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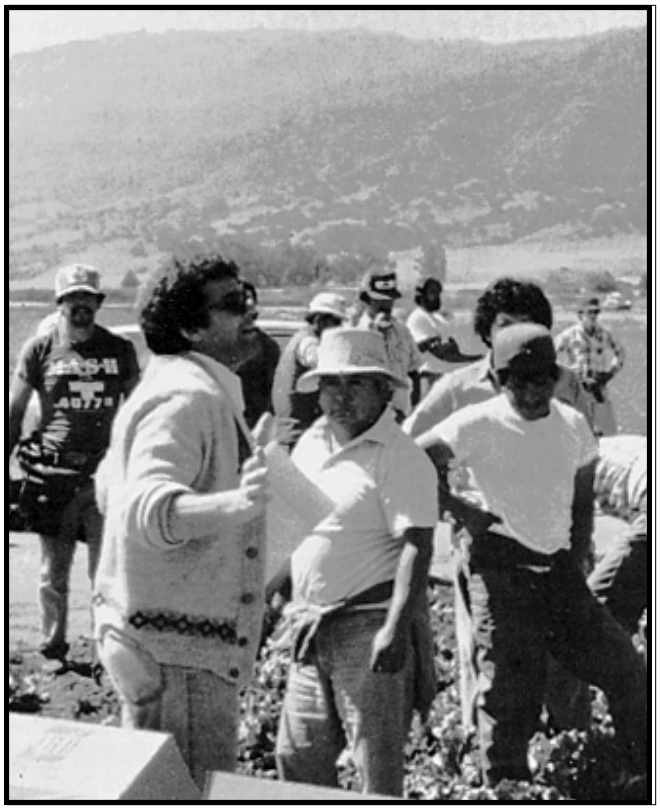

In This Issue:

Might Your Farm Safety Committee Be a "Labor Organization"?

Valerie J. Horwitz and Howard R. Rosenberg

Although farms have long been among the most dangerous of workplaces, managers of farm labor today are finding more reasons than ever to do something about it. Skyrocketing, experience-rated workers' compensation premiums as well as laws that mandate effort to prevent injury and illness have especially raised safety consciousness within the agricultural community. A recommended element of programs designed to improve safety in operations, however, may introduce unwitting employers to risks in quite another realm.

Safety Committees

Part of many injury prevention programs is a safety committee. In 1990, California Senate Bill 198, requiring all employers to establish and document an Injury and Illness Prevention Program, added to the need for communicating with employees about safety. The California Labor Code[1] now specifically states that a joint employer-employee safety committee can be instrumental in meeting the obligation to communicate, and it even outlines the duties of such a committee. It also enables the Department of Industrial Relations (DIR) to adopt procedures for nonunion employers to select employee representatives to the committee. A related area of state law authorizes DIR to *require* certain employers in high-hazard industries to establish joint labor-management health and safety committees, in order to help control workers' compensation costs.[2]

The workplace safety committee (SC) is by no means a new invention. Cooperative management-employee

1 Cal Labor Code sec. 6401.7, as amended by S.B.198.

2 Cal. Labor Code sec. 6314.1

groups have existed in unionized and nonunion companies for decades, and worker safety has been a common if not the central focus for them.[3] Currently, as in the past, safety committees serve in many firms as two-way communication devices, both disseminating company policies and developing plans for additional policy or procedures in the interest of safety.

While safety committees are generally formed with the aim of reducing workplace accidents and occupational illnesses, they may also yield ancillary benefits in morale, workforce stability, insurance loss control, and avoidance of facility down time. The best of safety committees in industry naturally evolve into forums for constructive discourse on an array of topics—such as the flow of work, capital expenditures, and equipment maintenance—that affect various dimensions of worklife, product quality, and operational cost. The worst, however, waste time, money, and morale after building up employee expectations that get dashed by management inaction on ideas duly rendered by the committee.

