Professions Code.

(iv) Nothing in this subparagraph shall exempt the occupations set forth in clauses (i), (ii), and (iii) from meeting the requirements of subsection 1(A)(3)(a)–(d) above.

Except, as provided in subparagraph (i), an employee in the computer software field who is paid on an hourly basis shall be exempt, if all of the following apply:

(i) The employee is primarily engaged in work that is intellectual or creative and that requires the exercise of discretion and independent judgment.

(ii) The employee is primarily engaged in duties that consist of one or more of the following:

—The application of systems analysis techniques and procedures, including consulting with users, to determine hardware, software, or system functional specifications.

—The design, development, documentation, analysis, creation, testing, or modification of computer systems or programs, including prototypes, based on and related to user or system design specifications.

—The documentation, testing, creation, or modification of computer programs related to the design of software or hardware for computer operating systems.

(iii) The employee is highly skilled and is proficient in the theoretical and practical application of highly specialized information to computer systems analysis, programming, and software engineering. A job title shall not be determinative of the applicability of this exemption.

(iv) The employee's hourly rate of pay is not less than forty-one dollars ($41.00). The Office of Policy, Research and Legislation shall adjust this pay rate on October 1 of each year to be effective on January 1 of the following year by an amount equal to the percentage increase in the California Consumer Price Index for Urban Wage Earners and Clerical Workers.*

(i) The exemption provided in subparagraph (b) does not apply to an employee if any of the following apply:

—The employee is a trainee or employee in an entry-level position who is learning to become proficient in the theoretical and practical application of highly specialized information to computer systems analysis, programming, and software engineering.

(ii) The employee is in a computer-related occupation but has not attained the level of skill and expertise necessary to work independently and without close supervision.

(iii) The employee is engaged in the operation of computers or in the manufacture, repair, or maintenance of computer hardware and related equipment.

(iv) The employee is an engineer, drafter, machinist, or other professional whose work is highly dependent upon or facilitated by the use of computers and computer software programs and who is skilled in computer-aided design software, including CAD/CAM, but who is not in a computer systems analysis or programming occupation.

(v) The employee is a writer engaged in writing material, including box labels, product descriptions, documentation, promotional material, setup and installation instructions, and other.
similar written information, either for print or for on screen media or who writes or provides content material intended to be read by customers, subscribers, or visitors to computer-related media such as the World
Wide Web or CD-ROMs.

The employee is engaged in any of the activities set forth in subparagraph (b) for the purpose of creating imagery for effects used in the motion picture, television, or theatrical industry.

Except as provided in Sections 1, 2, 4, 10, and 20, the provisions of this order shall not apply to any employees directly employed by Pursuant to Labor Code section 515.5, subdivision (a)(4), the Office of Policy, Research and Legislation, Department of Industrial Relations, has adjusted the minimum hourly rate of pay specified in this subdivision to be $4.20, effective January 1, 2007. The hourly rate of pay is adjusted on October 1 of each year to be effective on January 1, of the following year, and may be obtained at www.dir.ca.gov/IWC or by mail from the Department of Industrial Relations.

by the State or any political subdivision thereof, including any city, county, or special district.

The provisions of this order shall not apply to outside salespersons.

The provisions of this order shall not apply to any individual who is

The provisions of this order shall not apply to any individual participating in a national service program, such as AmeriCorps, and may be obtained at www.dir.ca.gov/IWC or by mail from the Department of Industrial Relations.

2. DEFINITIONS

(A) An “alternative workweek schedule” means any regularly scheduled workweek requiring an employee to work more than eight (8) hours in a 24-hour period.

(B) “Commission” means the Industrial Welfare Commission of the State of California.

(C) “Division” means the Division of Labor Standards Enforcement of the State of California.

(D) “Emergency” means any unpredictable or unavoidable occurrence at unscheduled intervals requiring immediate action.

(E) “Employ” means to engage, suffer, or permit to work.

(F) “Employee” means any person employed by an employer.

(G) “Employees in the health care industry” means any of the following:

(1) Employees in the health care industry providing patient care;

(2) Employees in the health care industry working in a clinical or medical department, including pharmacists dispensing or dispensing prescriptions in any practice setting; or

(3) Employees in the health care industry working primarily or regularly as a member of a patient care delivery team; or

(4) Licensed veterinarians, registered veterinary technicians and unregistered animal health technicians providing patient care.

(H) “Employee” means any person as defined in Section 18 of the Labor Code, who directly or indirectly, or through an agent or any other person, employs or exercises control over the wages, hours, or working conditions of any person.

(I) “Health care emergency” consists of an unpredictable or unavoidable occurrence at unscheduled intervals relating to health care delivery, requiring immediate action.

(II) “Health care industry” is defined as hospitals, skilled nursing facilities, intermediate care facilities, and other related occupational listed as professional, semiprofessional, technical, clerical, mechanical, and kindred occupations.

(III) “Hours worked” means the time during which an employee is subject to the control of an employer, and includes all the time the employee is suffered or permitted to work, whether or not required to do so. Within the health care industry, the term “hours worked” means the time during which an employee is suffered or permitted to work for the employer, whether or not required to do so, as interpreted in accordance with the provisions of the Fair Labor Standards Act.

(IV) “Minor” means, for the purpose of this order, any person under the age of 18 years.

(V) “Outside salesperson” means any person, 18 years of age or over, who customarily and regularly works more than half the working time away from the employer’s place of business selling tangible or intangible items or obtaining orders or contracts for products, services or use of facilities.

(VI) “Primary” as used in Section 1, Applicability, means more than one-half the employee’s work time.

(VII) “Professional, Technical, Clerical, Mechanical, and Similar Occupations” includes professional, semiprofessional, managerial, supervisory, laboratory, research, technical, clerical, office work, and mechanical occupations. Said occupations shall include, but not be limited to, the following: accountants; agents; appraisers; artists; attendants; audio-visual technicians; bookkeepers; bundlers; billposters; canvassers; carriers; cashiers; checkers; clerks; collectors; communications and sound technicians; compilers; copy holders; copy writers; computer programmers and operators; demonstrators and display representatives; dispatchers; distributors; doorkeepers; drafter; elevator operators; estimators; editors; graphic arts technicians; guards; guides; hosts; inspectors; installers; instructors; interviewers; investigators; librarians; laboratory workers; machine operators; mechanics; mailers; messengers; medical and dental technicians and technicians; models; nurses; packagers; photographers; porters; and agents; process servers; printers; proof readers; salespersons and sales agents; secretaries; sign writers; sign painters; social workers; solicitors; statisticians; stenographers; teachers; telephone; radiotelephone; telegraph and call-out operators; tellers; ticket agents; tracer; typists; vehicle operators; x-ray technicians; their assistants and other related occupations listed as professional, semiprofessional, technical, clerical, mechanical, and kindred occupations.

(VIII) “Shift” means “shift” means a work schedule, which is interrupted by non-pay worked periods established by the employer, other than bona fide rest or meal periods.

(V) “Teaching” means, for the purpose of Section 1 of this order, the profession of teaching under a certificate from the Commission.
for Teacher Preparation and Licensing or teaching in an accredited college or university.

(5) "Wage" includes all amounts for labor performed by employees of every description, whether the amount is fixed or uncertain by the standard of time, task, piece, commission basis, or other method of calculation.

(6) "Workday" and "day" mean any consecutive 24-hour period beginning at the same time each calendar day.

(7) "Workweek" and "week" mean any seven (7) consecutive days, starting with the same calendar day each week. "Workweek" is a fixed and regularly recurring period of 168 hours, seven (7) consecutive 24-hour periods.

3. HOURS AND DAYS OF WORK

(A) Daily Overtime - General Provisions

(1) The following overtime provisions are applicable to employees 18 years of age or over and to employees 16 or 17 years of age who are not required by law to attend school and are not otherwise prohibited by law from engaging in the subject work. Such employees shall not be employed more than eight (8) hours in any workday or more than 40 hours in any workweek unless the employee receives one and one-half (1 1/2) times such employee's regular rate of pay for all hours worked in excess of 40 hours in the workweek.

(2) Eight (8) hours of labor constitutes a day's work. Employment beyond eight (8) hours in any workday or more than six (6) days in any workweek is permissible provided the employee is compensated for such overtime at not less than:

(a) One and one-half (1 1/2) times the employee's regular rate of pay for all hours worked in excess of eight (8) hours up to and including 12 hours in any workday, and for the first eight (8) hours worked on the seventh (7th) consecutive day of work in a workweek; and

(b) Double the employee's regular rate of pay for all hours worked in excess of 12 hours in any workday and for all hours worked in excess of eight (8) hours on the seventh (7th) consecutive day of work in a workweek.

(c) The overtime rate of compensation required to be paid to a nonexempt full-time salaried employee shall be computed by using the employee's regular hourly salary as one-fourth (1/4) of the employee's weekly salary.

(B) Alternative Workweek Schedules

(1) No employer shall be deemed to have violated the daily overtime provisions by instituting, pursuant to the election procedures set forth in this wage order, a regularly scheduled alternative workweek schedule of not more than ten (10) hours per day within a 40 hour workweek without the payment of an overtime rate of compensation. All work performed in any workday beyond the schedule established by the agreement up to 12 hours a day or beyond 40 hours per week shall be paid at one and one-half (1 1/2) times the employee's regular rate of pay. All work performed in excess of 12 hours per day and any work in excess of eight (8) hours on those days worked beyond the regularly scheduled number of workdays established by the alternative workweek agreement shall be paid at double the employee's regular rate of pay. Any alternative workweek agreement adopted pursuant to this section shall provide for not less than four (4) hours of work in any shift. Nothing in this section shall prohibit an employer, at the request of the employee, to substitute one day of work for another day of the same length in the shift provided by the alternative workweek agreement on an occasional basis to meet the personal needs of the employee without the payment of overtime. No hours paid at either one and one-half (1 1/2) or double the regular rate of pay shall be included in determining when 40 hours have been worked for the purpose of computing overtime compensation.

(2) If an employer whose employees have adopted an alternative workweek agreement permitted by this order requires an employee to work fewer hours than those that are regularly scheduled by the agreement, the employer shall pay the employee overtime compensation at a rate of one and one-half (1 1/2) times the employee's regular rate of pay for all hours worked in excess of eight (8) hours, and double the employee's regular rate of pay for all hours worked in excess of 12 hours for the day the employee is required to work the reduced hours.

(3) An employer shall not reduce an employee's regular rate of hourly pay as a result of the adoption, repeal or nullification of an alternative workweek schedule.

(4) An employer shall explore any available reasonable alternative means of accommodating the religious belief or observance of an affected employee that conflicts with an adopted alternative workweek schedule, in the manner provided by subdivision (j) of Section 12940 of the Government Code.

(5) An employer shall make a reasonable effort to find a work schedule not to exceed eight (8) hours in a workday, in order to accommodate any affected employee who was eligible to vote in an election authorized by this section and who is unable to work the alternative workweek schedule established as the result of that election.

(6) An employer shall be permitted, but not required, to provide a work schedule not to exceed eight (8) hours in a workday to accommodate any employee who is hired after the date of the election and who is unable to work the alternative workweek schedule established by the election.

(7) Arrangements adopted in a secret ballot election held pursuant to this order prior to 1998, or under the rules in effect prior to July 1, 2000 provided that the results of the election are reported by the employee to the Office of Policy, Research and Legislation by January 1, 2001, in accordance with the requirements of subsection (C) above (Election Procedures). If an employee was voluntarily working an alternative workweek schedule of not more than ten (10) hours a day as of July 1, 1999, that alternative workweek schedule was based on an individual agreement made after January 1, 1998 between the employee and employer, and the employee submitted, and the employer approved, a written request on or before May 30, 2000 to continue the agreement, the employer may continue to work that alternative workweek schedule without payment of an overtime rate of compensation for the hours provided in the agreement. The employee may revoke his/her voluntary authorization to continue such a schedule with 30 days written notice to the employer. New arrangements can only be entered into pursuant to the provisions of this section. Notwithstanding the foregoing, if a health care industry employer implemented a reduced rate for 12-hour shift employees in the last quarter of 1999 and desires to implement a flexible work arrangement.
that includes 12-hour shifts at straight time for the same work unit, the employer must pay a base rate to each affected employee in the work unit that is no less than that employee’s base rate in 1999 immediately prior to the date of the rate reduction.

(8) Notwithstanding the above provisions regarding alternative workweek schedules, no employer of employees in the health care industry shall be deemed to have violated the daily overtime provisions by instituting, pursuant to the election procedures set forth in this wage order a regularly scheduled alternative workweek schedule that includes workdays exceeding ten (10) hours but not more than 12 hours within a 40 hour workweek without the payment of overtime compensation, provided that:

(a) An employee who works beyond 12 hours in a workday shall be compensated at double the employee’s regular rate of pay for all hours in excess of 12;

(b) An employee who works in excess of 40 hours in a workweek shall be compensated at one and one-half (1 1/2) times the employee’s regular rate of pay for all hours over 40 hours in the workweek;

(c) Any alternative workweek agreement adopted pursuant to this section shall provide for not less than four (4) hours of work in any shift;

(d) The same overtime standards shall apply to employees who are temporarily assigned to a work unit covered by this subsection.

(e) Any employer who instituted an alternative workweek schedule pursuant to this subsection shall make a reasonable effort to find another work assignment for any employee who participated in a valid election prior to 1998 pursuant to the provisions of Wage Orders 4 and 5 and who is unable to work the alternative workweek schedule established;

(f) An employer engaged in the operation of a licensed hospital or in providing personnel for the operation of a licensed hospital who institutes, pursuant to a valid order of the Commission, a regularly scheduled alternative workweek, that includes no more than three (3) 12-hour workdays, shall make a reasonable effort to find another work assignment for any employee who participated in the vote which authorized the scheduled and is unable to work the 12-hour shifts. An employer shall not be required to offer a different work assignment to an employee if such a work assignment is not available or if the employee was hired after the adoption of the 12-hour, three (3) day alternative workweek schedule;

(g) No employee assigned to work a 12-hour shift established pursuant to this order shall be required to work more than 12 hours in any 24-hour period unless the chief nursing officer or authorized executive declares that:

(a) A “health care emergency”, as defined above, exists in this order; and

(b) All reasonable steps have been taken to provide required staffing; and

(c) Considering overall operational status needs, continued overtime is necessary to provide required staffing.

(10) Provided further that no employee shall be required to work more than 16 hours in a 24-hour period unless by voluntary mutual agreement of the employee and the employer, and no employee shall work more than 24 consecutive hours until said employee receives not less than eight (8) consecutive hours off duty immediately following the 24 consecutive hours of work.

(11) Notwithstanding subsection (B)(9) above, an employee may be required to work up to 13 hours in any 24-hour period if the employee scheduled to receive the subject employee does not report for duty as scheduled and does not inform the employer more than two (2) hours in advance of that scheduled shift that he/she will not be appearing for duty as scheduled.

(12) Election Procedures

Election procedures for the adoption and repeal of alternative workweek schedules require the following:

(1) Each proposal for an alternative workweek schedule shall be in the form of a written agreement proposed by the employer. The proposed agreement must designate a regularly scheduled alternative workweek in which the specified number of work days and work hours are regularly recurring. The actual days worked within that alternative workweek schedule need not be specified. The employer may propose a single work schedule that would become the standard schedule for the entire work unit, or a menu of work schedule options, from which each employee in the unit would be entitled to choose. If the employer proposes a menu of work schedule options, the employee may, with the approval of the employer, move from one menu option to another.

(2) In order to be valid, the proposed alternative workweek schedule must be adopted in a secret ballot election, before the performance of work, by at least a two-thirds (2/3) vote of the affected employees in the work unit. The election shall be held during regular working hours at the employees’ work site. For purposes of this subsection, “affected employees in the work unit” may include all employees in a readily identifiable work unit, such as a division, a department, a job classification, a shift, a separate physical location, or a recognized subdivision of any such work unit. A work unit may consist of an individual employee as long as the criteria for an identifiable work unit in this subsection are met.

(3) Prior to the secret ballot vote, any employer who proposes to institute an alternative workweek schedule shall have made a disclosure in writing to the affected employees, including the effects of the proposed arrangement on the employees’ wages, hours, and benefits. Such a disclosure shall include meeting(s), duty notices, held at least 14 days prior to voting, for the specific purpose of discussing the effects of the alternative workweek schedule. An employer shall provide that disclosure in a non-English language, as well as in English, if at least five (5) percent of the affected employees primarily speak that non-English language. The employer shall mail the written disclosure to employees who do not attend the meeting. Failure to comply with this paragraph shall make the election null and void.

(4) Any election to establish or repeal an alternative workweek schedule shall be held at the work site of the affected employees. The employer shall bear the costs of conducting any election held pursuant to this section. Upon a complaint by an affected employee, and after an investigation by the labor commissioner, the labor commissioner may require the employer to select a neutral third party to conduct the election.

(5) Any type of alternative workweek schedule that is authorized by the
Labor Code may be repealed by the affected employees. Upon a petition of one-third (1/3) of the affected employees, a new secret ballot election shall be held and a two-thirds (2/3) vote of the affected employees shall be required to reverse the alternative workweek schedule. The election to repeal the alternative workweek schedule shall be held not more than 30 days after the petition is submitted to the employer, except that the election shall be held not less than 12 months after the date that the same group of employees voted in an election held to adopt or repeal an alternative workweek schedule. However, where an alternative workweek schedule was adopted between October 1, 1999 and October 1, 2000, a new secret ballot election to repeal the alternative workweek schedule shall not be subject to the 12-month interval between elections. The election shall take place during regular working hours at the employees’ work site. If the alternative workweek schedule is revoked, the employer shall comply within 60 days. Upon proper showing of undue hardship, the Division of Labor Standards Enforcement may grant an extension of time for compliance.

(6) Only secret ballots may be cast by affected employees in the work unit at any election held pursuant to this section. The results of any election conducted pursuant to this section shall be reported by the employer to the Office of Policy, Research, and Legislation within 30 days after the results are final, and the report of election results shall be a public document. The report shall include the final tally of the vote, the size of the unit, and the nature of the business of the employer.

(7) Employees affected by a change in the work hours resulting from the adoption of an alternative workweek schedule may not be required to work those new work hours for at least 30 days after the announcement of the final results of the election.

(8) Employers shall not intimidate or coerce employees to vote either in support of or in opposition to a proposed alternative workweek.

No employees shall be discharged or discriminated against for expressing opinions concerning the alternative workweek election or for opposing or supporting its adoption or repeal. However, nothing in this section shall prohibit an employer from expressing his or her position concerning that alternative workweek to the affected employees. A violation of this paragraph shall be subject to Labor Code Section 98 et seq.

(9) The provisions of subsections (A), (B), and (C) above shall not apply to any employee whose earnings exceed one and one-half ($1.3) times the minimum wage if more than half of that employee’s compensation represents commissions.

(10) One and one-half (11/2) times a minor’s regular rate of pay shall be paid for all work over 10 hours in any workweek except minors 16 or 17 years old who are not required by law to attend school and may therefore be employed for the same hours as an adult are subject to subsection (A) or (B) and (C) above. Violations of child labor laws are subject to civil penalties of from $500 to $10,000 as well as to criminal penalties. Refer to California Labor Code Sections 1285 to 1312 and 1390 to 1399 for additional restrictions on the employment of minors and for descriptions of criminal and civil penalties for violation of the child labor laws. Employers should ask school districts about any required work permits.

(11) An employee may be employed on seven (7) workdays in one workweek when the total hours of employment during such workweek do not exceed 50 and the total hours of employment in any one workday thereof do not exceed six (6).

(12) If a meal period occurs on a shift beginning or ending at or between the hours of 10 p.m. and 6 a.m., facilities shall be available for securing hot food and drink or for heating food or drink, and a suitable sheltered place shall be provided in which to consume such food or drink.

(13) The provisions of Labor Code Sections 551 and 552 regarding one (1) day’s rest in seven (7) shall not be construed to prevent an accumulation of days of rest when the nature of the employer reasonably requires the employee to work seven (7) or more consecutive days; provided, however, that in each calendar month, the employee shall receive the equivalent of one (1) day’s rest in seven (7).

(14) Except as provided in subsections (E), (F), and (I), this section shall not apply to any employee covered by a valid collective bargaining agreement if the agreement expressly provides for the wages, hours of work, and working conditions of the employees, and if the agreement provides premium wage rates for all overtime hours worked and a regular hourly rate of pay for those employees of not less than 30 percent more than the state minimum wage.

