



Labor Management

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I. LAWS AND REGULATIONS

Compliance with all federal and state labor laws is an essential component of GAP. Labor laws continue to change and it is important to stay up to date with all laws affecting farming operations. Some of the labor laws and regulations that must be adhered to include, but are not limited to:

- Federal Fair Labor Standards Act (FLSA). Basic provisions of this law for all labor include:
 - Minimum Wage
 - Child Labor
- Migrant and Seasonal Agricultural Worker Protection Act (MSPA). Basic provisions of this law for migrant and seasonal labor include:
 - Wages
 - Housing
 - Transportation
 - Disclosures
 - Recordkeeping
 - Farm Labor Contractor (FLC) Registration
- Applicable immigration laws could include: The Immigration and Nationality Act (INA), The Immigration and Reform Act of 1986 (IRCA), The Immigration Act of 1990, The Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA) of 1996, and The Homeland Security Act of 2002. Basic provisions of these laws include:
 - Laws, regulations, and requirements pertaining to H-2A Employment
 - Employer Sanctions
 - Discrimination
- Occupational Safety and Health Act (OSHA). Basic provisions of this state and federal law includes:
 - Workplace Safety
 - Field Sanitation Standards
- Workers' Compensation Requirements (by State)

Good Agricultural Practices

- Determine your labor requirements and source of your labor (family, local, migrant, etc.).
- Determine and comply with all applicable state and federal laws and regulations.
- Ensure that wages of all workers (including for temporary, piece rates, seasonal, and migrant workers) meet, at a minimum, national legal standards.
- Ensure fair treatment of all workers.
- All farm labor must be voluntary.
- Provide a safe work environment to prevent accidents and injury and to minimize health risks.
- Recognize and respect workers' rights to freedom of association to join a union.

Employment Eligibility Verification Form (I-9):

- Complete and maintain a Form I-9 for each employee.
www.uscis.gov/files/form/i-9.pdf
- Form I-9's must be kept for as long as the individual works for the employer. Once the individual's employment has terminated, the employer must retain the Form I-9 either three years after the date of hire, or one year after the date employment is terminated, whichever is longer.

Posters:

- Post all legally required labor standards posters where they will be visible to all employees.
- The following website can be used to enter your farm's labor situation and it then will identify exactly what signs are required to satisfy federal requirements. There is also a link to your state's sites to determine if any additional signs are needed. www.dol.gov/compliance/topics/posters.htm



Farm Labor Contractor:

- Ensure that the Farm Labor Contractor is registered with the U.S. Department of Labor.
 - Helpful facts –www.dol.gov/whd/regs/compliance/whdfs49.htm
- Obtain a copy of the contractor's Certificate of Registration and keep it in your files.

Disclosures:

- When offering employment, provide a written statement that describes the terms and conditions of their employment upon request.
- The written statement must be written in the worker's language and must include:
 - place of employment (with specifics, such as the name and address of the employer or the association),
 - wage rates (including piece rates) to be paid,
 - crops and kinds of activities for which the worker may be employed,
 - period of employment,
 - transportation, housing, and any other employee benefits to be provided, if any, and any costs to be charged for each, and
 - whether state workers' compensation or state unemployment insurance is provided.

Housing:

- If migrant labor housing is provided:
 - Ensure that the facility complies with all federal and state safety and health standards.
 - Perform regular self-inspection throughout the season to identify items needing maintenance.
 - Post or present to each worker a statement of the terms and conditions of occupancy which must include:
 - > name and address of the farm labor contractor, agricultural employer, or agricultural association providing the housing,
 - > name and address of the individual in charge of the housing,
 - > mailing address and phone number where persons living in the housing facility may be reached,
 - > who may live at the housing facility,
 - > charges to be made for housing,
 - > meals to be provided and the charges to be made for them,
 - > charges for utilities, and
 - > any other charges or conditions of occupancy.
- Have all housing inspected by the appropriate governmental agencies.

Child Labor:

- For a detailed review of the Federal laws governing the employment of minors (children under 18) in agriculture, please review the US Department of Labor's Child Labor Bulletin 102, available at: <http://www.dol.gov/whd/regs/compliance/childlabor102.pdf>.

- Please note: individual state laws may impose more stringent requirements than Federal child labor laws. Please make sure you are familiar with your state's child labor laws by contacting your state department of labor (contact information provided below).
- Follow all relevant contractual and legal requirements concerning the regulations on child labor.