State and federal laws that require or encourage safety committees imply to employers that they are a good thing, even though beneficial results from them are by no means assured. And court decisions in recent cases reveal another, potentially steep, downside to SCs. They strongly suggest that existing public policies that promote formation of these committees may conflict with others that ensure employee rights to organize. With the best of intentions, an employer who establishes an SC may be creating and illegally dominating a labor organization.

The Makings of a Labor Organization

At what point does an employer-employee safety committee lose its status as a communication device and become a labor organization? This question has been visited several times in the past year by the National Labor Relations Board (the Board), and employers are likely to find the results confusing, if not alarming.

A group may meet the legal definition of *labor organization* even if it has no formal structure, elected officers, constitution, bylaws, regular meetings, initiation fees, or dues.[4] Following almost identical language of the National Labor Relations Act (NLRA), the California Agricultural Labor Relations Act (ALRA) states that a labor organization is ". . . any organization of any kind, or any agency or employee representation committee or plan, in which employees participate and which exists, in whole or in part, for the purpose of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours of employment, or conditions of work for agricultural employees." In deciding whether an entity is a labor organization, the national Board has been specifically considering two key standards drawn from this definition: (1) "dealing with" and (2) "employee representation."

"Dealing with" is the exercise of any bilateral mechanism in which a group of employees, over time, makes proposals to management and management responds. It thus includes, but is not limited to, collective bargaining, wherein workers and managers seek to compromise on their differences and put the results into a written contract. A pattern or practice of back and forth communication about proposals establishes the element of dealing; an ad hoc proposal and response, however, do not. A group that exists only for the purpose of brainstorming and makes no proposals is not dealing and is therefore not a labor organization. Nor is a group that merely provides information to the employer, or one that is used in connection with a suggestion box system.

The Board draws a clear line on this issue in a case involving the DuPont company, in which employer representatives and employees both sat on a committee, and any proposal made by the committee had to be by consensus. The Board stated:

> [W]here management members of the committee discuss proposals with employee members and have the power to reject any proposal, we find there is "dealing." The mere presence of management members on a committee would not necessarily result in a finding that the committee deals with the employer. For example, there would be no "dealing with" management if the committee were governed by majority decision-making, management representatives were in the minority, and the committee had the power to decide matters for itself, [or…] if management representatives participated on the committee as observers or facilitators without the right to vote on committee proposals. If a committee exists for the sole purpose of imparting information, [or…] planning educational programs there would be no dealing.

The second key attribute of a labor organization is that it is designed or perceived to be representative of non-member employees. The Board has found employee representation to exist when employees felt they could use the members of the committee as a liaison with management, or management regarded the views

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[3] Various types of cooperative efforts that involve joint committees are discussed in Michael H. Schuster, *Union-Management Cooperation: Structure-Process-Impact*, The W. E. Upjohn Institute, 1984.

[4] *Electromation, Inc., and International Brotherhood of Teamsters, Local Union No. 1049, AFL-CIO*, 309 NLRB No. 163 (1992).

expressed by committee members as representative of non-member employees.

In one case, an employer wrote and handed out to committee members a summary of committee meeting discussion, and then encouraged them to discuss it with other employees in order to "benefit from their thoughts and ideas."[5] This clearly reflected management's attitude that the committee represented the other employees. In another case where the element of representation was found, employee committee members had made continual efforts on behalf of the whole workforce to increase safety incentive bonuses, and they even sent a message through electronic mail inviting co-workers to contact the committee about any safety situation.[6]

In contrast, representation was not found to exist in a situation where the employer held a safety conference at which it sought suggestions and ideas from the employees, but did not respond directly to proposals. In announcing the conference, the employer had informed employees that 30 volunteers would attend the first meeting, and that another safety conference would be held in the near future for all employees. Neither session was to be representational in nature. In its decision, the Board referred to "committees of the whole," suggesting that if every person in the workforce is involved directly, no one is being "represented."[7]

Employer Domination

If a safety committee is legally a labor organization, the employer's relationship with it is specially constrained by law. The NLRA and the ALRA expressly prohibit employers from dominating or interfering with the formation of any labor organization or contributing financial or other support to it. They make it unlawful for employers to create, administer, and essentially determine the structure, function, or survival of a labor organization.