(15) Notwithstanding subsection (I) above, where the employer and a labor organization representing employees of the employer have entered into a valid collective bargaining agreement pertaining to the hours of work of the employees, the requirement regarding the equivalent of one (1) day’s rest in seven (7) (see subsection (H) above) shall apply, unless the agreement expressly provides otherwise.

(16) The provisions of this section are not applicable to employees whose hours of service are regulated by:

(1) The United States Department of Transportation Code of Federal Regulations, Title 49, Sections 395.1 to 395.13, Hours of Service of Drivers; or

(2) Title 13 of the California Code of Regulations, subchapter 6.5, Section 1200 and following sections, regulating hours of drivers.

(17) No employee shall be terminated or otherwise disciplined for refusing to work more than 72 hours in any workweek, except in an emergency as defined in Section 203D.

(18) If an employer approves a written request of an employee to make up work time that is or would be lost as a result of a personal obligation of the employee, the hours of that makeup work time, if performed in the same workweek in which the work time was lost, may not be counted toward computing the total number of hours worked in a day for purposes of the overtime requirements, except for hours in excess of 11 hours of work in one (1) day or 40 hours of work in one (1) workweek. If an employee knows in advance that he or she will be requesting makeup time for a personal obligation that will recur at a fixed time over a succession of weeks, the employee may request to make up work time for up to four (4) weeks in advance, provided, however, that the makeup work must be performed in the same work week that the work time was lost. An employee shall provide a signed written request for each occasion that the employee makes a request to make up work time for a personal obligation.
up work time pursuant to this subsection. While an employer may inform
an employee of this makeup time option, the employer is prohibited
from encouraging or otherwise soliciting an employee to request the
employer's approval to take personal time off and make up the work
hours within the same workweek pursuant to this subsection.
4. MINIMUM WAGES
(A) Every employer shall pay to each employee wages not less than
seven dollars and fifty cents ($7.50) per hour for all hours worked,
effective January 1, 2007, and not less than eight dollars ($8.00) per hour
for all hours worked, effective January 1, 2008, except:
LEARNERS. Employees during their first 160 hours of employment in
occupations in which they have no previous similar or related
experience, may be paid not less than 85 percent of the minimum wage
rounded to the nearest nickel.
(B) Every employer shall pay to each employee, on the established
payday for the period involved, not less than the applicable minimum wage
for all hours worked in the payroll period, whether the
remuneration is measured by time, piece, commission, or otherwise.
(C) When an employee works a split shift, one (1) hour's pay at the
minimum wage shall be paid in addition to the minimum wage for
that workday, except when the employee resides at the place of
employment.
(D) The provisions of this section shall not apply to apprentices regularly
enrolled under the State Division of Apprenticeship
Standards.
5. REPORTING TIME PAY
(A) Each workday an employee is required to report for work and does
report, but is not put to work, or is furnished less than half said
employee's usual or scheduled day's work, the employee shall be paid for
half the usual or scheduled day's work, but in no event for less
than two (2) hours or more than four (4) hours, at the employee's
regular rate of pay, which shall not be less than the minimum wage.
(B) If an employee is required to report for work a second time in any
one workday and is furnished less than two (2) hours of work on
the second reporting, said employee shall be paid for two (2) hours at the
employee's regular rate of pay, which shall not be less than the
minimum wage.
(C) The foregoing reporting time pay provisions are not applicable when:
(1) Operations cannot commence or continue due to threats to employees
or property; or when recommended by civil authorities;
or
(2) Public utilities fail to supply electricity, water, or gas, or there is a
failure in the public utilities, or sewer system; or
(3) The interruption of work is caused by an Act of God or other cause
not within the employer's control.
(D) This section shall not apply to an employee on paid standby status
who is called to perform assigned work at a time other than
the employee's scheduled reporting time.
6. LICENSES FOR DISABLED WORKERS
(A) A license may be issued by the Division authorizing employment of a
person whose earning capacity is impaired by physical disability
or mental deficiency at less than the minimum wage. Such licenses shall
be granted only upon joint application of employer and employee
and employee's representative if any.
(B) A special license may be issued to a nonprofit organization such as a
sheltered workshop or rehabilitation facility fixing special
minimum rates to enable the employment of such persons without
requiring individual licenses of such employees.
(C) All such licenses and special licenses shall be renewed on a yearly
basis or more frequently at the discretion of the Division. (See
California Labor Code, Sections 1191 and 1191.5)
7. RECORDS
(A) Every employer shall keep accurate information with respect to each
employee including the following:
(1) Full name, home address, occupation and social security number.
(2) Birth date, if under 18 years, and designation as a minor.
(3) Time records showing when the employee begins and ends each work
period. Meal periods, split shift intervals and total daily
hours worked shall also be recorded. Meal periods during which
operations cease and authorized rest periods need not be recorded.
(4) Total wages paid each payroll period, including value of board,
lodging, or other compensation actually furnished to the
employee.
(5) Total hours worked in the payroll period and applicable rates of pay.
This information shall be made readily available to the
employee upon reasonable request.
(B) When a piece rate or incentive plan is in operation, piece rates or an
explanation of the incentive plan formula shall be provided
to employees. An accurate production record shall be maintained by
the employer.
(B) Every employer shall semiannually or at the time of each payment of
wages furnish each employee, either as a detachable part of
the check, draft, or voucher paying the employee's wages, or separately,
an itemized statement in writing showing: (1) all deductions; (2) the
inclusive dates of the period for which the employee is paid; (3) the name
of the employee or the employee's social security number; and
(4) the name of the employee, provided all deductions made on written
orders of the employee may be aggregated and shown as one
item.
(C) All required records shall be in the English language and in ink or
other indelible form, properly dated, showing month, day and
year, and shall be kept on file by the employer for at least three years at
the place of employment or at a central location within the State of
California. An employee's records shall be available for inspection by the
employee upon reasonable request.
(D) Checks shall be provided in all major work areas or within reasonable
distance therefrom as practicable.
8. CASH SHORTAGE AND BREAKAGE
No employer shall make any deduction from the wage or require any
reimbursement from an employee for any cash shortage, breakage,
or loss of equipment, unless it can be shown that the shortage, breakage,
or loss is caused by a dishonest or willful act, or by the gross
negligence of the employee.
9. UNIFORMS AND EQUIPMENT
(A) When uniforms are required by the employer to be worn by the
employee as a condition of employment, such uniforms shall be
provided and maintained by the employer. The term "uniform" includes
wearing apparel and accessories of distinctive design or color.
NOTE: This section shall not apply to protective apparel regulated by the Occupational Safety and Health Standards Board.

(B) When tools or equipment are required by the employer or are necessary to the performance of a job, such tools and equipment shall be provided and maintained by the employer, except that an employee whose wages are at least two (2) times the minimum wage provided herein may be required to provide and maintain hand tools and equipment customarily required by the trade or craft. This subsection (B) shall not apply to apprentices regularly indentured under the State Division of Apprenticeship Standards.

NOTE: This section shall not apply to protective equipment and safety devices on tools regulated by the Occupational Safety and Health Standards Board.

(C) A reasonable deposit may be required as security for the return of the items furnished by the employer under provisions of subsections (A) and (B) of this section upon issuance of a receipt to the employee for such deposit. Such deposits shall be made pursuant to Section 409 and following of the Labor Code or an employer with the prior written authorization of the employee may deduct from the employee’s last check the cost of an item furnished pursuant to (A) and (B) above in the event said item is not returned. No deduction shall be made at any time for normal wear and tear. All items furnished by the employer shall be returned by the employee upon completion of the job.

10. MEALS AND LODGING
(A) “Meals” means an adequate, well-balanced serving of a variety of wholesome, nutritious foods.
(B) “Lodging” means living accommodations available to the employee for full-time occupancy which are adequate, decent, and sanitary according to usual and customary standards. Employees shall not be required to share a bed.
(C) Meals or lodging may not be credited against the minimum wage without a voluntary written agreement between the employer and the employee. Where credit for meals or lodging is used to meet part of the employee’s minimum wage obligation, the amounts so credited may not be more than the following:

Room occupied alone ........................................ $35.27 per week $35.63 per week
Room shared .................................................. $29.11 per week $31.06 per week
Apartment—two-thirds (2/3) of the ordinary rental value, and in no event more than ........................................ $423.51 per month $451.89 per month
Where a couple are both employed by the employer, two-thirds (2/3) of the ordinary rental value, and in no event more than ........................................ $626.49 per month $668.46 per month

Meals:
Breakfast .................................................. $2.72 $2.90
Lunch ...................................................... $5.72 $5.97
Dinner ...................................................... $5.00 $5.34

(D) Meals evaluated as part of the minimum wage must be bona fide meals consistent with the employee’s work period. Deductions shall not be made for meals not received or lodging not used.

(E) If, as a condition of employment, the employee must live at the place of employment or occupy quarters owned or held under the control of the employer, then the employer may charge rent in excess of the values listed herein.

11. MEAL PERIODS
(A) No employer shall employ any person for a work period of more than five (5) hours without a meal period of not less than 30 minutes, except that when a work period of not more than six (6) hours will complete the day’s work the meal period may be waived by mutual consent of the employer and the employee. Unless the employee is relieved of all duty during a 30 minute meal period, the meal period shall be considered an “on duty” meal period and counted as time worked. An “on duty” meal period shall be permitted only when the nature of the work prevents an employee from being relieved of all duty and when by written agreement between the parties an on-the-job paid meal period is agreed to. The written agreement shall state that the employee may, in writing, revoke the agreement at any time.

(B) If an employer fails to provide an employee a meal period in accordance with the applicable provisions of this order, the employer shall pay the employee one (1) hour of pay at the employee’s regular rate of compensation for each workday that the meal period is not provided.

(C) In all places of employment where employees are required to eat on the premises, a suitable place for that purpose shall be designated.

(D) Notwithstanding any other provision of this order, employees in the health care industry who work shifts in excess of eight (8) total hours in a workday may voluntarily waive their right to one of their two meal periods. In order to be valid, any such waiver must be documented in a written agreement that is voluntarily signed by both the employee and the employer. The employee may revoke the waiver at any time by providing the employer at least one (1) day’s written notice. The employee shall be fully compensated for all working time, including any on-the-job meal period, while such a waiver is in effect.

12. REST PERIODS
(A) Every employer shall authorize and permit all employees to take rest periods, which insofar as practicable shall be in the middle of each work period. The authorized rest period time shall be based on the total hours worked daily at the rate of ten (10) minutes net rest time per four (4) hours or major fraction thereof. However, a rest period need not be authorized for employees whose total daily work time is less than three and one-half (3½) hours. Authorized rest period time shall be counted as hours worked for which there shall be no deduction from wages.

(B) If an employer fails to provide an employee a rest period in accordance with the applicable provisions of this order, the employer shall pay the employee one (1) hour of pay at the employee’s regular rate of compensation for each workday that the rest period is not provided.
13. CHANGE ROOMS AND RESTING FACILITIES
(A) Employers shall provide suitable lockers, closets, or equivalent for the safekeeping of employees’ outer clothing during working hours, and when required, for their work clothing during non-working hours. When the occupation requires a change of clothing, change rooms or equivalent space shall be provided in order that employees may change their clothing in reasonable privacy and comfort. These rooms or spaces may be adjacent to but shall be separate from toilet rooms and shall be kept clean.
NOTE: This section shall not apply to change rooms and storage facilities regulated by the Occupational Safety and Health Standards Board.
(B) Suitable resting facilities shall be provided in an area separate from the toilet rooms and shall be available to employees during work hours.
14. SEATS
(A) All working employees shall be provided with suitable seats when the nature of the work reasonably permits the use of seats.
(B) When employees are not engaged in the active duties of their employment and the nature of the work requires standing, an adequate number of suitable seats shall be placed in reasonable proximity to the work area and employees shall be permitted to use such seats when it does not interfere with the performance of their duties.
15. TEMPERATURE
(A) The temperature maintained in each work area shall provide reasonable comfort consistent with industry-wide standards for the nature of the process and the work performed.
(B) If excessive heat or humidity is created by the work process, the employer shall take all feasible means to reduce such excessive heat or humidity to a degree providing reasonable comfort. Where the nature of the employment requires a temperature of less than 60°F, a heated room shall be provided to which employees may retire for warmth, and such room shall be maintained at not less than 68°.
(C) A temperature of not less than 68° shall be maintained in the toilet rooms, resting rooms, and change rooms during hours of use.
(D) Federal and State energy guidelines shall prevail over any conflicting provision of this section.
16. ELEVATORS
Adequate elevator, escalator or similar service consistent with industry-wide standards for the nature of the process and the work performed shall be provided when employees are employed four floors or more above or below ground level.
17. EXEMPTIONS
If, in the opinion of the Division after due investigation, it is found that the enforcement of any provision contained in Section 7, Records; Section 12, Rest Periods; Section 13, Change Rooms and Resting Facilities; Section 14, Seats; Section 15, Temperature; or Section 16, Elevators, would not materially affect the welfare or comfort of employees and would work an undue hardship on the employer, exemption may be made at the discretion of the Division. Such exemptions shall be in writing to be effective and may be revoked after reasonable notice is given in writing. Application for exemption shall be made by the employer or by the employee and/or the employee’s representative to the Division in writing. A copy of the application shall be posted at the place of employment at the time the application is filed with the Division.
18. FILING REPORTS
(See California Labor Code, Section 1174(a))
19. INSPECTION
(See California Labor Code, Section 1174)
20. PENALTIES
(See California Labor Code, Section 1199)

(A) In addition to any other civil penalties provided by law, any employer or any other person acting on behalf of the employer who violates, or causes to be violated, the provisions of this order, shall be subject to the civil penalty of:
(1) Initial Violation — $50.00 for each underpaid employee for each pay period during which the employee was underpaid in addition to the amount which is sufficient to recover unpaid wages.
(2) Subsequent Violations — $100.00 for each underpaid employee for each pay period during which the employee was underpaid in addition to an amount which is sufficient to recover unpaid wages.
(3) The affected employee shall receive payment of all wages recovered.
(B) The labor commissioner may also issue citations pursuant to California Labor Code Section 1197.1 for non-payment of wages for overtime work in violation of this order.

21. SEPARABILITY
If the application of any provision of this order, or any section, subsection, subdivision, sentence, clause, phrase, word, or portion of this order should be held invalid or unconstitutional or unauthorized by statute, the remaining provisions thereof shall not be affected thereby, but shall continue to be given full force and effect as if the part so held invalid or unconstitutional had not been included herein.

22. POSTING OF ORDER
Every employer shall keep a copy of this order posted in an area frequented by employees where it may be easily read during the workday. Where the location of work or other conditions make this impractical, every employer shall keep a copy of this order and make it available to every employee upon request.

INDUSTRIAL WELFARE COMMISSION
ORDER NO. 8-2001
REGULATING WAGES, HOURS AND WORKING CONDITIONS IN THE INDUSTRIES HANDLING PRODUCTS AFTER HARVEST

INDUSTRIES HANDLING PRODUCTS AFTER HARVEST

TAKE NOTICE: To employers and representatives of persons working in industries and occupations in the State of California.

The Department of Industrial Relations amends and rephrases the minimum wage and meals and lodging credits in the Industrial Welfare Commission’s Orders as a result of legislation enacted (AB 1035, Ch. 230, Stats of 2006, adding sections 1182.12 and 1182.13 to the California Labor Code.) The amendments and rephrasing make no other changes to the IWC’s Orders.

1. APPLICABILITY OF ORDER
This order shall apply to all persons employed in the industries handling products after harvest whether paid on a time, piece
rate, commission, or other basis, except that:
(A) Provisions of Sections 3 through 12 of this order shall not apply to
persons employed in administrative, executive, or
professional capacities. The following requirements shall apply in
determining whether an employee’s duties meet the test to qualify for
an exemption from those sections:
(1) Executive Exemption. A person employed in an executive capacity
means any employee:
(a) Whose duties and responsibilities involve the management of the
enterprise in which he/she is employed or of a
customarily recognized department or subdivision thereof; and
(b) Who customarily and regularly directs the work of two or more other
employees therein; and
(c) Who has the authority to hire or fire other employees or whose
suggestions and recommendations as to the hiring
or firing and as to the advancement and promotion or any other change of
status of other employees will be given particular weight;
and
(d) Who customarily and regularly exercises discretion and independent
judgment; and
(e) Who is primarily engaged in duties which meet the test of the
exemption. The activities constituting exempt work
and non-exempt work shall be construed in the same manner as such
items are construed in the following regulations under the Fair
Labor Standards Act effective at the date of this order: 29 C.F.R.
Sections 541.102, 541.104-111, and 541.115-116. Exempt work
shall include, for example, all work that is directly and closely related to
exempt work and work which is properly viewed as a means
for carrying out exempt functions. The work actually performed by the
employee during the course of the workweek must, first and
foremost, be examined and the amount of time the employee spends on
such work, together with the employer’s realistic expectations
and the realistic requirements of the job, shall be considered in
determining whether the employee satisfies this requirement.
(f) Such an employee must also earn a monthly salary equivalent to no less
than two (2) times the state minimum wage
for full-time employment. Full-time employment is defined in Labor
Code Section 515(c) as 40 hours per week.
(2) Administrative Exemption. A person employed in an administrative
capacity means any employee:
(a) Whose duties and responsibilities involve either:
(i) The performance of office or non-manual work directly related to
management policies or general business
operations of his/her employer or his/her employer’s customers; or
(ii) The performance of functions in the administration of a school
system, or educational establishment or institution,
or of a department or subdivision thereof, in work directly related to the
academic instruction or training carried on therein; and
(b) Who customarily and regularly exercises discretion and independent
judgment; and
(c) Who regularly and directly assists a proprietor, or an employee
employed in a bona fide executive or administrative
capacity (as such terms are defined for purposes of this section); or
(d) Who performs under only general supervision work along specialized
or technical lines requiring special training,
experience, or knowledge; or
(e) Who exercises under only general supervision special assignments and
tasks; and
(f) Who is primarily engaged in duties which meet the test of the
exemption. The activities constituting exempt work and
non-exempt work shall be construed in the same manner as such terms
are construed in the following regulations under the Fair
Labor Standards Act effective at the date of this order: 29 C.F.R.
Sections 541.201-205, 541.207-208, 541.210, and 541.215.
Exempt work shall include, for example, all work that is directly and
closely related to exempt work and work which is properly viewed as
a means for carrying out exempt functions. The work actually
performed by the employee during the course of the workweek
must, first and foremost, be examined and the amount of time the
employee spends on such work, together with the employer’s
realistic expectations and the realistic requirements of the job, shall be
considered in determining whether the employee satisfies
this requirement.
(g) Such employee must also earn a monthly salary equivalent to no less
than two (2) times the state minimum wage
for full-time employment. Full-time employment is defined in Labor
Code Section 515(c) as 40 hours per week.
(3) Professional Exemption. A person employed in a professional
capacity means any employee who meets all of the following
requirements:
(a) Who is licensed or certified by the State of California and is primarily
engaged in the practice of one of the following
recognized professions: law, medicine, dentistry, optometry, architecture,
engineering, teaching, or accounting; or
(b) Who is primarily engaged in an occupation commonly recognized as
a learned or artistic profession. For the purposes
of this subsection, “learned or artistic profession” means an employee
who is primarily engaged in the performance of:
(i) Work requiring knowledge of an advanced type in a field of science or
learning customarily acquired by a prolonged
course of specialized intellectual instruction and study, as distinguished
from a general academic education and from an
apprenticeship, and from training in the performance of routine mental,
manual, or physical processes, or work that is an essential
part of or necessarily incident to any of the above work; or
(ii) Work that is original and creative in character in a recognized field of
artistic endeavor (as opposed to work
which can be produced by a person endowed with general manual or
intellectual ability and training), and the result of which depends
primarily on the inventors, imagination, or talent of the employee or
work that is an essential part of or necessarily incident to any of
the above work; and
(iii) Whose work is predominantly intellectual and varied in character (as
opposed to routine mental, manual,
mechanical, or physical work) and is of such character that the output
produced or the result accomplished cannot be standardized
in relation to a given period of time.
(c) Who customarily and regularly exercises discretion and independent
judgment in the performance of duties set forth in subparagraphs (a) and (b).

(d) Who earns a monthly salary equivalent to no less than two (2) times the state minimum wage for full-time employment. Full-time employment is defined in Labor Code Section 515 (c) as 40 hours per week.

(e) Subparagraph (b) above is intended to be construed in accordance with the following provisions of federal law as they existed as of the date of this wage order: 29 C.F.R. Sections 541.207, 541.301(a)-(d), 541.302, 541.306, 541.307, 541.308, and 541.309.