Documentation

- I-9 forms for all employees including H-2A workers
- Number of full-time and seasonal family and non-family (migrant, H-2A) workers
- If required by your contract, payroll records for each employee.
- A copy of the Labor Contractor's Certificate of Registration with the DOL (If farm workers are hired through a Labor Contactor).

Inspection List

- Does the grower keep employment eligibility verification document (I-9 form) and required wage payment records?
- Are workers informed of their legal rights and the conditions of their employment when they start working?
- Has the grower provided workers with a proper disclosure of the terms and conditions of their employment?
- If farm workers are hired through a Labor Contactor, has a copy of the Labor Contractor's Certificate of Registration with the DOL been retained?
- If minors are employed on the farm, is the necessary documentation required by federal and state laws maintained? See the USDOL's Child Labor Bulletin 102 available at: <http://www.dol.gov/whd/regs/compliance/childlabor102.pdf> for federal requirements.

II. FARM LABOR RELATED RESOURCES

US Department of Labor:

- Migrant and Seasonal Agricultural Worker Protection Act:
 - www.dol.gov/compliance/laws/comp-msawpa.htm
 - www.dol.gov/whd/regs/compliance/posters/mspaensp.htm
- Immigration and Nationality Act
 - www.dol.gov/compliance/guide/aw.htm
- Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA)
 - www.uscis.gov/ilink/docView/PUBLAW/HTML/PUBLAW/0-0-0-10948.html
- The Homeland Security Act of 2002
 - www.dhs.gov/homeland-security-act-2002
- Occupational Safety and Health Act (OSHA) for agriculture
 - www.osha.gov/pls/oshaweb/owastand.display_standard_group?p_toc_level=1&p_part_number=1928
- Fair Labor Standards Act
 - www.dol.gov/dol/topic/youthlabor/agricultureemployment.htm (youth farm labor)
 - www.dol.gov/whd/regs/compliance/posters/wh1386Agrcltr.pdf

Connecticut Department of Labor:

- Phone: 860-263-6000
- Website: <http://www.ctdol.state.ct.us/>

Florida Division of Workers' Compensation:

- Phone: 850-413-1609
- Website: www.myfloridacfo.com/wc/

Georgia Department of Labor:

- Phone: 404-656-3017
- Website: www.dol.state.ga.us

Indiana Department of Labor:

- Phone: 317-232-2655
- Website: <http://www.in.gov/dol/>

Kentucky Office of Employment and Training (Employer Services):

- Phone: 502-564-7456
- Website: www.oet.ky.gov/employer/employer.htm

Kentucky Department of Labor:

- Phone: 502-564-3070
- Website: www.labor.ky.gov/

Louisiana Workforce Commission:

- Phone: 225-342-3111
- Website: www.laworks.net

Maryland Department of Labor, Licensing and Regulation:

- Phone: 301-393-8218
- Website: www.dllr.state.md.us

Massachusetts Executive Office of Labor and Workforce Development:

- Phone: 617-626-7122
- Website: www.mass.gov/lwd/

Missouri Department of Labor:

- Phone: 573-751-3403
- Website: www.labor.mo.gov

North Carolina Department of Labor – Agricultural Safety and Health Bureau:

- Phone: 800-625-2267
- Website: www.nclabor.com/ash/ash.htm

Introduction to NC Migrant Housing Inspections (for North Carolina growers):

- Website: www.nclabor.com/ash/ash_blue_book.pdf

Ohio Department of Commerce, Division of Industrial Compliance and Labor:

- Phone: 614-644-2223
- Website: www.com.ohio.gov/dico/Default.aspx

Pennsylvania Department of Labor and Industry:

- Phone: 800-932-0665
- Website: www.dli.state.pa.us

South Carolina Department of Labor – Office of Immigrant Worker Compliance:

- Phone: 803-896-2606
- General Phone: 803-896-4300
- Website: www.llr.state.sc.us/immigration

Tennessee Department of Labor and Workplace Enforcement:

- Phone: 615-741-6642
- Website: www.tn.gov/labor-wfd/laborlaws.html

Virginia Department of Labor and Industry:

- Phone: 804-371-2327
- Website: www.doli.virginia.gov

West Virginia Division of Labor:

- Phone: 304-558-7890
- Website: www.wvlabor.com

Wisconsin Department of Workforce Development:

- Phone: 608-267-5123
- Website: dwd.wisconsin.gov

I-9 Forms:

- Website: www.uscis.gov/files/form/i-9.pdf

III. FARM SAFETY AND WORKER TRAINING

Provide on-going training and education in all elements of GAP to ensure that everyone involved in the tobacco production understands the importance of working in a safe manner. Discuss with farm workers the hazards and risks associated with agrochemicals, safe working practices, emergency response and health surveillance.