The very illegality of an employer dominating a unit within its own organization may seem curious, especially in workplaces where joint safety committees are more effective than unions could be in actually providing for employee safety. But existing law still follows the orientation of Senator Wagner, author of the original NLRA, who stated that, "Genuine collective bargaining is the only way to attain equality of bargaining power....The greatest obstacles to collective bargaining are employer-dominated unions. Such a union makes a sham of equal bargaining power....Only representatives who are not subservient to the employer with whom they deal can act freely in the interest of employees."[8]

Existence of domination is determined by the totality of circumstances under which a committee operates, not by any single act or omission. A violation may be found regardless of whether the employer shows animosity toward unions or has a specific motive to interfere with workers' rights. While not at all necessary to a finding of unlawful domination, the presence of a union representing employees can easily factor into it.

In the DuPont case, the Board saw a strong anti-union sentiment in the actions of management. Employees had been represented by a union at the time of the violation. The company formed six safety committees and one fitness committee over a 30-month period, during which the union took increasing interest in employee safety. Toward the end of this time, the union unsuccessfully proposed the establishment of a joint management-labor safety committee to discuss or bargain all health and safety issues, to investigate injuries and accidents, and to determine how to avoid future mishaps. DuPont rejected the proposal and failed to make any counter offer on the idea of a joint safety committee.

In the meantime, management allowed the committees it had formed to handle not only matters clearly within the scope of mandatory collective bargaining but also other issues that the union was already working to resolve. Almost every committee established cash incentive awards for safe practices. One committee secured $10,000 from the employer to sponsor events for employees. Another arranged for improvements in handling welders' protective clothing, and it got a new, better ventilated welding shop created after the employer had denied the union's repeated attempts to achieve the same end.

The company had initiated all seven committees, provided the meeting places, equipment, and supplies, and paid all expenses of the committees. Members of management participated in all of them. Management decided from what departments to invite employees, and it chose from among those willing to serve. Employees received their regular wages for time spent in

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5 *Salt Lake Division, A Division of Waste Management of Utah, Inc. and International Brotherhood of Teamsters, Local No. 222 AFL-CIO,* 310 NLRB No. 149 (1993).

6 *E.I. DuPont de Nemours & Co.,* 311 NLRB No. 88 (1993). This was especially egregious, as there was already a collective bargaining agreement in effect, and employees were being discouraged from going to the union with safety concerns.

7 *DuPont,* supra.

8 *Legislative History of the National Labor Relations Act of 1935,* 15-16 (GPO 1949).

the meetings, and their terms of service were indefinite. Use of electronic mail was permitted to distribute committee literature and notices, but not for any union literature or notices. The committees could have been changed or abolished at any time at the will of the employer.

Based on these facts, the Board held that the committees were labor organizations unlawfully dominated by the employer. By dealing directly with the committees, bypassing the union that was certified to represent workers, the company violated the employees' right to representation of their own choosing. DuPont was ordered to completely disband the seven committees and meet any union request to bargain over plant safety and fitness facilities. The union was also given the power to have rescinded the safety awards program that the company had implemented without bargaining.

In the case of Waste Management of Utah, no union was certified when the employer formed its joint committees, but one had filed for a representation election. The general manager presided over six meetings to solicit participation in one of three employee committees he was creating, to deal respectively with Routing and Productivity, Safety, and Benefits. While he said that the purpose was to get input from which to correct some past mistakes, the timing of his committee formation effort, two months after the filing for election, was later found to be specifically in response to the union organizing campaign.