(f) Notwithstanding the provisions of this subparagraph, pharmacists employed in the practice of pharmacy, and registered nurses employed in the practice of nursing, shall not be considered exempt professional employees, nor shall they be considered exempt from coverage for the purposes of this subparagraph unless they individually meet the criteria established for exemption as executive or administrative employees.

(g) Subparagraph (f) above shall not apply to the following advanced practice nurses:

(i) Certified nurse midwives who are primarily engaged in performing duties for which certification is required pursuant to Article 2.5 (commencing with Section 2746) of Chapter 6 of Division 2 of the Business and Professions Code.

(ii) Certified nurse anesthetists who are primarily engaged in performing duties for which certification is required pursuant to Article 7 (commencing with Section 2825) of Chapter 6 of Division 2 of the Business and Professions Code.

(iii) Certified nurse practitioners who are primarily engaged in performing duties for which certification is required pursuant to Article 8 (commencing with Section 2834) of Chapter 6 of Division 2 of the Business and Professions Code.

(iv) Nothing in this subparagraph shall exempt the occupations set forth in clauses (i), (ii), and (iii) from meeting the requirements of subsection (a)(3)(A)-(D) above.

(h) Except as provided in subparagraph (i), an employee in the computer software field who is paid on an hourly basis shall be exempt from the daily overtime pay provisions of Labor Code Section 510, if all of the following apply:

(i) The employee is primarily engaged in work that is intellectual or creative and requires the exercise of discretion and independent judgment.

(ii) The employee is primarily engaged in duties that consist of one or more of the following:

—The application of systems analysis techniques and procedures, including consulting with users, to determine hardware, software, or system functional specifications.

—The design, development, documentation, analysis, creation, testing, or modification of computer systems or programs, including prototypes, based on and related to user or system design specifications.

—The documentation, testing, creation, or modification of computer programs related to the design of software or hardware for computer operating systems.

(iii) The employee is highly skilled and is proficient in the theoretical and practical application of highly specialized information to computer systems analysis, programming, and software engineering. A job title shall not be determinative of the applicability of this exemption.

(iv) The employee’s hourly rate of pay is not less than forty-one dollars ($41.00). The Office of Policy, Research and Legislation shall adjust this pay rate on October 1 of each year to be effective on January 1 of the following year by an amount equal to the percentage increase in the California Consumer Price Index for Urban Wage Earners and Clerical Workers.*

(c) The exemption provided in subparagraph (b) does not apply to an employee if any of the following apply:

(i) The employee is a trainee or employee in an entry-level position who is learning to become proficient in the theoretical and practical application of highly specialized information to computer systems analysis, programming, and software engineering.

(ii) The employee is in a computer-related occupation but has not attained the level of skill and expertise necessary to work independently and without close supervision.

(iii) The employee is engaged in the operation of computers or in the manufacture, repair, or maintenance of computer hardware and related equipment.

* Pursuant to Labor Code section 515.5, subdivision (a)(4), the Office of Policy, Research and Legislation, Department of Industrial Relations, has adjusted the minimum hourly rate of pay specified in this subdivision to be $49.77, effective January 1, 2007. This hourly rate of pay is adjusted on October 1 of each year to be effective on January 1, of the following year, and may be obtained at www.dir.ca.gov/IWC or by mail from the Department of Industrial Relations.

(v) The employee is an engineer, drafter, machinist, or other professional whose work is highly dependent upon or facilitated by the use of computers and computer software programs and who is skilled in computer-aided design software, including CAD/CAM, but who is not in a computer systems analysis or programming occupation.

(v) The employee is a writer engaged in writing material, including box labels, product descriptions, documentation, promotional material, setup and installation instructions, and other similar written information, either for print or for on-screen media or who writes or provides content material intended to be read by customers, subscribers, or visitors to computer-related media such as the World Wide Web or CD-ROMs.

(vi) The employee is engaged in any of the activities set forth in subparagraph (b) for the purpose of creating imagery for effects used in the motion picture, television, or theatrical industry.

(B) Except as provided in Sections 1, 2, 4, 10, and 20, the provisions of this order shall not apply to any employees directly employed by the State or any political subdivision thereof, including any city, county, or special district.

(C) The provisions of this order shall not apply to outside salespersons.
(D) The provisions of this order shall not apply to any individual who is the parent, spouse, child, or legally adopted child or the employer.

(E) The provisions of this order shall not apply to any individual participating in a national service program, such as AmeriCorps, carried out using assistance provided under Section 12571 of Title 42 of the United States Code. (See Stats, 2009, ch. 365, amending Labor Code Section 1171.)

2. DEFINITIONS

(A) An “alternative workweek schedule” means any regularly scheduled workweek requiring an employee to work more than eight (8) hours in a 24-hour period.

(B) “Commission” means the Industrial Welfare Commission of the State of California.

(C) “Division” means the Division of Labor Standards Enforcement of the State of California.

(D) “Employ” means to engage, suffer, or permit to work.

(E) “Employee” means any person employed by an employer.

(F) “Employer” means any person as defined in Section 18 of the Labor Code, who directly or indirectly, or through an agent or any other person, employs or exercises control over the wages, hours, or working conditions of any person.

(G) “Hours worked” means the time during which an employee is subject to the control of an employer, and includes all the time the employee is suffered or permitted to work, whether or not required to do so.

(H) “Industries Handling Products After Harvest” means any industry, business, or establishment operated for the purpose of grading, sorting, cleaning, drying, cooling, icing, packing, dehydrating, cracking, shelling, carding, separating, slaughtering, pickling, plucking, shocker, pasteurizing, fermenting, ripening, molding, or otherwise preparing any agricultural, horticultural, egg, poultry, meat, seafood, rabbit, or dairy product for distribution, and includes all the operations incidental thereto.

(I) “Minor” means, for the purpose of this order, any person under the age of 18 years.

(J) “Outside salesperson” means any person, 18 years of age or over, who customarily and regularly works more than half the working time away from the employer’s place of business selling tangible or intangible items or obtaining orders or contracts for products, services or use of facilities.

(K) “Primarily” as used in Section 1, Applicability, means more than one-half the employee’s work time.

(L) “Shift” means designated hours of work by an employee, with a designated beginning time and quitting time.

(M) “Split shift” means a work schedule, which is interrupted by non-paid non-working periods established by the employer, other than bona fide rest or meal periods.

(N) “Teaching” means, for the purpose of Section 1 of this order, the profession of teaching under a certificate from the Commission for Teacher Preparation and Licensing or teaching in an accredited college or university.

(O) “Wages” includes all amounts for labor performed by employees of every description, whether the amount is fixed or ascertained by the standard of time, task, piece, commission basis, or other method of calculation.

(P) “Workday” and “day” mean any consecutive 24-hour period beginning at the same time each calendar day.

(Q) “Workweek” and “week” mean any seven (7) consecutive days, starting with the same calendar day each week. “Workweek” is a fixed and regularly recurring period of 168 hours, seven (7) consecutive 24-hour periods.

3. HOURS AND DAYS OF WORK

(A) Daily Overtime - General Provisions

1. The following overtime provisions are applicable to employees 18 years of age or over and to employees 16 or 17 years of age who are not required by law to attend school and are not otherwise prohibited by law from engaging in the subject work.

Such employees shall not be employed more than eight (8) hours in any workday or more than 40 hours in any workweek unless the employee receives one and one-half (1½) times such employee’s regular rate of pay for all hours worked over 4 hours in any workday or more than 40 hours in any workweek unless the employee receives one and one-half (1¼) times such employee’s regular rate of pay for all hours worked over 40 hours in the workweek. Eight (8) hours of labor constitutes a day’s work. Employment beyond eight (8) hours in any workday or more than six (6) days in any workweek is permissible under the following conditions:

2. MANDATORY DAY OFF REQUIREMENT: An employee may work up to a maximum of 72 hours in any workweek after which the employee shall have a 24-hour period off duty, except that:

(a) In the grape and tree fruit industry the following key personnel: receivers, loaders, fork lift operators, shipping clerks, and maintenance workers, may be exempt from the mandatory day off requirement; and

(b) In the cotton ginning industry and in the tree nut hulling and shelling industry, all employees shall have the voluntary right to be exempt from the mandatory day off provision in this order.

Any employee desiring to exempt himself/herself from the mandatory day off provision may exercise that exemption by notifying the employee’s employer in writing. Any employee who wishes to withdraw that exemption may do so by notifying the employer in writing at least five (5) days in advance of the desired day off.

(4) (This notice provision is not intended to be applicable to instances of illness or emergencies); and

(c) In the exercise of any exemption from the mandatory day off provided above or by action of the state labor commissioner, (administrative exceptions from the mandatory day off are permitted by Labor Code Section 1198.3 under certain conditions) no employer shall discriminate against any employee who desires to take 24 hours off after 72 hours worked in a workweek; and

(d) All employers who permit any employees to work more than 72 hours in a workweek must give each employee a copy of the applicable provision for exemption, including subparagraphs (c) above in English and in Spanish, and post it at all times in a prominently visible place; and

3. Overtime hours shall be compensated at:

(a) One and one-half (1½) times the employee’s regular rate of pay for all hours worked in excess of eight (8) hours up
to and including 12 hours in any workday, and for the first eight (8) hours worked on the seventh (7th) consecutive day of work in a workweek; and
(b) Double the employee’s regular rate of pay for all hours worked in excess of 12 hours in any workday and for all hours worked in excess of eight (8) hours on the seventh (7th) consecutive day of work in a workweek.
(c) The overtime rate of compensation required to be paid to a nonexempt full-time salaried employee shall be computed by using the employee’s regular hourly salary as one-fortieth (1/40) of the employee’s weekly salary.
(3) Alternative Workweek Schedule
(1) No employer shall be deemed to have violated the daily overtime provisions by instituting, pursuant to the election procedures set forth in this wage order, a regularly scheduled alternative workweek schedule of not more than ten (10) hours per day within a 40 hour workweek without the payment of an overtime rate of compensation. All work performed in any workday beyond the schedule established by the agreement up to 12 hours a day or beyond 40 hours per week shall be paid at one and one-half (1 1/2) times the employee’s regular rate of pay. All work performed in excess of 12 hours per day and any work in excess of eight (8) hours on those days worked beyond the regularly scheduled number of workdays established by the alternative workweek agreement shall be paid at double the employee’s regular rate of pay. Any alternative workweek agreement adopted pursuant to this section shall provide for not less than four (4) hours of work in any shift. Nothing in this section shall prohibit an employer, at the request of the employee, to substitute one day of work for another day of the same length in the shift provided by the alternative workweek agreement on an occasional basis to meet the personal needs of the employee without the payment of overtime. No hours paid at either one and one-half (1 1/2) or double the regular rate of pay shall be included in determining when 40 hours have been worked for the purposes of computing overtime compensation.
(2) Any agreement adopted pursuant to this section shall provide not less than two consecutive days off within a workweek.
(3) If an employer whose employees have adopted an alternative workweek schedule by this order requires an employee to work fewer hours than those that are regularly scheduled by the agreement, the employer shall pay the employee overtime compensation at the rate of one and one-half (1 1/2) times the employee’s regular rate of pay for all hours worked in excess of eight (8) hours, and double the employee’s regular rate of pay for all hours worked in excess of 12 hours for the day the employee is required to work the reduced hours.
(4) An employer shall not reduce an employee’s regular rate of hourly pay as a result of the adoption, repeal or modification of an alternative workweek schedule.
(5) An employer shall explore any available reasonable alternative means of accommodating the religious belief or observance of an affected employee that conflicts with an adopted alternative workweek schedule, in the manner provided by subdivision (d) of Section 12940 of the Government Code.
(6) An employer shall make a reasonable effort to find a work schedule not to exceed eight (8) hours in a workday, in order to accommodate any affected employee who was ineligible to vote in an election authorized by this section and who is unable to work the alternative workweek schedule established as the result of that election.
(7) An employer shall be permitted, but not required, to provide a work schedule not to exceed eight (8) hours in a workday to accommodate any employee who is hired after the date of the election and who is unable to work the alternative workweek schedule established by the election.
(8) Arrangements adopted in a secret ballot election held pursuant to this order prior to 1998, or under the rules in effect prior to 1998, and before the performance of the work, shall remain valid after July 1, 2000 provided that the results of the election are reported by the employer to the Office of Policy, Research and Legislation by January 1, 2001, in accordance with the requirements of subsection (C) below (Election Procedures). If an employee was voluntarily working an alternative workweek schedule of not more than ten (10) hours a day as of July 1, 1999, that alternative workweek schedule was based on an individual agreement made after January 1, 1998 between the employee and employer, and the employee submitted, and the employer approved, a write ten request or before May 30, 2000 to continue the agreement, the employer may continue to work that alternative workweek schedule without payment of an overtime rate of compensation for the hours provided in the agreement. The employee may revoke his/her voluntary authorization to continue such a schedule with 20 days written notice to the employer. New arrangements can only be entered into pursuant to the provisions of this section.
(C) Election Procedures
(1) Election procedures for the adoption and repeal of alternative workweek schedules require the following:
(1) Each proposal for an alternative workweek schedule shall be in the form of a written agreement approved by the employee. The proposed agreement must designate a regularly scheduled alternative workweek in which the specified number of work days and work hours are regularly recurring. The actual days worked within that alternative workweek schedule need not be specified. The employer may propose a single work schedule that would become the standard schedule for workers in the work unit, or a menu of work schedule options, from which each employee in the unit would be entitled to choose. If the employer proposes a menu of work schedule options, the employee may, with the approval of the employer, move from one menu option to another.
(2) In order to be valid, the proposed alternative workweek schedule must be adopted in a secret ballot election, before the performance of work, by at least a two-thirds (2/3) vote of the affected employees in the work unit. The election shall be held during regular working hours at the employees’ work site. For purposes
of this subsection, “affected employees in the work unit” may include all employees in a readily identifiable work unit, such as a division, a department, a job classification, a shift, a separate physical location, or a recognized subdivision of any such work unit. A work unit may consist of an individual employee as long as the criteria for an identifiable work unit in this subsection are met.

(3) Prior to the secret ballot vote, any employer who proposed to institute an alternative workweek schedule shall have made a disclosure in writing to the affected employees, including the effects of the proposed arrangement on the employees’ wages, hours, and benefits. Such a disclosure shall include meeting(s), duly noticed, held at least 14 days prior to voting, for the specific purpose of discussing the effects of the alternative workweek schedule.

An employer shall provide that disclosure in a non-English language, as well as in English, if at least five (5) percent of the affected employees primarily speak that non-English language. The employer shall mail the written disclosure to employees who do not attend the meeting. Failure to comply with this paragraph shall make the election null and void.

(4) Any election to establish or repeal an alternative workweek schedule shall be held at the work site of the affected employees. The employer shall bear the costs of conducting any election held pursuant to this section. Upon a complaint by an affected employee, and after an investigation by the labor commissioner, the labor commissioner may require the employer to select a neutral third party to conduct the election.

(5) Any type of alternative workweek schedule that is authorized by the Labor Code may be repealed by the affected employees. Upon a petition of one-third (1/3) of the affected employees, a new secret ballot election shall be held and a two-thirds (2/3) vote of the affected employees shall be required to reverse the alternative workweek schedule. The election to repeal the alternative workweek schedule shall be held not more than 30 days after the petition is submitted to the employer, except that the election shall be held not less than 12 months after the date that the same group of employees voted in an election held to adopt or repeal an alternative workweek schedule. The election shall take place during regular working hours at the employees’ work site.

If the alternative workweek schedule is revoked, the employer shall comply within 60 days. Upon proper showing of undue hardship, the Division of Labor Standards Enforcement may grant an extension of time for compliance.

(6) Only secret ballots may be cast by affected employees in the work unit at any election held pursuant to this section. The results of any election conducted pursuant to this section shall be reported by the employer to the Office of Policy, Research and Legislation within 30 days after the results are final, and the report of election results shall be a public document. The report shall include the final tally of the vote, the size of the unit, and the nature of the business of the employer.

(7) Employees affected by a change in the work hours resulting from the adoption of an alternative workweek schedule may not be required to work those new work hours for at least 30 days after the announcement of the final results of the election.

(8) Employers shall not intimidate or coerce employees to vote either in support of or in opposition to a proposed alternative workweek. No employees shall be discharged or discriminated against for expressing opinions concerning the alternative workweek election or for opposing or supporting its adoption or repeal. However, nothing in this paragraph shall prohibit an employer from expressing his/her position concerning that alternative workweek to the affected employees. A violation of this paragraph shall be subject to Labor Code Section 98 et seq.

(D) One and one-half (1 1/2) times a miner’s regular rate of pay shall be paid for all work over 40 hours in any workweek except minors 16 or 17 years old who are not required by law to attend school and may therefore be employed for the same hours as an adult are subject to subsection (A) or (B) and (C) above.

(VIOLATIONS OF CHILD LABOR LAWS are subject to civil penalties of from $500 to $10,000 as well as to criminal penalties. Refer to California Labor Code Sections 1285 to 1312 and 1390 to 1399 for additional restrictions on the employment of minors and for descriptions of criminal and civil penalties for violation of the child labor laws. Employers should check school districts about any required work permits.)

(E) An employee may be employed on seven (7) workdays in one workweek when the total hours of employment during such workweek do not exceed 60 and the total hours of employment in any one workday thereof do not exceed six (6).

(F) If during any workday an employer declares a work reclassification of one week, the employer notifies the employees of the time to report back for work and permits them to leave the premises, such reclassification may exceed two hours and the total duration does not exceed two (2) hours. Work stoppages of less than one-half (1/2) hour may not be deducted from hours worked.

(G) If a meal period occurs on a shift beginning or ending at or between the hours of 10 p.m. and 6 a.m, facilities shall be available for securing hot food and drink or for heating food or drink, and a suitable shielded place shall be provided in which to consume such food or drink.

(H) The provisions of Labor Code Sections 551 and 552 regarding one (1) day’s rest in seven (7) shall not be construed to prevent an accumulation of rest when the nature of the employment reasonably requires the employee to work seven (7) or more consecutive days; provided, however, that in each calendar month, the employee shall receive the equivalent of one (1) day’s rest in seven (7).

(I) Except as provided in subsection (A)(1) and subsections (D) and (H), this section shall not apply to any employee covered by a valid collective bargaining agreement if the agreement expressly provides for the wages, hours of work, and working conditions of the employees, and if the agreement provides premium wage rates for all overtime hours worked and a regular hourly rate of pay for those employees of not less than 30 percent more than the state minimum wage.

(J) Notwithstanding subsection (I) above, where the employer and a labor
organization representing employees of the employer
have entered into a valid collective bargaining agreement pertaining to
the hours of work of the employees, the requirement regarding
the equivalent of one (1) day’s rest in seven (7) (see subsection (H)
above) shall apply, unless the agreement expressly provides
otherwise.

(k) The provisions of this section are not applicable to employees whose
hours of service are regulated by:
(i) The United States Department of Transportation Code of Federal
Regulations, Title 49, Sections 395.1 to 395.13, Hours
of Service of Drivers; or
(ii) Title 13 of the California Code of Regulations, subchapter 6.5,
Section 1200 and the following sections regulating hours
of drivers. —5—

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(1) An employer approves a written request of an employee to make up
work time that is or would be lost as a result of a personal
obligation of the employee, the hours of that makeup work time, if
performed in the same workweek in which the work time was lost,
may not be counted toward computing the total number of hours worked
in a day for purposes of the overtime requirements, except
for hours in excess of 11 hours of work in one (1) day or 40 hours of
work in one (1) workweek. If an employee knows in advance
that he/she will be requesting makeup time for a personal obligation that
will recur at a fixed time over a succession of weeks, the
employee may request to make up work time for up to four (4) weeks in
advance; provided, however, that the makeup work must be
performed in the same week that the work time was lost. An employee
shall provide a signed written request for each occasion that the
employee makes a request to make up work time pursuant to this
subsection. While an employer may inform an employee of this
makeup time option, the employer is prohibited from encouraging or
otherwise soliciting an employee to request the employer’s
approval to take personal time off and make up the work hours within the
same workweek pursuant to this subsection.

4. MINIMUM WAGES
(A) Every employer shall pay to each employee wages not less than
seven dollars and fifty cents ($7.50) per hour for all hours
worked, effective January 1, 2007, and not less than eight dollars ($8.00)
per hour for all hours worked, effective January 1, 2008,
except:

LEARNERS. Employees during their first 160 hours of employment in
occupations in which they have no previous similar or
related experience, may be paid not less than 85 percent of the minimum
wage rounded to the nearest nickel.