Good Agricultural Practices

- Comply with Occupational Safety and Health Act (OSHA) (i.e., provide safe work environment to prevent accidents and injury and to minimize health risks).
- Review accident reports from past seasons.
- Maintain equipment in good operating condition as per manual/guidance provided by manufacturer or dealer of equipment.
- Inspect all farm machinery for safety guards and replace as necessary.
- Provide clean drinking water for all workers at all times.
- Identify risks on the farm such as those involved in operating machinery/equipment, adverse weather conditions, agrochemical applications, etc. and train workers on how to avoid and protect themselves from such risks.
- Instruct or provide training to farm workers on the hazards and risks associated with agrochemicals, safe working practices, emergency response and health surveillance.

Green Tobacco Sickness:

- Avoid working with wet tobacco
- If workers must work with wet tobacco, provide them with personal protective equipment (PPE) that is breathable and water-resistant.
- If workers' clothes get wet from tobacco leaves, they should change into dry clothes.
- Workers should wash hands often.
- Recognize symptoms of GTS, including:
 - Headache
 - Dizziness
 - Nausea
 - Vomiting
 - Weakness
 - Insomnia
 - Loss of appetite
 - Seek medical attention.



Training:

- Attend GAP training, University Extension meetings, etc.
- Develop a plan for worker training as listed in other sections of this GAP document including worker safety with emphasis on Personal Protective Equipment for agrochemicals and prevention of Green Tobacco Sickness.
- Examples of worker training topics:
 - General Farm Safety
 - Farm Safety and Equipment Hazards
 - Personal Protective Equipment (PPE)
 - PPE for prevention against carbon monoxide poisoning in dark-fired tobacco barns
 - Worker Protection Standards (REI signs, PHI signs, safety equipment, such as gloves, eyewear, footwear, dust masks, hearing protection)
 - Baler and Tractor Safety
 - Green Tobacco Sickness (symptoms and treatments)
 - Heat Stress (symptoms and treatments)
 - Safety Shields and Guards on Equipment

Documentation

Safety:

- Records of work place safety program.
- If migrant labor housing and vehicles are provided farm workers, records of the DOL certification and inspection of migrant labor housing and vehicles.
- Records of all accidents – nature and number of accidents, how they occurred, and corrective and preventive actions taken based on the review of past accidents.

Training:

- Records of worker training on:
 - general farm safety-topics.

- the proper storage, handling, application and disposal of tobacco agrochemicals,
- use of PPE,
- prevention of carbon monoxide poisoning in dark-fired tobacco barns,
- GTS (symptoms and, treatments),
- heat stress (symptoms and, treatments),
- worker protection standards, and
- safe operation of farm machinery.
- Records of grower training on Industry GAP and certification.
- Records of grower attendance of University Extension meetings.
- Records of pesticide applicator training.

Inspection List

- Does the grower have a documented work place safety program (i.e., have procedures and training allowing to take all reasonable measures to prevent accidents, injury and exposure to health risks)?
- Does grower have first-aid equipment available?
- If housing is provided, does the grower have up-to-date certification from DOL or other appropriate governmental agencies for migrant labor housing?
- Are precautions taken to limit work in wet tobacco and exposure to Green Tobacco Sickness (GTS)?
- Are gloves and water-resistant clothing available to all workers when working with wet tobacco?
- Are required posters displayed in a conspicuous place at the work site for farm workers to see?
- Does the grower instruct all equipment operators on the safe operation of farm field equipment? (Equipment manuals and/or documented procedures)
- Are other operationally required and appropriate PPE such as safety gloves, hearing protection, safety hats and/or helmets, safety footwear, dust masks available?
- Are fire extinguishers available in close proximity to barns, market preparation facilities?
- Does all farm field equipment used for tobacco have required guards or shields?
- If vehicle is provided to your farm workers, is it in good working order?
- Does the grower prohibit minor workers from doing work that is hazardous or likely to harm the minor's health or safety?
- Have farm workers been trained on use of PPE, GTS prevention and Protocols? (Posters, videos, CDs, documented meetings and/or training brochures)
- Are workers that handle agrochemicals trained in the proper storage, handling, application and disposal of tobacco agrochemicals?
- Has the grower attended GAP training and University Extension meetings, and pesticide applicator training? (documented meetings)