In their first month, the committees met and proposed a safety bonus program, an attendance bonus program, a new vacation and holiday policy, and accident and injury review guidelines. A manager then told employees that these proposed programs would be put into effect without any union involvement, and that they might be lost if the union was voted in. These remarks were later construed as an unlawful inducement to reject the union. The union was indeed defeated, and it subsequently filed objection to the election. Shortly afterward, the general manager announced that the programs formulated by the committees could not be put into effect, due to union objections to the election. He urged those employees with "pull" to try to get the union to drop its objections.

The Board found that management had made unlawful promises, intimidated employees, and unfairly influenced the election. It required the employer to disband the Safety and Benefits Committees, to recognize the union, and to reinstate any or all of the committees' programs that had been retracted because of objections to the election. In addition, the employer was ordered to pay employees, with interest, the monetary equivalent of any loss occasioned by those retractions.

In a third case, *Electromation,* the unlawful domination took place before any union was even known to be organizing for a representation campaign. The employer had been experiencing serious employee relations problems. Convinced that unilateral management action was not about to rectify the situation, the company president decided to involve employees in developing solutions through "action committees." Employee sign-up sheets were posted, and committees began to meet shortly thereafter. The employer and participating employees regarded the committees as representative of the entire workforce.

When a union subsequently made a demand for recognition, the president informed the committee coordinator, who in turn told committee members that management could no longer participate, but that the employees could continue to meet if they wanted. After another month, the president told employees that because of the union's campaign, the company would not be able to either participate in any committee meetings or to otherwise work with the groups until after the election, which was to be held within two weeks.

Specifically basing its decision in this case on events prior to the union's presence, the Board held that the formation and management of the committees had been an unfair labor practice. The subject matter and representational nature of these committees were important factors in the ruling. Three of the five committees focused on subjects of mandatory collective bargaining in unionized settings (absenteeism/infractions, pay progression, and attendance bonus), and all the committees were viewed as representing employees who were not on any committee. The company had dominated and assisted them by organizing them, creating their nature and structure, and determining their functions. While committee discussions were not regularly dominated by management, the meetings took place on company property, supplies and materials were provided by management, and members were paid for time spent on committee work.

Outside and Inside the Limits

Labor relations laws are not intended to present obstacles for employers wishing to implement employee involvement mechanisms that do not impair the right to freely choose a bargaining representative.[9] In the *Electromation* ruling, the Board stated that paying employees for their committee meeting time, and providing supplies and meeting space is not a violation unless such assistance is in furtherance of employer domination. In several other instances the Board has explicitly

9 *Electromation,* supra., Member Delaney's concurrence.

held joint management-employee committees to be perfectly lawful in formation and administration.[10]

In *General Foods,* the Board found that employee teams created as part of a job enrichment plan were not labor organizations.[11] Each team, acting by consensus, assigned job rotations and scheduled overtime for its own members. Every non-management employee was on a team. The teams' authority derived not from "dealing" with the employer, but from being delegated goal-setting and self-regulation responsibility, like any other job duty.

In *John Ascuaga's Nugget*, the Board held that an "Employee Council" initiated by the employer to resolve employee grievances and consisting of both management and non-management employees, was not a labor organization.[12] The Board found that the council did not "deal with" the employer by acting as the employees' advocate. Instead, the council performed a managerial function of adjudicating employee grievances. The committee decided by majority rule, management was in the minority on the committee, and the decisions of the committee were final and binding, not proposals to management.

In *Mercy-Memorial Hospital*, a similar grievance committee involving employees and managers was found to not be a labor organization, because the committee was created simply to give employees a voice in resolving the grievances of fellow employees, not to present, discuss, or negotiate with management.[13] The committee by itself decided the validity of each complaint brought by employees.