(B) Every employer shall pay to each employee, on the established
payday for the period involved, not less than the applicable
minimum wage for all hours worked in the pay period, whether the
remuneration is measured by time, piece, commission, or
otherwise.

(C) When an employee works a split shift, one (1) hour’s pay at the
minimum wage shall be paid in addition to the minimum
wage for that workday, except when the employee resides at the place of
employment.

(D) The provisions of this section shall not apply to apprentices regularly
indentured under the State Division of Apprenticeship
Standards.

5. REPORTING TIME PAY
(A) If a workday employee is required to report for work and does
report, but is not put to work or is furnished less than
half said employee’s usual or scheduled day’s work, the employee shall
be paid for half the usual or scheduled day’s work, but in
no event for less than two (2) hours nor more than four (4) hours, at the
employee’s regular rate of pay, which shall not be less than
the minimum wage.

(B) If an employee is required to report for work a second time in any
workday and is furnished less than two (2) hours of
work on the second reporting, said employee shall be paid for two (2)
hours at the employee’s regular rate of pay, which shall not
be less than the minimum wage.

(C) The foregoing reporting time pay provisions are not applicable when:

(1) Operations cannot commence or continue due to threats to employees
or property; or when recommended by civil
authorities; or

(2) Public utilities fail to supply electricity, water, or gas, or there is a
failure in the public utilities, or sewer system; or

(3) The interruption of work is caused by an Act of God or other cause
not within the employer’s control.

(D) This section shall not apply to an employee on paid standby status
who is called to perform assigned work at a time other
than the employee’s scheduled reporting time.

6. LICENSES FOR DISABLED WORKERS
(A) A license may be issued by the Division authorizing employment of a
person whose earning capacity is impaired by physical
disability or mental deficiency at less than the minimum wage. Such
licenses shall be granted only upon joint application of employer
and employee and employee’s representative if any.

(B) A special license may be issued to a nonprofit organization such as a
sheltered workshop or rehabilitation facility fixing special
minimum rates to enable the employment of such persons without
requiring individual licenses of such employees.

(C) All such licenses and special licenses shall be renewed on a yearly
basis or more frequently at the discretion of the
Division.

(See California Labor Code, Sections 1191 and 1191.5)

7. RECORDS
(A) Every employer shall keep accurate information with respect to each
employee including the following:

(1) Full name, home address, occupation and social security number.

(2) Birth date, if under 18 years, and designation as a minor.

(3) Time records showing when the employee begins and ends each work
period, meal periods, split shifts intervals and

(4) Total wages paid each payroll period, including value of board,

lodging, or other compensation actually furnished to the
employee.
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(5) Total hours worked in the payroll period and applicable rates of pay. This information shall be made readily available to the employee upon reasonable request.

(6) When a piece rate or incentive plan is in operation, piece rates or an explanation of the incentive plan formula shall be provided to employees. An accurate production record shall be maintained by the employer.

(B) Every employer shall semi-monthly or at the time of each payment of wages furnish each employee, either as a detachable part of the check, draft, or voucher paying the employee's wages, or separately, an itemized statement in writing showing:

(1) all deductions;

(2) the inclusive dates of the period for which the employee is paid;

(3) the name of the employer or the employee's social security number; and

(4) the name of the employer, provided all deductions made on written orders of the employee may be aggregated and shown as one item.

(C) All required records shall be in the English language and in ink or other indelible form, properly dated, showing month, day and year, and shall be kept on file by the employer for at least three years at the place of employment or at a central location within the State of California. An employee's records shall be available for inspection by the employee upon reasonable request.

(D) Clocks shall be provided in all major work areas or within reasonable distance therefrom as practicable.

8. CASH SHORTAGE AND BREAKAGE

No employer shall make any deduction from the wage or require any reimbursement from an employee for any cash shortage, breakage, or loss of equipment, unless it can be shown that the shortage, breakage, or loss is caused by a dishonest or willful act, or by the gross negligence of the employee.

9. UNIFORMS AND EQUIPMENT

(A) When uniforms are required by the employer to be worn by the employee as a condition of employment, such uniforms shall be provided and maintained by the employer. The term “uniform” includes wearing apparel and accessories of distinctive design or color.

NOTE: This section shall not apply to protective apparel regulated by the Occupational Safety and Health Standards Board.

(B) When tools or equipment are required by the employer or are necessary to the performance of a job, such tools and equipment shall be provided and maintained by the employer, except that an employee whose wages are at least two (2) times the minimum wage provided herein may be required to provide and maintain hand tools and equipment customarily required by the trade or craft.

This subsection (B) shall not apply to apprentices regularly indentured under the State Division of Apprenticeship Standards.

NOTE: This section shall not apply to protective equipment and safety devices or tools regulated by the Occupational Safety and Health Standards Board.

(C) A reasonable deposit may be required as security for the return of the items furnished by the employer under provisions of subsections (A) and (B) of this section upon issuance of a receipt to the employee for such deposit. Such deposits shall be made pursuant to Section 400 and following of the Labor Code or an employer with the prior written authorization of the employee may deduct from the employee's last check the cost of an item furnished pursuant to (A) and (B) above in the event such item is not returned. No deduction shall be made at any time for normal wear and tear. All items furnished by the employer shall be returned by the employee upon completion of the job.

10. MEALS AND LODGING

(A) “Meals” means an adequate, well-balanced serving of a variety of wholesome, nutritious foods.

(B) “Lodging” means living accommodations available to the employee for full-time occupancy which are adequate, decent, and sanitary according to usual and customary standards. Employees shall not be required to share a bed.

(C) Meals or lodging may not be credited against the minimum wage without a voluntary written agreement between the employer and the employee. When credit for meals or lodging is used to meet part of the employer’s minimum wage obligation, the amounts so credited may not be more than the following:

- Lodging:
  - Effective Effective January 1, 2007 January 1, 2008
  - Room occupied alone ........................................ $5.27 per week
  - $17.63 per week
  - Room shared .................................................... $20.11 per week
  - $31.06 per week
  - Apartment—two-thirds (2/3) of the ordinary rental value,
  - and in no event more than ........................................ $42.51 per month
  - $51.89 per month
  - Where a couple are both employed by the employer,
  - two-thirds (2/3) of the ordinary rental value, and in
  - no event more than .............................................. $626.49 per month
  - $686.46 per month

- Meals:
  - Breakfast .......................................................... $2.72 $2.90
  - Lunch ............................................................... $3.72 $3.97
  - Dinner .............................................................. $5.00 $5.54

- Meals evaluated as part of the minimum wage must be bona fide meals consistent with the employee’s work shift.

Deductions shall not be made for meals not received or lodging not used.

(E) If, as a condition of employment, the employee must live at the place of employment or occupy quarters owned or under the control of the employer, then the employer may not charge rent in excess of the values listed herein.

11. MEAL PERIODS

(A) No employer shall employ any person for a work period of more than five (5) hours without a meal period of not less than 30 —time minutes, except that when work period of not more than six (6) hours will complete the day’s work the meal period may be waived by mutual consent of the employer and the employee.

(B) An employer may not employ an employee for a work period of more than twenty (30) hours per day without providing the employee with a second meal period of not less than 30 minutes, except that if the
total hours worked is no more than 12 hours, the second meal period may be waived by mutual consent of the employee and the employer only if the first meal period was not waived.
(C) Unless the employee is relieved of all duty during a 30 minute meal period, the meal period shall be considered an "on-duty" meal period and counted as time worked. An "on duty" meal period shall be permitted only when the nature of the work prevents an employee from being relieved of all duty and when by written agreement between the parties an on-the-job paid meal period is agreed to. The written agreement shall state that the employee may, in writing, revoke the agreement at any time.
(D) If an employer fails to provide an employee a meal period in accordance with the applicable provisions of this order, the employer shall pay the employee one (1) hour of pay at the employee’s regular rate of compensation for each workday that the meal period is not provided.
(E) In places of employment where employees are required to eat on the premises, a suitable place for that purpose shall be designated.

12. REST PERIODS
(A) Every employer shall authorize and permit all employees to take rest periods, which insofar as practicable shall be in the middle of each work period. The authorized rest period time shall be based on the total hours worked daily at the rate of ten (10) minutes not rest time per four (4) hours or major fraction thereof. However, a rest period need not be authorized for employees whose total daily work time is less than three and one-half (31/2) hours. Authorized rest period time shall be counted as hours worked for which there shall be no deduction from wages.
(B) If an employer fails to provide an employee a rest period in accordance with the applicable provisions of this order, the employer shall pay the employee one (1) hour of pay at the employee’s regular rate of compensation for each workday that the rest period is not provided.

13. CHANGE ROOMS AND RESTING FACILITIES
(A) Employers shall provide suitable lockers, cabinets, or equivalent for the safekeeping of employees’ outer clothing during working hours, and when required, for their work clothing during non-working hours. When the occupation requires a change of clothing, change rooms or equivalent space shall be provided in order that employees may change their clothing in reasonable privacy and comfort. These rooms or spaces may be adjacent to but shall be separate from toilet rooms and shall be kept clean.

NOTE: This section shall not apply to change rooms and storage facilities regulated by the Occupational Safety and Health Standards Board.

(B) Suitable resting facilities shall be provided in an area separate from the toilet rooms and shall be available to employees during work hours.

14. SEATS
(A) All working employees shall be provided with suitable seats when the nature of the work reasonably permits the use of seats.

(B) When employees are not engaged in the active duties of their employment and the nature of the work requires standing, an adequate number of suitable seats shall be placed in reasonable proximity to the work area and employees shall be permitted to use such seats when it does not interfere with the performance of their duties.

15. TEMPERATURE
(A) The temperature maintained in each work area shall provide reasonable comfort consistent with industry-wide standards for the nature of the process and the work performed.
(B) If excessive heat or humidity is created by the work process, the employer shall take all feasible means to reduce such excessive heat or humidity to a degree providing reasonable comfort. Where the nature of the employment requires a temperature of less than 60°F., a heated room shall be provided to which employees may retire for warmth, and such room shall be maintained at not less than 68°.
(C) A temperature of not less than 68° shall be maintained in the toilet rooms, resting rooms, and change rooms during hours of use.

(D) Federal and State energy guidelines shall prevail over any conflicting provision of this section.

16. ELEVATORS
Adequate elevator, escalator or similar service consistent with industry-wide standards for the nature of the process and the work performed shall be provided when employees are employed four stories or more above or below ground level.

17. EXEMPTIONS
If, in the opinion of the Division after due investigation, it is found that the enforcement of any provision contained in Section 7, Records; Section 12, Rest Periods; Section 13, Change Rooms and Resting Facilities; Section 14, Seats; Section 15, Temperature; or Section 16, Elevators, would not materially affect the welfare or comfort of employees and would work an undue hardship on the employer, exemption may be made at the discretion of the Division. Such exemptions shall be in writing to be effective and may be revoked after reasonable notice is given in writing. Application for exemption shall be made by the employer or by the employee and/or the employee’s representative to the Division in writing. A copy of the application shall be posted at the place of employment —9 at the time the application is filed with the Division.

18. FILING REPORTS
(See California Labor Code, Section 1174(a))

19. INSPECTION
(See California Labor Code, Section 1174)

20. PENALTIES
(See California Labor Code, Section 1199)

(A) In addition to any other civil penalties provided by law, any employer or any other person acting on behalf of the employer who violates, or causes to be violated, the provisions of this order, shall be subject to the civil penalty of:
(1) Initial Violation — $50.00 for each underpaid employee for each pay period during which the employee was underpaid
in addition to the amount which is sufficient to recover unpaid wages.
(2) Subsequent Violations — $100.00 for each underpaid employee for
each pay period during which the employee was
underpaid in addition to an amount which is sufficient to recover unpaid
wages.
(3) The affected employee shall receive payment of all wages recovered.
(B) The labor commissioner may also issue citations pursuant to
California Labor Code Section 1197.1 for non-payment of wages
for overtime work in violation of this order.
21. SEPARABILITY
If the application of any provision of this order, or any section,
subsection, subdivision, sentence, clause, phrase, word, or
portion of this order should be held invalid or unconstitutional or
unauthorized or prohibited by statute, the remaining provisions
thereof shall not be affected thereby, but shall continue to be given full
force and effect as if the part so held invalid or
unconstitutional had not been included herein.
22. POSTING OF ORDER
Every employer shall keep a copy of this order posted in an area
frequented by employees where it may be easily read during
the workday. Where the location of work or other conditions make this
impractical, every employer shall keep a copy of this order
and make it available to every employee upon request.

Industrial Welfare Commission
order No. 13-2001
Regulating wages, hours and working conditions for
Industries preparing agricultural products for the market, on the
farm
(Effective January 1, 2001 as amended)
(Updated as of January 1, 2004)
1. Applicability of Order. This order shall apply to all persons employed
in industries preparing agricultural products for market, on the farm,
whether paid on a time, piece rate, commission, or other basis, except that:
(A) Provisions of Sections 3 through 12 of this Order shall not apply to
persons employed in administrative, executive, or professional capacities.
The following requirements shall apply in determining whether an
employee’s duties meet the test to qualify for an exemption from those
sections:
(1) Executive Exemption. A person employed in an executive capacity
means any employee:
(a) Whose duties and responsibilities involve the management of the
enterprise in which he or she is employed or of a customarily recognized
department or subdivision thereof; and
(b) Who customarily and regularly directs the work of two or more other
employees therein; and
(c) Who has the authority to hire or fire other employees or whose
suggestions and recommendations as to the hiring or firing and as to
the advancement and promotion or other change of status of other
employees will be given particular weight; and
(d) Who customarily and regularly exercises discretion and independent
judgment; and
(e) Who is primarily engaged in duties which meet the test of the
exemption. The activities constituting exempt work and non-exempt
work shall be construed in the same manner as such terms are construed
in the following regulations under the Fair Labor Standards Act effective
as of the date of this order: 29 C.F.R. §§ 541.102, 541.104-111, 541.115-
136. Exempt work shall include, for example, all work that is directly and
closely related to exempt work and work which is properly viewed as
a means for carrying out exempt functions. The work actually performed
by the employee during the course of the work week must, first and
foremost, be examined and the amount of time the employee spends
on such work, together with the employer’s realistic expectations and
the realistic requirements of the job, shall be considered in determining
whether the employee satisfies this requirement.
(f) Such an employer must also earn a monthly salary equivalent to no
less than two times the state minimum wage for full-time employment.
Full-time employment is defined in Labor Code § 515(c) as 40 hours per
week.
(2) Administrative Exemption. A person employed in an administrative
capacity means any employee:
(a) Whose duties and responsibilities involve either:
(1) The performance of office or non-manual work directly related to
management policies or general business operations of his employer or
his employer’s customers, or
(2) The performance of functions in the administration of a school
system, or educational establishment or institution, or of a department of
subdivision thereof, in work directly related to the academic instruction
or training carried on therein; and
(b) Who customarily and regularly exercises discretion and independent
judgment; and
(c) Who regularly and directly assists a proprietor, or an employee
employed in a bona fide executive or administrative capacity (as such
terms are defined for purposes of this section), or
(d) Who performs under only general supervision work along specialized
or technical lines requiring special training, experience, or knowledge,
or
(e) Who executes under only general supervision special assignments and
tasks, and
(f) Who is primarily engaged in duties which meet the test of the
exemption. The activities constituting exempt work and non-exempt
work shall be construed in the same manner as such terms are construed
in the following regulations under the Fair Labor Standards Act effective
as of the date of this order: 29 C.F.R. §§ 541.201-205, 541.207-208,
541.210, 541.215. Exempt work shall include, for example, all work
that is directly and closely related to exempt work and work which is
properly viewed as a means for carrying out exempt functions. The work
actually performed by the employee during the course of the work
week must, first and foremost, be examined and the amount of time the
employee spends on such work, together with the employer’s realistic
expectations and the realistic requirements of the job, shall be considered
in determining whether the employee satisfies this requirement.
(e) Each employee must also earn a monthly salary equivalent to no
less than two times the state minimum wage for full-time employment. Full-
time is defined in Labor Code § 515(c) as 40 hours per week.
(3) Professional Exemption. A person employed in a professional
capacity means any employee who meets all of the following
requirements:
(a) Who is licensed or certified by the State of California and is primarily engaged in the practice of one of the following recognized professions: law, medicine, dentistry, optometry, architecture, engineering, teaching, or accounting; or
(b) Who is primarily engaged in an occupation commonly recognized as a learned or artistic profession. For the purposes of this subsection, "learned or artistic profession" means an employee who is primarily engaged in the performance of:
   (1) Work requiring knowledge of an advanced type in a field or science or learning customarily acquired by a prolonged course of specialized intellectual instruction and study, as distinguished from a general academic education and from an apprenticeship, and from training in the performance of routine mental, manual, or physical processes or work that is an essential part of or necessarily incident to any of the above work; or
   (2) Work that is original and creative in character in a recognized field of artistic endeavor (as opposed to work which can be produced by a person endowed with general manual or intellectual ability and training), and the result of which depends primarily on the invention, imagination, or talent of the employee or work that is an essential part of or necessarily incident to any of the above work; and
   (3) Whose work is predominantly intellectual and varied in character (as opposed to routine mental, manual, mechanical, or physical work) and is of such character that the output produced or the result accomplished cannot be standardized in relation to a given period of time.
(c) Who customarily and regularly exercises discretion and independent judgment in the performance of duties set forth in subparagraphs (a) and (b).
(d) Who earns a monthly salary equivalent to no less than two times the state minimum wage for full-time employment. Full-time employment is defined in Labor Code §515 (c) as 40 hours per week.
(e) Subparagraph (b) above is intended to be construed in accordance with the following provisions of federal law as they existed as of the date of this Wage Order: 29 C.F.R. §§ 541.207, 541.301(a)-(d), 541.302, 541.306, 541.307, 541.308, and 541.310.
(f) Notwithstanding the provisions of this subparagraph, pharmacists employed to engage in the practice of pharmacy, and registered nurses employed to engage in the practice of nursing, shall not be considered exempt professional employees, nor shall they be considered exempt from coverage for the purposes of this subparagraph unless they individually meet the criteria established for exemption as executive or administrative employees.
(g) Subparagraph (f) above, shall not apply to the following advanced practice nurses shall:
   (i) Certified nurse midwives who are primarily engaged in performing duties for which certification is required pursuant to Article 2.5 (commencing with Section 2746) of Chapter 6 of Division 2 of the Business and Professions Code;
   (ii) Certified nurse anesthetists who are primarily engaged in performing duties for which certification is required pursuant to Article 7 (commencing with Section 2825) of Chapter 6 of Division 2 of the Business and Professions Code;
   (iii) Certified nurse practitioners who are primarily engaged in performing duties for which certification is required pursuant to Article 8 (commencing with Section 2834) of Chapter 6 of Division 2 of the Business and Professions Code.
   (iv) Nothing in this subparagraph shall exempt the occupations set forth in clauses (i), (ii), and (iii) from meeting the requirements of subsection (a)(3)(b) above.
   (b) Except as provided in subparagraph (i), an employee in the computer software field who is paid on an hourly basis shall be exempt, if all of the following apply:
   (i) The employee is primarily engaged in work that is intellectual or creative and that requires the exercise of discretion and independent judgment.
   (ii) The employee is primarily engaged in duties that consist of one or more of the following:
      - The application of systems analysis techniques and procedures, including consulting with users, to determine hardware, software, or system functional specifications.
      - The design, development, documentation, analysis, creation, testing, or modification of computer systems or programs, including prototypes, based on and related to, user or system design specifications.
      - The documentation, testing, creation, or modification of computer programs related to the design of software or hardware for computer operating systems.
      - The employee is highly skilled and is proficient in the theoretical and practical application of highly specialized information to computer systems analysis, programming, and software engineering. A job title shall not be determinative of the applicability of this exemption.
   (iv) The employee’s hourly rate of pay is not less than forty-four dollars and sixty-three cents ($44.63). The Division of Labor Statistics and Research shall adjust this pay rate on October 1 of each year to be effective on January 1 of the following year by an amount equal to the percentage increase in the California Consumer Price Index for Urban Wage Earners and Clerical Workers.
   (i) The exemption provided in subparagraph (b) does not apply to an employee if any of the following apply:
      (i) The employee is a trainee or employee in an entry-level position who is learning to become proficient in the theoretical and practical application of highly specialized information to computer systems analysis, programming, and software engineering.
      (ii) The employee is in a computer-related occupation but has not attained the level of skill and expertise necessary to work independently and without close supervision.
   (iii) The employee is engaged in the operation of computers or in the manufacture, repair, or maintenance of computer hardware and related equipment.
   (iv) The employee is an engineer, drafter, machinist, or other professional whose work is highly dependent upon or facilitated by the use of computers and computer software programs and who is skilled in computer-aided design software, including CAD/CAM, but who is not in a computer systems analysis or programming occupation.
   (v) The employee is a writer engaged in writing material, including box labels, product descriptions, documentation, promotional material, setup and installation instructions, and other similar written information, either for print or for on-screen media or who writes or provides content material intended to be read by customers, subscribers, or visitors to
computer-related media such as the World Wide Web or CD-ROMs.
(vi) The employee is engaged in any of the activities set forth in
subparagraph (b) for the purpose of creating imagery for effects used in
the motion picture, television, or theatrical industry.
(D) Except as provided in sections 1, 2, 4, 10, and 20, the provisions of
this Order shall not apply to any employees directly employed by the
State or any political subdivision thereof, including any city, county, or
special district.
(C) The provisions of this Order shall not apply to outside salespersons.
(D) Provisions of this Order shall not apply to any individual who is the
parent, spouse, child, or legally adopted child of the employer.
(E) The provisions of this Order shall not apply to any individual
participating in a national service program, such as AmeriCorps, carried
out using assistance provided under Section 12571 of Title 42 of the
1171)
2. Definitions.
(A) An “alternative workweek schedule” means any regularly scheduled
workweek requiring an employee to work more than eight (8) hours in a
24-hour period.
(B) “Commission” means the Industrial Welfare Commission of the State
of California.
(C) “Division” means the Division of Labor Standards Enforcement of
the State of California.
(D) “Employ” means to engage, suffer, or permit to work.
(E) “Employee” means any person employed by an employer.
(F) “Employer” means any person as defined in Section 18 of the Labor
Code, who directly or indirectly, or through an agent or any other
person, employs or exercises control over the wages, hours, or working
conditions of any person.
(G) “Hours worked” means the time during which an employee is subject
to the control of an employer, and includes all the time the employee
is suffered or permitted to work, whether or not required to do so.
(H) “Industries Preparing Agricultural Products for Market, on the Farm”
means any operation performed in a permanently fixed structure or
establishment on the farm or on a moving packing plant on the farm for
the purpose of preparing agricultural, horticultural, egg, poultry, meat,
seafood, rabbit, or dairy products for market when such operations are
done on the premises owned or operated by the same employer who
produced the products referred to herein and includes all operations
incidental thereto.
(I) “Minor” means, for the purpose of this Order, any person under the
age of eighteen (18) years.
(J) “Outside Salesperson” means any person, 18 years of age or over,
who customarily and regularly works more than half the working time
away from the employer’s place of business selling tangible or intangible
items or obtaining orders or contracts for products, services or use of
facilities.
(K) “Primarily” as used in Section 1, Applicability, means more than
one-half the employee’s work time.
(L) “Shift” means designated hours of work by an employee, with a
designated beginning time and ending time.
(M) “Split shift” means a work schedule which is interrupted by non-paid
non-working periods established by the employer, other than bona fide
rest or meal periods.
(N) “Teaching” means, for the purpose of Section 1 of this Order, the
profession of teaching under a certificate from the Commission for
Teacher Preparation and Licensing or teaching in an accredited college or
university.
(O) “Wages” includes all amounts for labor performed by employees
of every description, whether the amount is fixed or ascertained by the
standard of time, task, piece, commission basis, or other method of
calculation.
(P) “Workday” and “day” mean any consecutive 24-hour period
beginning at the same time each calendar day.
(Q) “Workweek” and “week” mean any seven (7) consecutive days,
starting with the same calendar day each week. “Workweek” is a fixed
and regularly recurring period of 168 hours, seven (7) consecutive 24-
hour periods.
3. Hours and Days of Work.
(A) Daily Overtime—General Provisions
(1) The following overtime provisions are applicable to employees
eighteen (18) years of age or over and to employees sixteen (16) or
seventeen (17) years of age who are not required by law to attend school
and are not otherwise prohibited by law from engaging in the subject
work. Such employees shall not be employed more than eight (8) hours
in any workday or more than forty (40) hours in any workweek unless the
employee receives one and one-half (1 1/2) times such employee’s regular
rate of pay for all hours worked over forty (40) hours in the workweek.
Eight (8) hours of labor constitutes a day’s work. Employment beyond
eight (8) hours in any workday or more than six (6) days in any
workweek is permissible under the following conditions:
(a) Any work by an employee in excess of seventy-two (72) hours in
any one workweek shall be on a voluntary basis. No employee shall be
discharged or in any other manner discriminated against or refusing to
work in excess of seventy-two (72) hours in any one workweek; and
(b) Overtime hours shall be compensated at:
(i) One and one-half (1 1/2) times the employee’s regular rate of pay for
all hours worked in excess of eight (8) hours up to and including twelve
(12) hours in any workday, and for the first eight (8) hours worked on the
seventh (7th) consecutive day of work in a workweek; and
(ii) Double the employee’s regular rate of pay for all hours worked in
excess of twelve (12) hours in any workday and for all hours worked in
excess of eight (8) hours on the seventh (7th) consecutive day of work in a
workweek.
(C) The overtime rate of compensation required to be paid to a
nonexempt full-time salaried employee shall be computed by using the
employee’s regular hourly salary as one fourth (1/4) of the employee’s
weekly salary.
(B) Alternative Workweek Schedules
(1) No employer shall be deemed to have violated the daily overtime
provisions by instituting, pursuant to the election procedures set forth in
this wage order, a regularly scheduled alternative workweek schedule of
not more than ten (10) hours per day within a forty (40) hour workweek
without the payment of an overtime rate of compensation. All work
performed in any workday beyond the schedule established by the
agreement up to twelve (12) hours a day or beyond forty (40) hours per
week shall be paid at one and one-half (1 1/2) times the employee’s
regular rate of pay. All work performed in excess of twelve (12) hours per day and any work in excess of eight (8) hours on those days worked beyond the regularly scheduled number of workdays established by the alternative workweek agreement shall be paid at double the employee’s regular rate of pay. Any alternative workweek agreement adopted pursuant to this section shall provide for not less than four (4) hours of work in any shift. Nothing in this section shall prohibit an employer, at the request of the employee, to substitute one day of work for another day of the same length in the shift provided by the alternative workweek agreement on an occasional basis to meet the personal needs of the employee without the payment of overtime. No hours paid at either one and one-half (1 1/2) or double the regular rate of pay shall be included in determining when forty (40) hours have been worked for the purpose of computing overtime compensation.

(2) Any agreement adopted pursuant to this section shall provide not less than two consecutive days-off within each workweek.

(3) If an employer, whose employees have adopted an alternative workweek agreement permitted by this order requires an employee to work fewer hours than those that are regularly scheduled by the agreement, the employer shall pay the employee overtime compensation at a rate of one and one-half (1 1/2) times the employee’s regular rate of pay for all hours worked in excess of eight (8) hours, and double the employee’s regular rate of pay for all hours worked in excess of twelve (12) hours for the day the employee is required to work the reduced hours.

(4) An employer shall not reduce an employee’s regular rate of hourly pay as a result of the adoption, repeal or modification of an alternative workweek schedule.

(5) An employer shall explore any available reasonable alternative means of accommodating the religious belief or observance of an affected employee that conflicts with an adopted alternative workweek schedule, in the manner provided by subdivision (j) of Section 12940 of the Government Code.

(6) An employer shall make a reasonable effort to find a work schedule not to exceed eight (8) hours in a workday, in order to accommodate any affected employee who was eligible to vote in an election authorized by this Section and who is unable to work the alternative workweek schedule established as the result of that election.

(7) An employer shall be permitted, but not required, to provide a work schedule not to exceed eight (8) hours in a workday to accommodate any employee who is hired after the date of the election and who is unable to work the alternative workweek schedule established by the election.

(8) If an employee was voluntarily working an alternative workweek schedule as of July 1, 1999, that was an individual agreement made after January 1, 1998 between the employer and employee, and that agreement provides for a workday of not more than ten (10) hours, that employee may continue to work that alternative workweek schedule without payment of an overtime rate of compensation for the hours provided in that schedule if the employee submits, and the employer approves, a written request to do so. Any such request and approval must be made on or before May 30, 2000. An employee may revoke his or her voluntary authorization to continue such a schedule with thirty (30) days written notice to the employer.

(9) Arrangements adopted in a secret ballot election held pursuant to this order prior to 1998, or under the rules in effect prior to 1998, and before the performance of the work, shall remain valid after July 1, 2000 provided that the results of the election are reported by the employer to the Division of Labor Standards and Research by January 1, 2001, in accordance with the requirements of Section C below (Election Procedures). If an employee was voluntarily working an alternative workweek schedule of not more than ten (10) hours a day as of July 1, 1999 that alternative workweek schedule was based on an individual agreement made after January 1, 1998 between the employee and employer, and the employee submitted, and the employer approved, a written request on or before May 30, 2000 to continue the agreement, the employee may continue to work that alternative workweek schedule without payment of an overtime rate of compensation for the hours provided in the agreement. The employee may revoke his or her voluntary authorization to continue such a schedule with thirty (30) days written notice to the employer. New arrangements can only be entered into pursuant to the provisions of this section.

C) Election Procedures

Election procedures for the adoption and repeal of alternative workweek schedules require the following:

(1) Each proposal for an alternative workweek schedule shall be in the form of a written agreement proposed by the employer. The proposal agreement shall designate a regularly scheduled alternative workweek in which the specified number of workdays and work hours are regularly occurring. The actual days worked within that alternative workweek schedule need not be specified. The employer may propose a single work schedule that will become the standard schedule for workers in the work unit, or a menu of work schedule options, from which each employee in the unit would be entitled to choose. If the employer proposes a menu of work schedule options, the employee may, with the approval of the employer, move from one menu option to another.

(2) In order to be valid, the proposed alternative workweek schedule must be adopted in a secret ballot election, before the performance of work, by at least two-thirds (2/3) vote of the affected employees in the work unit. The election shall be held during regular working hours at the employees’ work site. For purposes of this subsection, “affected employees in the work unit” may include all employees in a readily identifiable work unit, such as a division, a department, a job classification, a shift, a separate physical location, or a recognized subdivision of any such work unit. A work unit may consist of an individual employee as long as the criteria for an identifiable work unit in this subsection is met.

(3) Prior to the secret ballot vote, any employer who proposed to institute an alternative workweek schedule shall have made a disclosure in writing to the affected employees, including the effects of the proposed arrangement on the employees’ wages, hours, and benefits. Such a disclosure shall include meeting(s), duly noticed, held at least fourteen (14) days prior to voting, for the specific purpose of discussing the effects of the alternative workweek schedule. An employer shall provide that disclosure in a non-English language, as well as in English, if at least five (5) percent of the affected employees primarily speak that non-English language. The employer shall mail the written disclosure to employees who do not attend the meeting. Failure to comply with this paragraph shall make the election null and void.
(4) Any election to establish or repeal an alternative workweek schedule shall be held at the work site of the affected employees. The employer shall bear the costs of conducting any election held pursuant to this section. Upon a complaint by an affected employee, and after an investigation by the Labor Commissioner, the Labor Commissioner may require the employer to select a neutral third party to conduct the election.

(5) Any type of alternative workweek schedule that is authorized by the Labor Code may be repealed by the affected employees. Upon a petition of one-third (1/3) of the affected employees, a new secret ballot election shall be held and a two-thirds (2/3) vote of the affected employees shall be required to reverse the alternative workweek schedule. The election to repeal the alternative workweek schedule shall be held not more than 30 days after the petition is submitted to the employer, except that the election shall be held not later than twelve (12) months after the date that the same group of employees voted in an election held to adopt or repeal an alternative workweek schedule. The election shall take place during regular working hours at the employees' work site. If the alternative workweek schedule is revoked, the employer shall comply within sixty (60) days. Upon proper showing of undue hardship, the Division of Labor Standards Enforcement may grant an extension of time for compliance.

(6) Only secret ballots may be cast by affected employees in the work unit at any election held pursuant to this Section. The results of any election conducted pursuant to this Section shall be reported by the employer to the Division of Labor Statistics and Research within thirty (30) days after the results are final, and the report of election results shall be a public document. The report shall include the final tally of the vote, the size of the unit, and the nature of the business of the employer.

(7) Employees affected by a change in the work hours resulting from the adoption of an alternative workweek schedule may not be required to work those new work hours for at least thirty (30) days after the announcement of the final results of the election.

(8) Employers shall not intimidate or coerce employees to vote either in support of or in opposition to a proposed alternative workweek. No employees shall be discharged or discriminated against for expressing opinions concerning the alternative workweek election or for opposing or supporting its adoption or repeal. However, nothing in this section shall prohibit an employer from expressing his/her position concerning that alternative workweek to the affected employees. A violation of this paragraph shall be subject to Labor Code section 98 et seq.

(D) One and one-half (1 1/2) times a minor's regular rate of pay shall be paid for all work over forty (40) hours in any workweek except that minors sixteen (16) and seventeen (17) years old who are not required by law to attend school and may therefore be employed for the same hours as an adult are subject to subsection (A) or (B), and (C) above.

(VIOLATIONS OF CHILD LABOR LAWS are subject to civil penalties of from $500 to $10,000 as well as to criminal penalties. Refer to California Labor Code Sections 1285 to 1312 and 1390 to 1399 for additional restrictions on the employment of minors and for descriptions of criminal and civil penalties for violation of the child labor laws. Employees should ask school districts about any required work permits.)
work time pursuant to this subsection. While an employer may inform
an employee of this make-up time option, the employer is prohibited
from encouraging or otherwise soliciting an employee to request the
employer’s approval to take personal time off and make-up the work
hours within the same workweek pursuant to this subsection.
(A) Every employer shall pay to each employee wages not less than
six dollars and twenty-five cents ($6.25) per hour for all hours worked,
effective January 1, 2001, and not less than six dollars and seventy five
cents ($6.75) per hour for all hours worked effective January 1, 2002,
except:
(1) LEARNERS. Employees during their first one hundred and sixty
(160) hours of employment in occupations in which they have no
previous similar or related experience, may be paid not less than eighty
five percent (85%) of the minimum wage rounded to the nearest nickel.
(B) Every employer shall pay to each employee, on the established
payday for the period involved, not less than the applicable minimum
wage for all hours worked in the payroll period, whether the
remuneration is measured by time, piece, commission, or otherwise.
(C) When an employee works a split shift, one hour’s pay at the
minimum wage shall be paid in addition to the minimum wage for that
workday, except when the employee resides at the place of employment.
(D) The provisions of this section shall not apply to apprentices regularly
inducted under the State Division of Apprenticeship Standards.
5. Reporting Time Pay.
(A) Each workday an employee is required to report for work and
do not report, but is not put to work or is furnished less than half said
employee’s usual or scheduled day’s work, the employee shall be paid
for half the usual or scheduled day’s work, but in no event for less than
two (2) hours nor more than four (4) hours, at the employee’s regular
rate of pay, which shall not be less than the minimum wage.
(B) If an employee is required to report for work a second time in any
one workday and is furnished less than two hours of work on the second
reporting, said employee shall be paid for two hours at the employee’s
regular rate of pay, which shall not be less than the minimum wage.
(C) The foregoing reporting time pay provisions are not applicable when:
(1) Operations cannot commence or continue due to threats to employees
or property; or when recommended by civil authorities; or
(2) Public utilities fail to supply electricity, water, or gas, or there is a
failure in the public utilities, or sewer system; or
(3) The interruption of work is caused by an Act of God or other cause
not within the employer’s control.
(D) This section shall not apply to an employee on paid standby
status who is called to perform assigned work at a time other than the
employee’s scheduled reporting time.
(A) A license may be issued by the Division authorizing employment
of a person whose earning capacity is impaired by physical disability or
mental deficiency at less than the minimum wage. Such licenses shall
be granted only upon joint application of employer and employee and
employee’s representative if any.
(B) A special license may be issued to a nonprofit organization such as a
sheltered workshop or rehabilitation facility fixing special minimum rates
to enable the employment of such persons without requiring individual
licenses of such employees.
(C) All such licenses and special licenses shall be renewed on a yearly
basis or more frequently at the discretion of the Division.
(See California Labor Code, Sections 1191 and 1191.5.)
7. Records.
(A) Every employer shall keep accurate information with respect to each
employee including the following:
(1) Full name, home address, occupation and social security number.
(2) Birth date, if under 18 years, and designation as a minor.
(3) Time records showing when the employee begins and ends each work
period. Meal periods, split shift intervals and total daily hours worked
shall also be recorded. Meal periods during which operations cease and
authorized rest periods need not be recorded.
(4) Total wages paid each payroll period, including value of board,
lodging, or other compensation actually furnished to the employee.
(5) Total hours worked in the payroll period and applicable rates of pay.
This information shall be made readily available to the employee upon
reasonable request.
(B) Every employer shall semimonthly or at the time of each payment of
wages furnish each employee, either as a detachable part of the check,
draft, or voucher paying the employee’s wages, or separately, an itemized
statement in writing showing: (1) all deductions; (2) the inclusive
dates of the period for which the employee is paid; (3) the name of
the employee or the employee’s social security number; and (4) the name of
the employer, provided all deductions made on written orders of the
employee may be aggregated and shown as one item.
(C) All required records shall be in the English language and in ink or
other indelible form, properly dated, showing month, day and year, and
shall be kept on file by the employer for at least three years at the place
of employment or at a central location within the State of California. An
employee’s records shall be available for inspection by the employee
upon reasonable request.
(D) Clocks shall be provided in all major work areas or within reasonable
distance thereto insomuch as practicable.
8. Cash Shortage and Breakage.
No employer shall make any deduction from the wage or require any
reimbursement from an employee for any cash shortage, breakage, or
loss of equipment, unless it can be shown that the shortage, breakage, or
loss is caused by a dishonest or willful act, or by the gross negligence of
the employee.
(A) When uniforms are required by the employer to be worn by the
employee as a condition of employment, such uniforms shall be provided
and maintained by the employer. The term “uniform” includes wearing
apparel and accessories of distinctive design or color.
NOTE: This section shall not apply to protective apparel regulated by the
Occupational Safety and Health Standards Board.
(B) When tools or equipment are required by the employer or are
necessary to the performance of a job, such tools and equipment shall
be provided and maintained by the employer, except that an employee
whose wages are at least two (2) times the minimum wage provided
herein may be required to provide and maintain hand tools and equipment customarily required by the trade or craft. This subsection (B) shall not apply to apprentices regularly indentured under the State Division of Apprenticeship Standards.

NOTE: This section shall not apply to protective equipment and safety devices on tools regulated by the Occupational Safety and Health Standards Board.

(C) A reasonable deposit may be required as security for the return of the items furnished by the employer under provisions of subsections (A) and (B) of this section upon issuance of a receipt to the employee for such deposit. Such deposits shall be made pursuant to Section 400 and following of the Labor Code or an employer with the prior written authorization of the employee may deduct from the employee's last check the cost of an item furnished pursuant to (A) and (B) above in the event said item is not returned. No deduction shall be made at any time for normal wear and tear. All items furnished by the employer shall be returned by the employee upon completion of the job.

10. Meals and Lodging.
(A) “Meal” means an adequate, well-balanced serving of a variety of wholesome, nutritious foods.
(B) “Lodging” means living accommodations available to the employee for full-time occupancy which are adequate, decent, and sanitary according to usual and customary standards. Employees shall not be required to share a bed.
(C) Meals or lodging may not be credited against the minimum wage without a voluntary written agreement between the employer and the employee. When credit for meals or lodging is used to meet part of the employee’s minimum wage obligation, the amounts so credited may not be more than the following:

Effective Dates: January 1, 2001 January 1, 2002

Lodging:
Rooms occupied alone $29.40 per week $31.75 per week
Room shared $24.25 per week $26.20 per week
Apartment-two thirds (2/3) of the ordinary rental value, and in no event more than $352.95 per month $391.20 per month

Where a couple are both employed by the employer, two-thirds (2/3) of the ordinary rental value, and in no event more than $522.10 per month $563.90 per month

Meals:
Breakfast $2.25 $2.45
Lunch $3.10 $3.35
Dinner $4.15 $4.50

D) Meals evaluated as part of the minimum wage must be bona fide meals consistent with the employee's work shift. Deductions shall not be made for meals not received or lodging not used.
(E) If, as a condition of employment, the employee must live at the place of employment or occupy quarters owned or under the control of the employer, then the employer may not charge rent in excess of the values listed herein.