Finally, in *Sears Roebuck & Co.,* the Board held that a communications committee formed by management was not a labor organization, even though it discussed matters relating to wages and benefits.[14] The committee had been clearly designed as a management tool to increase company efficiency, rather than as an employee representative or advocacy body. Management presented issues and questions to the committee, and the committee responded. The most significant factor in this case was the member selection structure. The committee was composed of one employee from each department; through a rotation system, every employee had a chance to attend two committee meetings. Thus, the entire workforce could participate directly, and the committee was not representational.

Implications for Farm Safety Committees

Employers who want to utilize safety committees without running afoul of the NLRA or ALRA are well advised to consider the principles shown in these recent Board decisions. There is no one specific thing for employers to do or avoid doing to make its relationship with joint committees surely lawful. The intent to intimidate employees or illegally dominate a worker organization is not necessary to the effect of actually doing so. But safety committees generally do not expose the employer to risk of unlawful domination if they do not "deal with" management, do not represent the workforce to management, or are able to exist, make decisions, and take actions without management control.

An employer whose safety committee is found to be a dominated labor organization may be required to disband it, and in some circumstances even to recognize a union that lost representation rights because of such a committee. Furthermore, if a safety committee is disbanded on this basis, and it has helped create some type of bonus package related to safety, the employer may have to honor the terms of the plan and pay its prescribed benefits to employees anyway.

What are the chances that any agricultural employers in California will be found unlawfully dominating labor organizations that they thought were safety committees? Farms are not covered by the NLRA, under which the cases cited here were decided, but the state ALRA was designed to provide agricultural workers with protection comparable to that of the national law.[15] Additionally, the ALRA itself directs the ALR Board to follow applicable precedents of the NLRB, and state courts are bound by precedent to look at administrative and judicial interpretations of the NLRA as guidelines for the appropriate interpretations of the ALRA.[16]

It may not be likely but remains possible for a farm employer to be charged with illegal labor relations through the operation of its own safety committee. The three outlaw cases reviewed in this discussion had unions in or around them, and few farms in California currently do. The *Electromation* ruling, however, carries a distinct message that employer domination of a labor organization does not depend on the presence of a union.

Legislation or judicial decisions that resolve conflicts between legally requiring safety committees and prohibiting employers from dominating them is overdue. Meanwhile, farm managers who use safety committees ought to be mindful of the recent case findings. □

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10 Summarized in Board Member Delaney's concurring opinion in *Electromation,* supra.

11 *General Foods,* 232 NLRB No. 1232 (1977).

12 *John Ascuaga's Nugget,* 230 NLRB No. 275 (1977).

13 *Mercy-Memorial Hospital,* 231 NLRB No. 1108 (1977).

14 *Sears Roebuck & Co.,* 274 NLRB No. 230 (1985).

15 Cal. Labor Code sec. 1140 et.seq.

16 *Pasillas v. ALRB* (1984, 1st Dist.) 156 Cal. App. 3d 312.

Health and Safety Training Needs to Be Specific

Richard Bruce

Common themes run through all recommendations on health and safety in agriculture — the importance, for example, of the employer's strong commitment to the safety program, good communication and cooperation among workers, availability and use of protective clothing and safety equipment, and operation of equipment only by qualified workers. But as the following examples suggest, training and equipment modification also need to be site-specific to be successful — tailored to the setting and the technology used.

Richard Bruce, owner of Specialty Safety Training, Gerber, conducts safety training of farm workers in English and Spanish in northern California.

Preventing Accidents

Insufficient training and failure to follow necessary precautions have contributed to many accidents in agriculture. Some have resulted in death or disabling injuries that might not have happened if forethought had been applied and preventive measures taken. Others have had much milder consequences, often because procedures were in place to avoid serious harm. The goal of a safety program is to prevent accidents altogether, but when they do occur, attention to specifics can make a big difference in the outcome, as illustrated by several incidents that have recently come to my attention.