11. Meal Periods,
(A) No employer shall employ any person for a work period of more than five (5) hours without a meal period of not less than thirty (30) minutes, except that when a work period of not more than six (6) hours will complete the day’s work the meal period may be waived by mutual consent of the employer and employee.
(B) An employer may not employ an employee for a work period of more than ten (10) hours per day without providing the employee with a second meal period of not less than thirty (30) minutes, except that if the total hours worked is no more than twelve (12) hours, the second meal period may be waived by mutual consent of the employer and the employee only if the first meal period was not waived.
(C) Unless the employee is relieved of all duties during a thirty (30) minute meal period, the meal period shall be considered an “on duty” meal period and counted as time worked. An “on duty” meal period shall be permitted only when the nature of the work prevents an employee from being relieved of all duties and when by written agreement between the parties an on-the-job paid meal period is agreed to. The written agreement shall state that the employee may, in writing, revoke the agreement at any time.
(D) If an employer fails to provide an employee a meal period in accordance with the applicable provisions of this Order, the employer shall pay the employee one (1) hour of pay at the employee’s regular rate of compensation for each work day that the meal period was not provided.
(E) In all places of employment where employees are required to eat on the premises, a suitable place for that purpose shall be designated.

12. Rest Periods.
(A) Every employer shall authorize and permit all employees to take rest periods, which insofar as practicable shall be the middle of each work period. The authorized rest period time shall be based on the total hours worked daily at the rate of ten (10) minutes per rest time per hour (4) hours or major fraction thereof. However, a rest period need not be authorized for employees whose total daily work time is less than three and one-half (3 1/2) hours. Authorized rest period time shall be counted as hours worked for which there shall be no deduction from wages.
(B) If an employer fails to provide an employee a rest period in accordance with the applicable provisions of this Order, the employer shall pay the employee one (1) hour of pay at the employee’s regular rate of compensation for each work day that the rest period is not provided.

13. Change Rooms and Resting Facilities.
(A) Employers shall provide suitable lockers, closets, or equivalent for the safekeeping of employees’ outer clothing during working hours, and when required, for their work clothing during non-working hours. When the occupation requires a change of clothing, change rooms or equivalent space shall be provided in order that employees may change their clothing in reasonable privacy and comfort. These rooms or spaces may be adjacent to but shall be separate from toilet rooms and shall be kept clean.
NOTE: This section shall not apply to change rooms and storage facilities regulated by the Occupational Safety and Health Standards Board.

(B) Suitable resting facilities shall be provided in an area separate from the toilet rooms and shall be available to employees during work hours.

(A) All working employees shall be provided with suitable seats when the nature of the work reasonably permits the use of seats.
(B) When employees are not engaged in the active duties of their
employment and the nature of the work requires standing, an adequate number of suitable seats shall be placed in reasonable proximity to the work area and employees shall be permitted to use such seats when it does not interfere with the performance of their duties.

15. Temperature.
   (A) The temperature maintained in each work area shall provide reasonable comfort consistent with industry-wide standards for the nature of the process and the work performed.
   (B) If excessive heat or humidity is created by the work process, the employer shall take all feasible means to reduce such excessive heat or humidity to a degree providing reasonable comfort. Where the nature of the employment requires a temperature of less than 60° F., a heated room shall be provided to which employees may retire for warmth, and such room shall be maintained at not less than 60°.
   (C) A temperature of not less than 68° shall be maintained in the toilet rooms, dressing rooms, and change rooms during hours of use.
   (D) Federal and State energy guidelines shall prevail over any conflicting provision of this section.

16. Elevators.
   Adequate elevator, escalator or similar service consistent with industry-wide standards for the nature of the process and the work performed shall be provided when employees are employed four floors or more above or below ground level.

17. Exemptions.
   If, in the opinion of the Division after due investigation, it is found that the enforcement of any provision contained in Section 7, Records; Section 12, Rest Periods; Section 13, Change Rooms and Resting Facilities; Section 14, Sanit; Section 15, Temperature, or Section 16, Elevators, would not materially affect the welfare or comfort of employees and would work an undue hardship on the employer, an exemption may be made at the discretion of the Division. Such exemptions shall be in writing to be effective and may be revoked after reasonable notice is given in writing. Application for exemption shall be made by the employer or by the employee and/or the employee’s representative to the Division in writing. A copy of the application shall be posted at the place of employment at the time the application is filed with the Division.

18. Filing Reports. (See California Labor Code, Section 1174(a)(1))

19. Inspections. (See California Labor Code, Section 1174)

20. Penalties. (See Labor Code, Section 1199)
   (A) In addition to any other civil penalties provided by law, any employer or any other person acting on behalf of the employer who violates, or causes to be violated, the provisions of this order, shall be subject to the civil penalty of:
      (1) Initial Violation – $50.00 for each underpaid employee for each pay period during which the employee was underpaid in addition to the amount which is sufficient to recover unpaid wages.

   If the application of any provision of this Order, or any section, subsection, subdivision, sentence, clause, phrase, word, or portion of this Order should be held invalid or unconstitutional or unauthorized or prohibited by statute, the remaining provisions thereof shall not be affected thereby, but shall continue to be given full force and effect as if the part so held invalid or unconstitutional had not been included herein.

22. Posting of Order. Every employer shall keep a copy of this Order posted in an area frequented by employees where it may be easily read during the work day. Where the location of work or other conditions make this impractical, every employer shall keep a copy of this Order and make it available to every employee upon request.

INDUSTRIAL WELFARE COMMISSION
ORDER NO. 14-2001
REGULATING WAGES, HOURS AND WORKING CONDITIONS IN THE AGRICULTURAL OCCUPATIONS
(Effective July 1, 2001 as amended)
(Updated as of January 1, 2002)

1. Applicability of Order. This order shall apply to all persons employed in an agricultural occupation whether paid on a time, piece rate, commission, or other basis, except that:
   (A) No provision of this order shall apply to any employee who is engaged in work which is primarily intellectual, managerial, or creative, and which requires exercise of discretion and independent judgment, and for which the remuneration is not less than two times the monthly State minimum wage for full-time employment.
   (B) No provision of this order shall apply to any individual who is the parent, spouse, child, or legally adopted child of the employer;
   (C) Section 5 of this order shall not apply to any employer who employs fewer than five (5) persons covered by this order. If at any one time during a calendar year an employer has five (5) or more employees covered by this order, every provision of this order, including Section 5, Reporting Time Pay, shall apply to that employer throughout that calendar year.
   (D) No provision of this order shall apply to any employee covered by Order No. 8-80 or Order No. 12-80, relating to industries handling products after harvest.
   (E) The provisions of this order shall not apply to any individual participating in a national service program, such as AmeriCorps, carried out using assistance provided under Section 12271 of Title 42 of the United States Code. (See Stats. 2000, chapt. 365, amending Labor Code § 1171.)
   (F) The provisions of this order shall not apply to shepherders. Sections 3, 4(A)-(D), 5, 6, 9, 11, 12, and 13 of this order shall not apply to an employee engaged to work as a “shepherd”, as that occupation is defined in Section 2 (M). Otherwise, this order, including Section 4 (A), shall apply to any workweek during which a shepherd employee is engaged in any non-sheep herding agricultural or other work.
   (G) Section 3 of this order shall not apply to an employee licensed pursuant to Article 3 (commencing with § 7850) of Chapter 1 of Part 3 of Division 6 of the Fish and Game Code who serves as a crew member on a commercial fishing vessel.

2. Definitions.
   (A) “Commission” means the Industrial Welfare Commission of the State of California.
   (B) “Division” means the Division of Labor Standards Enforcement of the State of California.
   (C) “Employ” means to engage, suffer, or permit to work.
   (D) “Employed in an agricultural occupation” means any of the
following described occupations:

(1) The preparation, care, and treatment of farm land, pipeline, or ditches, including leveling for agricultural purposes, plowing, discing, and fertilizing the soil;
(2) The sewing and planting of any agricultural or horticultural commodity;
(3) The care of any agricultural or horticultural commodity, as used in this subdivision, “care” includes, but is not limited to, cultivation, irrigation, weed control, thinning, heating, pruning, or tying, fumigating, spraying, and dusting;
(4) The harvesting of any agricultural or horticultural commodity, including but not limited to, picking, cutting, throwing, moving, knocking off, field hopping, bunching, baling, balling, field packing, and placing in field containers or in the vehicle in which the commodity will be hauled, and transportation on the farm or to a place of first processing or distribution;
(5) The assembly and storage of any agricultural or horticultural commodity, including but not limited to, loading, road sidings, banking, stacking, binding, and piling;
(6) The raising, feeding, and management of livestock, fur bearing animals, poultry, fish, mollusks, and insects, including but not limited to, herding, housing, hatching, milking, shearing, handling eggs, and extracting honey;
(7) The harvesting of fish, as defined by Section 45 of the Fish and Game Code, for commercial sale;
(8) The conservation, improvement or maintenance of such farm and its tools and equipment.

(E) “Employee” means any person employed by an employer.

(F) “Employer” means any person as defined in Section 18 of the Labor Code, who directly or indirectly, or through an agent or any other person, employs or exercises control over the wages, hours, or working conditions of any person.

(G) “Hours worked” means the time during which an employee is subject to the control of an employer, and includes all time the employee is suffered or permitted to work, whether or not required to do so.

(H) “Minor” means, for the purpose of this Order, any person under the age of eighteen (18) years.

(I) “Non-sheepherding work” means any work except the work defined in section 2(N) above.

(J) “Open range sheep herding” means, generally, sheep herding on land that is not cultivated, but produces native forage (“browse” or browseable food that is available to livestock or game animals) for animal consumption, and includes land that is re-vegetated naturally or artificially to provide forage cover that is managed like range vegetation. The range may be on private, federal, or state land. Typically, the land is not only non-cultivated, but not suitable for cultivation because it is rocky, thin, semi-arid, or otherwise poor. Also, many acres of range land are required to graze one animal unit (five sheep) for one month. By its very nature, open range sheep herding is conducted over wide expanses of land, such as thousands of acres.

(1) “Outside Salesperson” means any person, 18 years of age or over, who customarily and regularly works more than half the working time away from the employer’s place of business selling tangible or intangible items or obtaining orders or contracts for products, services or use of facilities.

(1 L) “Piece rate basis” is a method of payment based on units of production or a fraction thereof.

(K) “Primarily” as used in Section 1, Applicability, means more than one-half the employee’s work time.

(LN) “Sheepherder” means any individual, who tends flocks of sheep grazing on range or pasture, who moves sheep to and about an area assigned for grazing, who prevents sheep from wandering or becoming lost, using trained dogs to round up strays and protect sheep against predators and the eating of poisonous plants; who assists in the lambing, docking and shearing of sheep, who feeds sheep supplementary rations; and who waters sheep, is employed to do the following: tend flocks of sheep grazing on range or pasture; move sheep to and about an area assigned for grazing; prevent sheep from wandering or becoming lost, or using trained dogs to round up strays and protect sheep against predators and the eating of poisonous plants; assist in the lambing, docking, and shearing of sheep; provide water or feed supplementary rations to sheep; and perform the work of a sheepherder pursuant to an approved job order filed under the provisions of Section 10(a)(15)(b)(ii)(a) of the federal Immigration and Nationality Act (commonly referred to as the “H2A” program (see U.S.C. Section 1101 et seq), or any successor provisions.

(M) “Shift” means designated hours of work by an employee, with a designated beginning time and quitting time.

(N) “Split shift” means a work schedule which is interrupted by non-paid non-working periods established by the employer, other than bona fide rest or meal periods.

(O) “Wage” includes all amounts for labor performed by employees of every description, whether the amount is fixed or ascertained by the standard of time, task, piece, commission basis, or other method of calculation.

(PR) “Workday” means any consecutive 24 hours beginning at the same time each calendar day.

(Q) “Workweek” means any seven (7) consecutive days, starting with the same calendar day each week. “Workweek” is a fixed and regularly recurring period of 108 hours, seven (7) consecutive 24-hour periods.

R. Hours and Days of Work.

(A) The following overtime provisions are applicable to employees eighteen (18) years of age or over and to employees sixteen (16) or seventeen (17) years of age who are not required by law to attend school: such employees shall not be employed more than ten (10) hours in any one workday or more than six (6) days in any workweek unless the employee receives one and one-half (1 1/2) times such employee’s regular rate of pay for all hours worked over ten (10) hours in any workday and for the first eight (8) hours on the seventh (7th) day of work and double the employee’s regular rate of pay for all hours worked over eight (8) on the seventh (7th) day of work in the workweek.

(See California Labor Code, sections 1391 and 1394)

(VIOLATIONS OF CHILD LABOR LAWS are subject to civil penalties of from $100 to $5,000 as well as to criminal penalties provided herein. Refer to California Labor Code Sections 1285 to 1311 and 1390 to 1398 for additional restrictions on the employment of minors. Employers should ask school districts about required work permits.)

(B) An employee may be employed on seven (7) workdays in one workweek with no overtime pay required when the total hours of
employment during such workweek do not exceed thirty (30) and the total hours of employment in any one workday thereof do not exceed six (6).
(C) The provisions of subsection (A) above shall not apply to an employee covered by this Order during any week in which more than half of such employee’s working time is devoted to performing the duties of an irrigator.
(D) The provisions of this section are not applicable to employees whose hours of service are regulated by: (1) The United States Department of Transportation Code of Federal Regulations, title 49, sections 395.1 to 395.13, Hours of Service of Drivers; or (2) Title 13 of the California Code of Regulations, subchapter 6.5, sec. 1200 and following sections, regulating hours of drivers.
(E) This section shall not apply to any employee covered by a collective bargaining agreement if said agreement provides premium wage rates for overtime work and a cash wage rate for such employee of not less than one dollar ($1.00) per hour more than the minimum wage.
(A) Every employer shall pay to each employee wages not less than six dollars and twenty-five cents ($6.25) per hour for all hours worked, effective January 1, 2001, and not less than six dollars and seventy five cents ($6.75) per hour for all hours worked effective January 1, 2002, except:
(1) LEARNERS. Employees during their first one hundred and sixty (160) hours of employment in occupations in which they have no previous similar or related experience, may be paid not less than eighty-five percent (85%) of the minimum wage rounded to the nearest nickel.
(B) Every employer shall pay to each employee, on the established payday for the period involved, not less than the applicable minimum wage for all hours worked in the payroll period, whether the remuneration is measured by time, piece, commission, or otherwise.
(C) When an employee works a split shift, one hour’s pay at the minimum wage shall be paid in addition to the minimum wage for that workday, except when the employee resides at the place of employment.
(D) The provisions of this section shall not apply to apprentices regularly indentured under the State Division of Apprenticeship Standards.
(E) Effective July 1, 2001, the minimum wage for all shopkeepers shall be $1,005.00 per month; effective July 1, 2002 the minimum wage for all shopkeepers shall be $1,200.00 per month. Wages paid to shopkeepers shall not be offset by meals or lodging provided by the employer.
5. Reporting Time Pay.
(A) Each workday an employee is required to report for work and does report, but is not put to work or is furnished less than half said employee’s usual or scheduled day’s work, the employee shall be paid for half the usual or scheduled day’s work, but no fewer than two (2) hours nor more than four (4) hours, at the employee’s regular rate of pay, which shall not be less than the minimum wage.
(B) If an employee is required to report for work a second time in any one workday and is furnished less than two hours of work on the second reporting, said employee shall be paid for two hours at the employee’s regular rate of pay, which shall not be less than the minimum wage.
(C) The foregoing reporting time pay provisions are not applicable when:
(1) Operations cannot commence or continue due to threats to employees or property; or when recommended by civil authorities; or
(2) Public utilities fail to supply electricity, water, or gas, or there is a failure in the public utilities, or sewer system; or
(3) The interruption of work is caused by an Act of God or other cause not within the employer’s control.
(D) This section shall not apply to an employee on paid standby status who is called to perform assigned work at a time other than the employee’s scheduled reporting time.
(A) A license may be issued by the Division authorizing employment of a person whose earning capacity is impaired by physical disability or mental deficiency, at less than the minimum wage. Such license shall be granted only upon joint application of employer and employee and employee’s representative if any.
(B) A special license may be issued to a nonprofit organization such as a sheltered workshop or rehabilitation facility fixing special minimum rates to enable the employment of such persons without requiring individual licenses of such employees.
(C) All such licenses and special licenses shall be renewed on a yearly basis or more frequently at the discretion of the Division. (See California Labor Code, Sections 1191 and 1191.5.)
7. Records.
(A) Every employer shall keep accurate information with respect to each employee including the following:
(1) Full name, home address, occupation and social security number.
(2) Birth date, if under 18 years, and designation as a minor.
(3) Time records showing when the employee begins and ends each work period, meal periods, split shift intervals and total daily hours worked shall also be recorded. Meal periods during which operations cease and authorized rest periods need not be recorded.
(4) Total wages paid each payroll period, including value of board, lodging, or other compensation actually furnished to the employee.
(5) Total hours worked in the payroll period and applicable rates of pay. This information shall be made readily available to the employee upon reasonable request.
(B) When a piece rate or incentive plan is in operation, piece rates or an explanation of the incentive plan formula shall be provided to employees. An accurate production record shall be maintained by employers.
(C) Employers of shopkeepers shall keep accurate information with respect to shopkeepers, including an itemized statement showing applicable rates of pay for shopkeeping and any applicable non-shopkeeping agricultural or other work, all deductions, dates of period for which paid, name and social security number (if any) of employee, and name of employer.
(D) Every employer shall semi-monthly or at the time of each payment of wages furnish each employee, either as a detachable part of the check, draft, or voucher paying the employee’s wages, or separately, an itemized statement in writing showing: (1) all deductions; (2) the inclusive dates of the period for which the employee is paid; (3) the name of the employee or the employee’s social security number; and (4) the name of the employer, provided all deductions made on written orders of the employee may be aggregated and shown as one item.
(E) Every employer of a shopkeeper shall annually notify the shopkeeper of his or her rights and obligations under state and federal...
law.

(C) All required records shall be in the English language and in ink or other indelible form, properly dated, showing month, day and year, and shall be kept on file by the employer for at least three years at the place of employment or at a central location within the State of California. An employee’s records shall be available for inspection by the employee upon reasonable request.

8. Cash Shortage and Breakage.

No employer shall make any deduction from the wage or require any reimbursement from an employee for any cash shortage, breakage, or loss of equipment, unless it can be shown that the shortage, breakage, or loss is caused by a dishonest or willful act, or by the gross negligence of the employee.


(A) When uniforms are required by the employer to be worn by the employee as a condition of employment, such uniforms shall be provided and maintained by the employer. The term “uniform” includes wearing apparel and accessories of distinctive design or color.

NOTE: This section shall not apply to protective apparel regulated by the Occupational Safety and Health Standards Board.

(B) When tools or equipment are required by the employer or are necessary to the performance of a job, such tools and equipment shall be provided and maintained by the employer, except that an employee whose wages are at least two (2) times the minimum wage provided herein may be required to provide and maintain his own tools and equipment customarily required by the trade or craft. This subsection (B) shall not apply to apprentices regularly indentured under the State Division of Apprenticeship Standards.

NOTE: This section shall not apply to protective equipment and safety devices on tools regulated by the Occupational Safety and Health Standards Board.

(C) A reasonable deposit may be required as security for the return of the items furnished by the employer under provisions of subsections (A) and (B) of this section upon issuance of a receipt to the employee for such deposit. Such deposits shall be made pursuant to Section 400 and following of the Labor Code or an employer with the prior written authorization of the employee may deduct from the employee’s last check the cost of an item furnished pursuant to (A) and (B) above in the event said item is not returned. No deduction shall be made at any time for normal wear and tear. All items furnished by the employer shall be returned by the employee upon completion of the job.

10. Meals and Lodging.

(A) “Meals” means an adequate, well-balanced serving of a variety of wholesome, nutritious foods.

(B) “Lodging” means living accommodations available to the employee for full-time occupancy, which are adequate, decent, and sanitary according to usual and customary standards. Employees shall not be required to share a bed.