In the Yuba City area, a labor contractor's worker on a pruning tower was electrocuted when he got up into high-tension lines. It is important to warn workers to stay at least 10 feet away from power lines. Not just employees, but also labor contractors and other outside labor on the ranch need to be informed about high-tension lines and any other known hazards.

Not turning machinery off and using lockout/blockout procedures to keep it from starting up again while working on it has caused several disabling accidents, including some in northern California rice processing mills. In one, a worker lost a large portion of his foot in an auger in a bin when someone else inadvertently turned on the machinery. At another rice dryer, an employee lost half his leg when his foot was caught in an auger after a floor guard broke. Another mill worker lost partial use of his hand after getting it caught while trying to clean feed rolls while the machine was running.

But lockout/blockout is for all equipment, not just rice processors. A few months ago, a worker in north-

ern California lost part of his arm by trying to remove foreign material from onion equipment without turning it off. In an almond huller operation, although lockout was not used, blockout was, and that probably prevented more serious injury to a worker's arm. The employee was cleaning out green hulls from beaters and thought the safety switch on the door would keep the beaters from starting with the door open. But when another worker hit reset, his arm was broken in three places. By company policy, a pipe was always placed in the beaters when they were being cleaned or repaired to prevent much movement if the machine did start. Since this accident, the grower has installed a switch with a lockout near the beaters where it is easy to get to. Also, a buzzer has been installed in the start button panel. When a start button is pushed, the buzzer sounds, followed by a short delay before the equipment starts.

Lockout/blockout mechanisms can be used on tractors, choppers, pickups, etc., as well as dryers and hullers. These guidelines should be followed by everyone, including owners, managers, and foremen: (1) If a piece of equipment is being cleaned, serviced, or repaired, it should be locked, the key removed or locked out, and a tag left warning not to start the machine. Turning off a power take-off is not enough; the engine needs to be turned off too. (2) Equipment that could roll, fall, or turn should be blocked to prevent movement rather than relying on its being off or up on jacks. (3) All air or hydraulic pressure should be relieved before disconnecting or servicing.

Differing outcomes in two pesticide spraying accidents show the importance of having the necessary protection and following recommended safety procedures. In one incident, a worker was strip spraying without his gloves and without wash water available. When the tank was empty, he got off the sprayer, folded up the booms with his bare hands, and then went to the bathroom without washing his hands. The result was severe irritation to contacted skin. In the other, a worker applying a pesticide noticed that the hose was loose near the hand gun and tried to push the hose back on. The worker should have kept the pump pressure as low as possible and turned off the pump before trying to fix the hose, but he didn't. High pump pressure caused the hose to blow off, and the pesticide soaked the worker's face, running down into his eyes and around his face mask. Fortunately, the grower had installed a clean water tank and hand soap on the sprayer. The worker was able to wash his hands and face right away with soap and water and wash out his eyes. Someone then took him and the spray label to a doctor. It was two hours before the worker was seen by the doctor, but the immediate washing had been enough to control the damage. Without the water tank, permanent eye damage might have occurred. Clean water and soap should be carried on all spray rigs. Do not use empty antifreeze or chemical containers.

Even in cabs, or when strip spraying with the nozzle pointed down, the worker needs to use all the required safety equipment. A worker who is going to service equipment, clean nozzles, or do anything that entails contact with spray or equipment must use all protective gear. These precautions are also necessary for workers who will be in the field during reentry.

Safety Considerations in Harvesting

One of the biggest complaints I hear from owners is that workers do not report equipment problems or damage. One of the biggest complaints I hear from workers is that owners or mechanics get very upset when told about equipment problems. Both have their points, and there can be no doubt that the best way to have a safe workplace is to encourage good communication. I always get a positive reception from workers when they see that someone is taking a personal interest in their safety.

Growers get really busy, especially during harvest, and it is easy not to notice something that might cause an accident. That's why help from the workers is essential. For example, last year during safety training of a hand-sorting crew on a walnut huller, it was pointed out that a cross conveyor could catch their clothing. Workers agreed it was a problem. When notified, the owner immediately fixed the problem before starting the machine.

No matter how busy they are, owners and managers find it well worth their time to anticipate where equipment failures might occur and do some preventive maintenance. Trucks used during harvest, for example, often are not used the rest of the year. They need to be checked before harvesting begins to see that they are in safe condition, especially brakes and steering. And be sure the drivers are qualified. Before the harvest, it is also worthwhile for an owner to check for potential hazards at the work site — take a good look around the orchard, for example, by driving through on a tractor.

Limbs may be a hazard for operators of equipment without cabs, such as tractors and choppers, as well as sweepers and pickup machines and shakers. Protective bars or other protection can be installed. Head protection for workers is needed if there is a chance of flying tree limbs. Eye protection is recommended on most jobs, and dust masks if working in dust.

Almost all machines make ear protection necessary. In recent checks with a decibel meter, we found that older tractors run at about 100 to 110 decibels. The newest tractors are much quieter but still run in the 90- to 95-decibel range. Chain saws run at 105 to 116. At 90 decibels, ear damage begins after 8 hours. For each 5-decibel increase, that time is cut in half (95 = 4 hours; 100 = 2 hours; 110 = 0.5 hour). Most harvest equipment probably runs in these upper ranges.

The following selection of specific tips illustrates the attention to detail, ingenuity, and vigilance required to avoid common hazards during harvest:

- **Shakers.** A common problem on shakers is that limbs from adjoining trees hit the operator in the back. Trees with many dead branches should be shaken only lightly, and the receiver operator and bin handler should get as far as possible from the shaker machine.

  Never let operators of nut shakers go under the boom. Before harvest, check the pins on the main lift cylinder; they have been known to break while up in the air. Warn all other workers not to go behind the shaker, where the operator might not see them.

  If the operator backs into a power pole and the wires break, it may be possible to drive the machine away from the wires. If not, someone should try to get help to shut off the power. If that is impossible, the workers should jump from the machine, being careful not to touch the machine and ground or limbs at the same time.

- **Nut sweepers, pickup machines.** People should stay at least 100 feet from the fan discharge, never in front of it when it is running. I have heard of workers standing in front to blow off dust or get cooled off. I have also heard of fan blades coming off and being thrown a good distance. They could kill someone.

  Plan the harvest so that the fan discharge on sweepers and harvesters is away from the road. Even the dust could cause an accident.

  Before dismounting from a hydrostatic unit, be sure the brakes are set and the engine is off or manual transmission is in neutral. Hydrostatic units can start moving on their own.

  Replace worn or torn rubber guards.

- **Prune and pistachio harvesters.** It is essential for the shaker and receiver operators and the bin handler to be in contact with and watch out for each other.

  No one should get between the left rear tire and pan of the receiver. If a person has to go there, the operator should have the machine securely stopped and keep hands and feet away from the controls.

  Do not let any unqualified operators run machines.

  Do not move the slide on the shaker when anyone is in the slide area. One person caught his head between pipes on the slide and frame when another worker moved the valve.

- **Fruit removal from field.** Again, whatever method is used, the harvester operator and the person removing fruit need to be in communication. Plan harvesting so that the tractor or bankout driver does not have to go near the fan discharge.

  If using nut carts —*no riders.* It is especially important to not allow anyone in auger carts if the power is hooked up.

  Plan trailer hitching and unhitching so that no one needs to be between the hitch and the tractor when the tractor is backed up.

  Be extra careful in late evenings when dust settles into the field and visibility is poor.

  Enter roadways and loading areas carefully. Slow down around the harvester, loading areas, or other workers.

  There is very little visibility behind bankout wagons. Supervisors should warn all workers to stay out from behind the machine when it is unloading. If the machine has been stopped for a period of time, the operator should walk around behind it to check for other people before backing. Ideally, all bankout wagons should have a backup signal or horn, and a warning should be sounded when backing up or going around buildings.