(C) Meals or lodging may not be credited against the minimum wage without a voluntary written agreement between the employer and the employee. When credit for meals or lodging is used to meet part of the employee’s minimum wage obligation, the amounts so credited may not be more than the following:

Effective Dates: January 1, 2001

Law
Room occupied alone $29.40 per week $31.75 per week
Room shared $24.25 per week $26.20 per week
Apartment two-thirds (2/3) of the ordinary rental value, and in no event more than $352.95 per month
$381.20 per month
Where a couple are both employed by the employer, two-thirds (2/3) of the ordinary rental value, and in no event more than $522.10 per month $563.90 per month

Meals:
Breakfast $2.25 $2.45
Lunch $3.10 $3.35
Dinner $4.15 $4.50

(D) Meals, evaluated as part of the minimum wage, must be bona fide meals consistent with the employee’s work shift. Deductions shall not be made for meals not received nor lodging not used.

(E) If, as a condition of employment, the employee must live at the place of employment or occupy quarters owned or under the control of the employer, then the employer may not charge rent in excess of the values listed herein.

(F) Paragraphs (C), (D), and (E) above shall not apply to shepherders.

Every employer shall provide to each shepherd not less than the minimum monthly meal and lodging benefits required to be provided by employers of shepherders employed under the provisions of the H-2A program of the Immigration and Nationality Act (8 U.S.C. Section 1101 et seq.), or any successor provisions. Fixed Site Housing: A shepherd not engaged in open range sheep herding, shall be provided with fixed site housing that complies with all the following standards and requirements:

1. Toilets (which may include portable toilets) and bathing facilities (which may include a portable facility).

2. Heating (which may include a camp stove or other sources of heat).

3. Indoor Lighting.

4. Potable hot and cold water.

5. Cooking facilities and utensils.

6. Refrigeration for perishable foodstuffs (which may include ice chests, provided that ice is delivered to the shepherd, as needed, to maintain a continuous temperature required to retard spoilage and assure food safety).

7. Fixed Site Housing: Inspections: housing that is erected for shepherders at fixed locations shall be annually inspected by the State of California Employment Development Department for compliance with Paragraph (F) of this section, unless the employer receives a statement in writing from the Employment Development Department that there are no such inspectors available.

(G) Mobile Housing: When a shepherd is engaged in open range sheep herding, the employer shall provide mobile housing that complies with all standards and inspection requirements prescribed for mobile sheep herder housing by the United States Department of Labor then in effect. Such housing shall be inspected and approved annually by an inspector from the Employment Development Department unless the employer receives a statement in writing from the Employment Development Department that there are no such inspectors available.

11. Meal Periods

Every employer shall authorize and permit all employees after a work period of not more than five (5) hours to take a meal period of not less
than thirty (30) minutes, except that when a work period of not more than six (6) hours will complete the day’s work, the meal period may be waived by mutual consent of employer and employee. Unless the employee is relieved of all duty during a thirty (30) minute meal period, the meal period shall be considered an “on duty” meal period and counted as time worked. An “on duty” meal period shall be permitted only when the nature of the work prevents an employee from being relieved of all duty and when by written agreement between the parties an onthecjob paid meal period is agreed to. 

12. Rest Periods
Every employer shall authorize and permit all employees to take rest periods, which shall be as practicable as possible be in the middle of each work period. The authorized rest period shall be equal to the total hours worked daily at the rate of ten (10) minutes per hour which or major fraction thereof. However, a rest period need not be authorized for employees who during the total daily work time is less than three and one-half (3 1/2) hours. Authorized rest period time shall be counted, as hours worked for which there shall be no deduction from wages.

13. Seats
When the nature of the work reasonably permits the use of seats, suitable seats shall be provided for employees working on or at a machine.

14. Other Working Conditions Applicable To Shepherders
Shepherders shall be provided with all of the following at each work site:
(A) Regular mail service, which, in the case of open range locations, shall mean mail delivery not less frequently than once every seven days.
(B) An appropriate form of communication, including but not limited to a radio and/or telephone, which will allow shepherders to communicate with employers, health care providers, and government regulators. Employers may charge shepherders for all other uses.
(C) Visitor access to fixed site housing and, when practicable to mobile housing.

14.15. Exemptions
If, in the opinion of the Division after due investigation, it is found that the enforcement of any provisions in Section 7, Records, Section 11, Meal Periods; Section 12, Rest Periods; or Section 13, Seats, would not materially affect the welfare or comfort of employees and would work an undue hardship on the employer, exemption may be made at the discretion of the Division. Such exemptions shall be in writing and be effective only after reasonable notice is given in writing. Application for exemption shall be made by the employer or by the employer’s representative to the Division in writing. A copy of the application is filed with the Division.

15.16. Filing Reports (See California Labor Code, Section 1174(a))
16.17. Inspection (See California Labor Code, Section 1174)
17. 18. Penalties (See California Labor Code, Section 1199)
(A) In addition to any other civil penalties provided by law, any employer or any other person acting on behalf of the employer who violates, or causes to be violated, the provisions of this order, shall be subject to the civil penalty of:
(1) Initial Violation - $50.00 for each underpaid employee for each pay period during which the employee was underpaid in addition to an amount which is sufficient to recover unpaid wages.
(2) Subsequent Violations - $100.00 for each underpaid employee for each pay period during which the employee was underpaid in addition to an amount which is sufficient to recover unpaid wages.
(B) Any employer or any other person acting on behalf of the employer who employs shepherders and who requires them to engage in non-shepherd duties shall be subject to the following penalties:
(1) Initial violation—a civil penalty of one week’s pay computed on a basis of a 60 hour workweek and a wage of $n less than the current minimum wage in effect.
(2) Second violation—a civil penalty of one month’s pay computed on a basis of a 252 hour work month and a wage of $n less than the current minimum wage in effect.
(3) Third and subsequent violation—a civil penalty equal to the cost of the contract of the approved “12A” job order.
(C) The affected employee shall receive payment of all wages recovered.
(D) The Labor Commissioner may also issue citations pursuant to Labor Code Section 1197.1 for payment of wages for overtime work in violation of this order.

18.19. Separability
If the application of any provision of this Order, or any section, subsection, subdivision, sentence, clause, phrase, word, or portion of this Order should be held invalid or unconstitutional or unauthorized or prohibited by statute, the remaining provisions thereof shall not be affected thereby, but shall continue to be given full force and effect as if the part so held invalid or unconstitutional had not been included herein.

19.20. Posting of Orders
Every employer shall keep a copy of this Order posted in an area frequented by employees where it may be easily read during the workday. Where the location of work or other conditions make this impractical, every employer shall keep a copy of this Order and make it available to every employee upon request.

Cal. Admin. Code tit. 8, § 3203
Barclays Official California Code of Regulations
Title 8. Industrial Relations
Division 1. Department of Industrial Relations
Chapter 4. Division of Industrial Safety
Subchapter 7. General Industry Safety Orders
§ 3203. Injury and Illness Prevention Program.
(a) Effective July 1, 1991, every employer shall establish, implement and maintain an effective Injury and Illness Prevention Program (Program). The Program shall be in writing and, shall, at a minimum:
(1) Identify the person or persons with authority and responsibility for implementing the Program.
(2) Include a system for ensuring that employees comply with safe and healthy work practices. Substantial compliance with this provision includes recognition of employees who follow safe and healthy work practices, training and retraining programs, disciplinary actions, or any other such means that ensures employee compliance with safe and healthy work practices.
(3) Include a system for communicating with employees in a form readily understandable by all affected employees on matters relating to occupational safety and health, including provisions designed to encourage employees to inform the employer of hazards at the worksite without fear of reprisal. Substantial compliance with this provision
includes meetings, training programs, posting, written communications, a system of anonymous notification by employees about hazards, labor/management safety and health committees, or any other means that ensures communication with employees.

Exception: Employers having fewer than 10 employees shall be permitted to communicate to and instruct employees orally in general safe work practices with specific instructions with respect to hazards unique to the employees' job assignments as compliance with subsection (a)(3).

(4) Include procedures for identifying and evaluating work place hazards including scheduled periodic inspections to identify unsafe conditions and work practices. Inspections shall be made to identify and evaluate hazards:

(A) When the Program is first established;

Exception: Those employers having in place on July 1, 1991, a written Injury and Illness Prevention Program complying with previously existing section 3203.

(B) Whenever new substances, processes, procedures, or equipment are introduced to the workplace that represent a new occupational safety and health hazard; and

(C) Whenever the employer is made aware of a new or previously unrecognized hazard.

(5) Include a procedure to investigate occupational injury or occupational illness.

(6) Include methods and/or procedures for correcting unsafe or unhealthy conditions, work practices and work procedures in a timely manner based on the severity of the hazard:

(A) When observed or discovered; and

(B) When an imminent hazard exists which cannot be immediately abated without endangering employee(s) and/or property, remove all exposed personnel from the area except those necessary to correct the existing condition. Employees necessary to correct the hazardous condition shall be provided the necessary safeguards.

(7) Provide training and instruction:

(A) When the program is first established;

Exception: Employers having in place on July 1, 1991, a written Injury and Illness Prevention Program complying with the previously existing Accident Prevention Program in Section 3203.

(B) To all new employees;

(C) To all employees given new job assignments for which training has not previously been received;

(D) Whenever new substances, processes, procedures or equipment are introduced to the workplace and are not new hazards;

(E) Whenever the employer is made aware of a new or previously unrecognized hazard; and

(F) For supervisors to familiarize themselves with the safety and health hazards to which employees under their immediate direction and control may be exposed.

(b) Records of the steps taken to implement and maintain the Program shall include:

(1) Records of scheduled and periodic inspections required by subsection (a)(4) to identify unsafe conditions and work practices, including persons conducting the inspection, the unsafe conditions and work practices that have been identified and action taken to correct the identified unsafe conditions and work practices. These records shall be maintained for at least one (1) year; and

Exception: Employers with fewer than 10 employees may elect to maintain the inspection records only until the hazard is corrected.

(2) Documentation of safety and health training required by subsection (a)(7) for each employee, including employee name or other identifier, training dates, type(s) of training, and training providers. This documentation shall be maintained for at least one (1) year.

Exception NO. 1: Employees who can substantially comply with the documentation provision by maintaining a log of instructions given to the employee with respect to the hazards unique to each employee's job assignment when first hired or assigned new duties.

Exception NO. 2: Training records of employees who have worked for less than one (1) year for the employer need not be retained beyond the term of employment if they are provided to the employee upon termination of employment.

Exception NO. 3: For Employers with fewer than 20 employees who are in industries that are not on a designated list of high-hazard industries established by the Department of Industrial Relations (Department) and who have a Workers' Compensation Experience Modification Rate of 1.1 or less, and for any employers with fewer than 20 employees who are in industries on a designated list of low-hazard industries established by the Department, written documentation of the Program may be limited to the following requirements:

A. Written documentation of the identity of the person or persons with authority and responsibility for implementing the program as required by subsection (a)(3).

B. Written documentation of scheduled periodic inspections to identify unsafe conditions and work practices as required by subsection (a)(4).

C. Written documentation of training and instruction as required by subsection (a)(7).

Exception NO. 4: Local governmental entities (any county, city, city and county, or district, or any public or quasi-public corporation or public agency therein, including any public entity, other than a state agency, that is a member of, or created by, a joint powers agreement) are not required to keep records concerning the steps taken to implement and maintain the Program.

Note 1: Employers determined by the Division to have historically utilized seasonal or intermittent employees shall be deemed in compliance with respect to the requirements for a written Program if the employer adopts the Model Program prepared by the Division and complies with the requirements set forth therein.

Note 2: Employers in the construction industry who are required to be licensed under Chapter 9 (commencing with Section 7000) of Division 2 of the Business and Professions Code may use records relating to employee training provided to the employer in connection with an occupational safety and health training program approved by the Division, and shall only be required to keep records of those steps taken to implement and maintain the program with respect to hazards specific to the employee’s job duties.

(c) Employers who elect to use a labor-management safety and health committee to comply with the communication requirements of subsection (a)(3) of this section shall be presumed to be in substantial compliance.
with subsection (a)(3) if the committee:
(1) Meets regularly, but not less than quarterly;
(2) Prepares and makes available to the affected employees, written records of the safety and health issues discussed at the committee meetings and, maintained for review by the Division upon request. The committee meeting records shall be maintained for at least one (1) year;
(3) Reviews results of the periodic, scheduled worksite inspections;
(4) Reviews investigations of occupational accidents and causes of incidents resulting in occupational injury, occupational illness, or exposure to hazardous substances and, where appropriate, submits suggestions to management for the prevention of future incidents;
(5) Reviews investigations of alleged hazardous conditions brought to the attention of any committee member. When determined necessary by the committee, the committee may conduct its own inspection and investigation to assist in remedial solutions;
(6) Submits recommendations to assist in the evaluation of employee safety suggestions; and
(7) Upon request from the Division, verifies abatement action taken by the employer to abate citations issued by the Division.

Cal. Admin. Code tit. 8, § 3395
Barclays Official California Code of Regulations
Title 8. Industrial Relations
Division 1. Department of Industrial Relations
Chapter 4. Division of Industrial Safety
Subchapter 7. General Industry Safety Orders
Group 2. Safe Practices and Personal Protection
Article 10. Personal Safety Devices and Safeguards
(a) Scope and Application.
(1) This standard applies to all outdoor places of employment.
Exception: If an industry is not listed in subsection (a)(2), employers in that industry are not required to comply with subsection (c), High heat procedures.
(2) List of industries subject to all provisions of this standard, including subsection (c):
(A) Agriculture
(B) Construction
(C) Landscaping
(D) Oil and gas extraction
(E) Transportation or delivery of agricultural products, construction materials or other heavy materials (e.g., furniture, lumber, freight, cargo, cabinets, industrial or commercial materials), except for employment that consists of operating an air-conditioned vehicle and does not include loading or unloading.
(3) This section applies to the control of risk of occurrence of heat illness. This is not intended to exclude the application of other sections of Title 8, including, but not necessarily limited to, sections 1512, 1524, 3203, 3363, 3400, 3439, 3457, 6251, 6512, 6969, 6975, 8420 and 8602(e).
Note: No. 1: The measures required here may be integrated into the employer’s written Injury and Illness Program required by section 3203, or maintained in a separate document.
Note No. 2: This standard is enforceable by the Division of Occupational Safety and Health pursuant to Labor Code sections 6308 and 6317 and any other statutes conferring enforcement powers upon the Division. It is a violation of Labor Code sections 6310, 6311, and 6312 to discharge or discriminate in any other manner against employees for exercising their rights under this or any other provision offering occupational safety and health protection to employees.
(b) Definitions.
"Acclimatization" means temporary adaptation of the body to work in the heat that occurs gradually when a person is exposed to it. Acclimatization peaks in most people within four to fourteen days of regular work for at least two hours per day in the heat.
"Heat Illness" means a serious medical condition resulting from the body’s inability to cope with a particular heat load, and includes heat cramps, heat exhaustion, heat syncope and heat stroke.
"Environmental risk factors for heat illness" means working conditions that create the possibility that heat illness could occur, including air temperature, relative humidity, radiant heat from the sun and other sources, conductive heat sources such as the ground, air movement, workload severity and duration, protective clothing and personal protective equipment worn by employees.
"Landscaping" means providing landscape care and maintenance services and or installing trees, shrubs, plants, lawns, or gardens, or providing these services in conjunction with the design of landscape plans and or the construction (i.e., installation) of walkways, retaining walls, decks, fences, ponds, and similar structures, except for employment by an employer who operates a fixed establishment where the work is to be performed and where drinking water is supplied.
"Oil and gas extraction" means operating and or developing oil and gas field properties, exploring for crude petroleum or natural gas, mining or extracting of oil or gas or recovering liquid hydrocarbons from oil or gas field gases.
"Personal risk factors for heat illness" means factors such as an individual’s age, degree of acclimatization, health, water consumption, alcohol consumption, caffeine consumption, and use of prescription medications that affect the body’s water retention or other physiological responses to heat.
"Shade" means blockage of direct sunlight. One indicator that blockage is sufficient is when objects do not cast a shadow in the area of blocked sunlight. Shade is not adequate when heat in the area of shade defies the purpose of shade, which is to allow the body to cool. For example, a car sitting in the sun does not provide acceptable shade to persons inside it, unless the car is running with air conditioning. Shade may be provided by any natural or artificial means that does not expose employees to unsafe or unhealthy conditions.
"Temperature" means the dry bulb temperature in degrees Fahrenheit obtainable by using a thermometer to measure the outdoor temperature in an area where there is no shade. While the temperature measurement must be taken in an area with full sunlight, the bulb or sensor of the thermometer should be shielded while taking the measurement, e.g., with the hand or some other object, from direct contact by sunlight.
(c) Provision of water. Employers shall have access to potable drinking water meeting the requirements of Sections 1524, 3363, and 3457.
as applicable. Where drinking water is not plumbed or otherwise continuously supplied, it shall be provided in sufficient quantity at the beginning of the work shift to provide one quart per employee per hour for drinking for the entire shift. Employers may begin the shift with smaller quantities of water if they have effective procedures for replenishment during the shift as needed to allow employees to drink one quart or more per hour. The frequent drinking of water, as described in subsection (f)(1)(C), shall be encouraged.

(d) Access to shade.
(1) Shade required to be present when the temperature exceeds 85 degrees Fahrenheit. When the outdoor temperature in the work area exceeds 85 degrees Fahrenheit, the employer shall have and maintain one or more areas with shade at all times while employees are present that are either open to the air or provided with ventilation or cooling. The amount of shade present shall be at least enough to accommodate 25% of the employees on the shift at any time, so that they can sit in a normal posture fully in the shade without having to be in physical contact with each other. The shaded area shall be located as close as practicable to the areas where employees are working.

(2) Shade required to be available when the temperature does not exceed 85 degrees Fahrenheit. When the outdoor temperature in the work area does not exceed 85 degrees Fahrenheit employers shall either provide shade as per subsection (d)(1) or provide timely access to shade upon an employee's request.

(3) Employees shall be allowed and encouraged to take a cool-down rest in the shade for a period of no less than five minutes at a time when they feel the need to do so to protect themselves from overheating. Such access to shade shall be permitted at all times.

Exceptions to subsection (d):
(1) Where the employer can demonstrate that it is infeasible or unsafe to have a shade structure, or otherwise to have shade present on a continuous basis, the employer may utilize alternative procedures for providing access to shade if the alternative procedures provide equivalent protection.

(2) Except for employers in the agricultural industry, cooling measures other than shade (e.g., use of misting machines) may be provided in lieu of shade if the employer can demonstrate that these measures are at least as effective as shade in allowing employees to cool.

(e) High-heat procedures. The employer shall implement high-heat procedures when the temperature equals or exceeds 95 degrees Fahrenheit. These procedures shall include the following to the extent practicable:
(1) Ensuring that effective communication by voice, observation, or electronic means is maintained so that employees at the work site can contact a supervisor when necessary. An electronic device, such as a cell phone or text messaging device, may be used for this purpose only if reception in the area is reliable.

(2) Observing employees for alertness and signs or symptoms of heat illness.

(3) Reminding employees throughout the work shift to drink plenty of water.

(4) Close supervision of a new employee by a supervisor or designee for the first 18 days of the employee’s employment by the employer, unless the employee indicates at the time of hire that he or she has been doing similar outdoor work for at least 10 of the past 30 days for 4 or more hours per day.

(f) Training.
(1) Employee training. Effective training in the following topics shall be provided to each supervisory and non-supervisory employee before the employee begins work that should reasonably be anticipated to result in exposure to the risk of heat illness:

(A) The environmental and personal risk factors for heat illness, as well as the added burden of heat load on the body caused by exertion, clothing, and personal protective equipment.

(B) The employer’s procedures for complying with the requirements of this standard.

(C) The importance of frequent consumption of small quantities of water, up to 4 cups per hour, when the work environment is hot and employees are likely to be sweating more than usual in the performance of their duties.

(D) The importance of acclimatization.

(E) The different types of heat illness and the common signs and symptoms of heat illness.

(F) The importance to employees of immediately reporting to the employer, directly or through the employee’s supervisor, symptoms or signs of heat illness in themselves, or in co-workers.

(G) The employer’s procedures for responding to symptoms of possible heat illness, including how emergency medical services will be provided should they become necessary.

(H) The employer’s procedures for contacting emergency medical services, and if necessary, for transporting employees to a point where they can be reached by an emergency medical service provider.

(I) The employer’s procedures for ensuring that, in the event of an emergency, clear and precise directions to the work site can and will be provided as needed to emergency responders. These procedures shall include designating a person to be available to ensure that emergency procedures are invoked when appropriate.

(2) Supervisor training. Prior to supervising employees performing work that should reasonably be anticipated to result in exposure to the risk of heat illness effective training on the following topics shall be provided to the supervisor:

(A) The information required to be provided by section (f)(1) above.

(B) The procedures the supervisor is to follow to implement the applicable provisions in this section.

(C) The procedures the supervisor is to follow when an employee exhibits symptoms consistent with possible heat illness, including emergency response procedures.

(D) How to monitor weather reports and how to respond to hot weather advisories.

(3) The employer’s procedures for complying with each requirement of this standard by subsections (f)(1)(B), (G), (H), and (I) shall be in writing and shall be made available to employees and to representatives of the Division upon request.


Cal. Admin. Code tit. 8, §3439
Barclays Official California Code of Regulations
Title 8. Industrial Relations
Division 1. Department of Industrial Relations
Chapter 4. Division of Industrial Safety
Subchapter 7. General Industry Safety Orders
Group 3. General Plant Equipment and Special Operations
Article 13. Agricultural Operations
§ 3441. Operation of Agricultural Equipment.
(a) Operating Instructions and Safe Work Practices.
(1) At the time of initial assignment and at least annually thereafter, the employer shall instruct every employee in the safe operation and servicing of all equipment with which the employee is, or will be, involved including, instruction on the safe work practices and operating rules provided in subsection (a)(2).
(2) Agricultural equipment shall be operated in accordance with the following safe work practices and operating rules:
(A) Keep all guards in place when the machine is in operation;
(B) Permit no riders on agricultural equipment other than persons required for instruction or assistance in machine operation;
(C) Stop engine, disconnect the power source, and wait for all machine movement to stop before servicing, adjusting, cleaning, or unloading the equipment, except where the machine must be running to be properly serviced or maintained, in which case all steps and procedures which are necessary to safely service or maintain the equipment shall be taken;
(D) Make sure everyone is clear of machinery before starting the engine, engaging power, or operating the machine;
(E) Lock out electrical power before performing maintenance or service on agricultural equipment. (See Article 3 of the Low-Voltage Electrical Safety Orders.) Note: For overhead electrical hazards see Section 3455 of this chapter.
(b) All self-propelled equipment shall, when under its own power and in motion, have an operator stationed at the vehicular controls. This shall not prohibit the operator occupying or being stationed at a location on the vehicle other than the normal driving position or cab if controls for starting, accelerating, decelerating and stopping are provided adjacent and convenient to the alternate position. If the machine requires steering other than ground or furrow steering or operates at ground speeds in excess of two miles per hour, steering controls shall also be provided at the alternate location. Seeding plants and other similar equipment traveling at a speed of two miles an hour or less where a control that will immediately stop the machine is located at the operator’s work station will satisfy this requirement.
(c) Furrow guided self-propelled mobile equipment may be operated by an operator not on the equipment provided that all of the following are complied with:
(A) The operator has a good view of the course of travel of the equipment and any employees in the immediate vicinity.
(B) The steering controls, when provided, and the brake and throttle controls are extended within easy reach of the operator’s station.
(C) The operator is not over 10 feet away from such controls and does not have to climb over or onto the equipment or other obstacles to operate the controls.
(D) The equipment is not traveling at over two miles per hour ground speed.
(e) Safe access to a safe place for all personnel riding on mobile equipment shall be provided.
(f) All self-propelled equipment shall be equipped with a braking device controlled from the operator’s station, capable of preventing the vehicle from moving while parked.
(g) Where mobile farm equipment is towed by a tractor or truck and the tractor or truck driver cannot see the employees on the towed equipment, a positive signaling device shall be installed on the towed equipment, or there shall be a device on the towed equipment that can be actuated to stop the towing equipment in case of an emergency.
(h) Engine exhaust systems shall not be piped into or through an enclosed cab on tractors or other equipment.
(i) All tractors or self-propelled farm equipment used between an hour after sunset or an hour before sunrise shall be equipped with at least one headlight that will illuminate the area in front of the equipment at least 50 feet. There shall be at least one rear light to illuminate equipment at the rear. Additional lighting shall be provided where the operation requires field adjustment or the operator’s attention.
(j) Adequate means of access shall be provided so that employees can safely reach the top of the load for manual loading or unloading of high loads.
Division 4. Department of Industrial Relations
Chapter 4. Division of Industrial Safety
Subchapter 7. General Industry Safety Orders
Group 3. General Plant Equipment and Special Operations
Article 13. Agricultural Operations
§ 3457. Field Sanitation.
(a) Scope: This section shall apply to all agricultural employers.
(b) Definitions:
"Agricultural employer" means any person, corporation, association, or other legal entity that:
A. Owns or operates an agricultural establishment;
B. Contracts with the owner or operator of an agricultural establishment in advance of the purchase of a crop and exercises substantial control over production; or
C. Recruits and supervises employees or is responsible for the management and condition of an agricultural establishment.
"Agricultural establishment" is a business operation that uses paid employees in agricultural operations.
"Agricultural operation" means any operation necessary to farming pursuant to Section 3457.
"Hand-labor operations" means agricultural activities or agricultural operations performed by hand or with hand tools in the production of food, fiber, or other materials such as seed, seedlings, plants, or parts of plants. Hand-labor operations also include other activities or operations performed in conjunction with hand-labor in the field. Some examples of hand-labor operations are the hand-manipulation of irrigation pipes and other irrigation equipment by irrigators; hand-cultivation, hand-weeding, hand-planting and hand-harvesting of vegetables, nuts, fruits, seedlings or other crops, including mushrooms; and the hand packing of produce into containers, whether done on the ground, on a moving machine or in a temporary packing shed located in the field. Hand-labor does not include such activities as logging operations, the care or feeding of livestock, or hand-labor operations in permanent structures (e.g., canning facilities or packing houses).
"Handwashing facility" means a facility providing either a basin, container, or outlet with an adequate supply of potable water, soap or other suitable cleansing agent and single-use towels.
"Potable water" means water that meets the primary standards for drinking purposes found in Title 22, California Code of Regulations, Division 4, Chapter 15.
"Toilet facility" means a fixed or portable facility designed for the purpose of adequate collection and containment of the products of both defecation and urination which is supplied with toilet paper adequate to employee needs. Toilet facility includes biological, chemical, flush and combustion toilets and sanitary privies, in portable or mixed form.
(c) Requirements.
Agricultural operations not involving hand-labor operations shall meet the requirements of Sections 3560-3568. All other agricultural operations shall meet the following requirements:
(1) Potable drinking water.
(A) Potable water shall be provided during working hours and placed in locations readily accessible to all employees. Access to such drinking water shall be permitted at all times.
(B) The water shall be fresh and pure, suitably cool, and in sufficient amounts, taking into account the air temperature, humidity, and the nature of the work performed, to meet the needs of all employees.
(C) The water shall be dispensed in single-use drinking cups or by fountains. The use of common drinking cups or dippers is prohibited.
Note: For the purposes of this section, the term "common use," when applied to a drinking receptacle, is defined as its use for drinking purposes by, or for, more than one person without its being thoroughly cleansed and sterilized between consecutive users thereof by methods prescribed by or acceptable to the State Department for Health Services.
(D) Drinking water containers shall be constructed of materials that maintain water quality, and shall be provided with a faucet, fountain, or other suitable device for drawing the water.
(2) Toilet and handwashing facilities.
(A) Separate toilet facilities for each sex shall be provided for each twenty (20) employees or fraction thereof. One handwashing facility shall be provided for each twenty (20) employees or fraction thereof.
Where there are less than five employees, separate toilet rooms for each sex are not required provided toilet rooms can be locked from the inside and contain at least one water closet. Urinals may be installed instead of water closets in toilet rooms to be used only by men provided that the number of water closets shall not be less than two-thirds the minimum number of toilet facilities.
Exception: An employer may provide transportation to toilet and handwashing facilities, as an alternative means of compliance if: 1. employees perform field work for a period of less than two (2) hours (including transportation time to and from the field), 2. fewer than five (5) employees in any agricultural establishment are engaged in hand-labor operations on any given day, or 3. employees are not engaged in hand-labor operations.
(B) Toilet and hand-washing facilities shall at all times meet the following standards:
1. Toilet facilities shall be appropriately screened to keep flies and other vermin away from the excreta.
2. Units housing toilet and handwashing facilities shall be ventilated and provided with self-closing doors, lockable from the inside, and shall be otherwise constructed to ensure privacy.
3. Toilet facilities shall provide a minimum area of eight (8) square feet, with a minimum width of two (2) feet and one-half (1 1/2) feet for each toilet seat. A minimum area of ten (10) square feet, with a minimum width of two and one-half (2 1/2) feet, shall be required when a urinal is included. Sufficient additional space shall be included if handwashing facilities are within the facility.
4. The wastewater tank on chemical toilets shall be constructed of durable, easily cleanable material and have a minimum tank capacity of forty (40) gallons. Construction shall be such as to prevent splashing on the occupant, field, or road.
5. The handwashing water tank shall provide a minimum capacity of fifteen (15) gallons.
6. Units housing toilet and handwashing facilities shall be rigidly constructed and their inside surfaces shall be of nonabsorbent material, smooth, readily cleanable, and finished in a light color.
7. Water flush toilets and handwashing facilities shall conform to Title 24, California Code of Regulations, Part 5, California Plumbing Code.
(C) Toilet and handwashing facilities shall be accessible located in
close proximity to each other.

(D) The facilities shall be located within a one-quarter (1/4) mile walk or within five (5) minutes, whichever is shorter.

(E) Where due to terrain it is not feasible to locate facilities as required above, the facilities shall be located at the point closest to vehicular access.

(3) Maintenance standards: Potable drinking water facilities, toilet facilities, and handwashing facilities, which are under the control of the employer, shall be serviced and maintained by the employer at all times in accordance with appropriate public health sanitation practices, including the following:

(A) Drinking water containers shall be regularly cleaned, shall be refilled daily or more often as necessary, and shall be kept covered and protected to prevent persons from dipping the water by hand or otherwise contaminating it.

(B) Toilet facilities shall be, at all times, operational, maintained in a clean and sanitary condition, and kept in good repair. Written records of service and maintenance shall be maintained and retained for two years.

(C) Toilet paper shall be provided in a suitable holder in each toilet unit.

(D) Effective odor control and solid-dispensing chemicals shall at all times be used in chemical toilet waste holding tanks.

(E) Contents of chemical tanks shall be disposed of by draining or pumping into a sanitary sewer, an approved septic tank of sufficient capacity to handle the wastes, a suitably sized and constructed holding tank approved by the local health department, or by any other method approved by the local health department.

(F) Privies shall be removed to a new site or taken out of service when the pit is filled within two (2) feet of the adjacent ground surface. The pit contents shall be covered with at least two (2) feet of well-compacted dirt when the privy is moved.

(G) Handwashing facilities shall at all times meet the following standards:

1. Pure, wholesome, and potable water shall be available for handwashing.
2. Handwashing facilities shall be refilled with potable water as necessary to ensure an adequate supply.
3. Soap or other suitable cleansing agent and single-use towels shall be provided.
4. Signs shall be posted, indicating that the water is only for handwashing purposes.
5. Handwashing facilities shall be provided at the toilet unit or in the immediate vicinity.
6. Handwashing facilities shall be maintained in a clean and sanitary condition.

(I) The disposal of wastes from toilet or handwashing facilities shall not cause sanitary conditions, nuisance, or contamination.

(4) Reasonable use: The employer shall notify each employee of the location of the sanitation facilities and potable water and shall allow each employee reasonable opportunities during the workday to use these facilities. The employer shall ensure that employees use the sanitation facilities provided and shall inform each employee of the importance of each of the following good hygiene practices to minimize exposure to the hazards in the field of heat, communicable diseases, retention of urine, and agrichemical residues:

(A) Use the water and facilities provided for drinking, handwashing, and elimination;

(B) Drink water frequently, especially on hot days;

(C) Urinate as frequently as necessary;

(D) Wash hands both before and after using the toilet; and

(E) Wash hands before eating and smoking.

(d) Required Reports: Employers cited under this section shall provide to the Division annually for a period of five (5) years following the final order of a citation a written statement under penalty of perjury giving the following information: the estimated peak number of employees; the toilets, washing, and drinking water facilities to be provided by the employer; and any rental and maintenance agreements related to the requirements of this subsection.

that the training and education required by this section did not reach a particular individual or individuals shall not in and of itself result in the liability of any employer to any present or former employee or applicant in any action alleging sexual harassment. Conversely, an employer's compliance with this section does not insulate the employer from liability for sexual harassment of any current or former employee or applicant.

(e) If an employer violates this section, the department may seek an order requiring the employer to comply with these requirements.

(f) The training and education required by this section is intended to establish a minimum threshold and should not discourage or relieve any employer from providing for longer, more frequent, or more elaborate training and education regarding workplace harassment or other forms of unlawful discrimination in order to meet its obligations to take all reasonable steps necessary to prevent and correct harassment and discrimination.

(Amended by Stats. 2012, Ch. 46, Sec. 41. Effective June 27, 2012. Operative January 1, 2013, by Sec. 140 of Ch. 46.)
The California rice industry adds over a billion dollars to California agriculture and the California economy as a whole. Producers have continually used innovation to develop more sustainable and productive growing methods. Through this innovation, industry practices have also developed an environmental standard for the entire agriculture industry. Rice fields now provide habitat for hundreds of different wildlife species in the off season.

While rice growers have sought progressive and sustainable growing methods, many changes in the industry have been due to regulation. In some cases the regulations are warranted and needed. In many cases however, regulations come out of a lack of understanding about the rice industry by legislators. A deeper root of the problem is that while California has the highest agriculture production in the United States, most of the population is disconnected from agriculture and votes on laws they don’t understand the impacts of.

California tends to be the origin of most legislation for the United States, particularly for food and agriculture, it is vital to see that legislation is beneficial to all affected parties. Effective legislation is a result of educated and informed parties.
Chapter Five

Summary, Recommendations, and Conclusions

This chapter includes a summary of this entire project, recommendations for updating or recreating the index, and a conclusion demonstrating how the index should be used.

Summary

An Index of California Regulations Affecting Rice Growers is intended to be a fully functioning document for California rice growers and their representation. The intent of the project is to aid rice growers and their representation in lobbying efforts. The index is designed to be used a pocket book or digital document that can easily show the laborious and complicated regulations that growers must currently comply with.

Ideally, the index can be updated to reflect current regulations or expanded upon to include additional areas of regulation, and possibly even federal regulation. The digital version of the index includes hyperlinks that can take the reader to the most current version of the regulation text. Furthermore, the index can serve as a template for other agricultural commodities.

Recommendations

The following recommendations should be considered prior to beginning the next revision of the index, or the creation of a similar project:

1. Research how rice (or the commodity of subject) is grown
a. Understanding how the commodity is grown and the nuances of the industry are key in developing the areas of focus and in gleaning the important sections from the identified regulations.

2. Research California government and regulatory structure
   a. In order to navigate the appropriate sources and write the index in an understandable manner, it is of utmost importance to have a true grasp on the structure of California government. IF the index were to be expanded to include federal regulations, understanding the structure of the federal government would have equal importance. The index is meant to be used when lobbying with regulators, therefore if the index does not demonstrate an understanding of the government structure, the user loses credibility.

3. Consult industry professionals
   a. The intent of the index is to be functional document, thus it is of utmost importance that industry professionals provide input regarding the needed elements, areas of focus, etc. of the index.

4. Develop areas of focus
   a. The breadth of regulations can be quite large and overwhelming. If the author does not focus his or her efforts, it will be nearly impossible to create an accurate index. This is also why it is very important to understand the industry. If the author understands what effects growers the most, the author can more easily focus his or her subject matter. Finally, the author needs to determine if the index will be focused on only state regulations, only federal regulations, or both.

5. Obtain regulatory text from the most accurate website
   a. Regulations may be found at several different websites and sources and it can be very confusing. The State of California has an outdated website that does not contain the most current version of the regulations. The author should visit
http://leginfo.legislature.ca.gov/ to see the most current information. There is also separate website for the California Code of Regulations, labor regulations, etc. Make sure that the author has located the official website for each source.

6. Read the regulation text to identify which sections are applicable
   a. The text of the regulation will be broad and vague and many sections may not apply to rice growers (or the commodity of subject). Since there is already so much text, it may be helpful to readers to exclude sections that are not applicable.

7. Consider how the index will retain accuracy over time
   a. Regulations are constantly changing and being updated. As a result, the author should consider how the index will remain current over time.

8. Create an interactive digital version of the index
   a. If the author does not intend on constantly updating, reprinting and redistributing copies of the index, an interactive digital copy can be developed. With hyperlinks to the official online text of the regulation, the reader can look to see the most current form of the regulation.

9. Obtain or create a photo library
   a. Photos add to the professionalism and appeal of the index. The author should either capture the photos themselves or locate sources for high quality photos. The photos should be from various stages in the growing season to assist in depicting what the regulations will affect and what the commodity looks like in general.

10. Seek industry feedback
    a. After the index has been created and designed, it is very helpful to send out the finished document to industry contacts. These contacts will be able to review the index and offer feedback on areas that should be added or removed, or material
that the offer may have missed. Allow the individuals at least 10 days to provide feedback.

These recommendations were developed in part due to the comments provided by Roberta Forived and Paul Buttner. See Appendix A.

Conclusion

Developing a comprehensive index requires research, consultation of industry professionals, and a lot of ready. A successful finished product will assist rice growers and their representation in lobbying for positive regulation and law making. The index should be used as an educational tool in illustration the labyrinth of regulation that growers currently have to comply with. The index should be kept up to date by industry professionals who find it useful and should serve as a template to other commodities to have similar needs.
Work Cited


Appendix A

Roberta Firoved (rfiroved@calrice.org)

3/14/14

To: Maddie Dunlap, Tim Johnson, Jim Morris, lhamilto@calpoly.edu, lbrown@kscsacramento.com, George Soares, pbuttner@calrice.org
Cc: msilcott@calpoly.edu

Maddie,

Wow! You've done a tremendous amount of work here. Certainly hope your professor(s) can appreciate all the work that has gone into this project.

We have taken a look at your product from the perspective of professionals that might use it on a practical basis:

1) Narrowing Search Activities: Use of technology to narrow the amount of material your user has to thumb through is a great advantage in this business. We note that your document, being in pdf form, is searchable by keyword. That is a helpful feature. The only way we think this could be advanced would be for you to put some overarching keywords at the beginning of every section (based on your review) that might allow a user to see a consolidated subset of pages to look through. We realize that this may require more work and maybe software enhancements that may not be feasible but just wanted to share that remark.

2) Keeping it Fresh/Accurate: So the thing to keep in mind with all this statutory language, is that much of it changes (some years minor, some years major) by our beloved State Legislators. So, if this document remains fixed, there will be a gradual process by which the info will become inaccurate. No easy answer to this as all fixes would require some degree of ongoing babysitting of the document into the future. One helpful enhancement would be to include weblinks. The danger here is that weblinks can become dead-end links over time. However, some "top line" links can be very perpetual. www.arb.ca.gov, for example, while always be around while the more detailed locations within that site will live and die over time. Also, if you were to imbed the link to each statute section number using www.leginfo.ca.gov as a resource, that could serve into perpetuity by directing your reader to the proper section number that would capture all Legislative changes since your latest version. For example, the State Water Resources Control Board raised the ILRP fee to $0.75/acre through emergency regulation.

3) Include Pesticide Regulation: You may want to provide some general overview of DPR from this website: http://www.cdpr.ca.gov/dprabout.htm. Growers interested in receiving updates from DPR can subscribe to E-Lists here: http://www.cdpr.ca.gov/docs/dept/listserv/listdesc.htm. They can have access to the
county agricultural commissioners here: [http://www.cdfa.ca.gov/exec/county/countymap/](http://www.cdfa.ca.gov/exec/county/countymap/) with specific detail on enforcement programs: [http://www.cdpr.ca.gov/docs/county/comenu.htm](http://www.cdpr.ca.gov/docs/county/comenu.htm). In addition, growers can go straight to the DPR website: [http://www.cdpr.ca.gov/](http://www.cdpr.ca.gov/). You provided information on labor. It is also important to include worker protection enforced through DPR. EPA recently identified worker protection as a high priority and will propose changes to the Worker Protection Standard (WPS). However, it is too early to know what changes will impact California. We do know that compliance to the WPS will be of major importance to the grower. Another good source of information is through the DPR News and Publications: [http://www.cdpr.ca.gov/dprnews.htm](http://www.cdpr.ca.gov/dprnews.htm) with more detail here (including worker protection updates): [http://www.cdpr.ca.gov/docs/dept/docsmenu.htm](http://www.cdpr.ca.gov/docs/dept/docsmenu.htm)

So, that's what we've come up with. Keep up the good work!

Cheers,
Roberta and Paul