  Be sure no one ever goes under the dump bed when it is raised without a support pole. Keep hands out of the way when lowering the bed onto the support pole; at least one worker has smashed a finger under the pole while installing it.

- **Nut elevator.** Accidents have happened around the conveyor apparatus. A worker's leg got caught on the conveyor and pulled under the trailers.

  Be careful when opening and closing bottom doors. If someone has to go into the trailer to empty it, the bottom door should be closed enough to prevent the worker's foot from slipping through and getting caught in the belt.

- **Bin carrier.** Besides watching out for people in harvesting and loading areas, bin carrier drivers should slow down when coming out of the ends of rows.

  Many bin carriers are hard to stop in an emergency, so drivers should not be pushed to go too fast. It is

especially hard for them to see behind the carrier when loaded with bins.

Do not stack bins more than one high next to the driver.

Lower forks and shut off the engine when leaving the machine. Set the hand brake, if there is one.

- **Forklifts.** Be sure workers do not walk behind an operating forklift. But no riders, either! And be sure forks are always carried as low as possible.

  On a forklift with dual tires, check the outer tire frequently. If it is flat, it essentially narrows the machine and makes it more likely to tip over.

  An operator who sets a pace with a forklift and plans the next moves will get more done — safely — than one who is always rushing and gunning the engine.

  A point to remember when moving a forklift onto a truck or trailer is that the forklift is extremely heavy and might have small tires that could break through a wooden bed.

Heat Stress

Another concern of growers, and an important part of revised worker protection guidelines from the U.S. Environmental Protection Agency (EPA), is heat stress in agricultural work. Those performing strenuous physical labor, especially when wearing protective gear and carrying equipment, are particularly susceptible. People working in agriculture should be familiar with the symptoms and treatment of heat illness, especially heat stroke, which can result in death.

[Note: See the article on page 15 summarizing guidelines for management of heat stress.]

Conclusion

Although agricultural production technologies have many inherent dangers, accidents and health problems can be prevented with careful planning and adherence to safety procedures. Managing for safe operation involves giving attention to both physical conditions and human behaviors. Regularly scheduled discussions between safety advisors and managers, foremen, and owners, along with inspections of work sites for potential hazards, are steps in the right direction. Keeping the lines of communication open between managers and employees is a must.

Too often neglected is the need to transform general cautions and prescriptions into specific guidelines that fit conditions on individual farms and ranches. The effort and creativity devoted to customizing safety procedures pay off big for both employer and workers. □

Workers' Compensation Reform of 1993

Jan Vick

Employers, workers, and insurers will all be affected by California's workers' compensation legislation passed in the summer of 1993, although it will be some time before its consequences are fully realized. State Compensation Insurance Fund, California's largest workers' compensation insurer, has provided* Labor Management Decisions *readers with a summary of the main elements of the reform package, as part of its effort to present the public with up-to-date information on the developments in this important area. Jan Vick is Information Officer in the company's Communications Department in San Francisco.

After many years of debate among all involved parties, the California State Legislature passed comprehensive workers' compensation reform in seven bills, which were signed by Governor Pete Wilson in July 1993. During the five years before the legislation, workers' compensation costs had escalated, driving up employers' premiums and insurance company costs. By the time reform discussions had begun, the number of claims had been increasing dramatically, and medical payments and litigation costs were rising.

As the first step in reforming the system, the legislature had passed a tough bill in 1991 that made workers' compensation fraud a felony. It provided money to district attorneys to investigate fraudulent claims activity and enabled insurers to clamp down on employees, vendors, and employers violating the system. Claims began to decrease in late 1992 and into 1993, partly as a result of the new law.

Despite the successful anti-fraud efforts, insurance premiums for policyholders continued to rise. However, indemnity payments to employees for time lost from work remained among the lowest in the nation. New legislation was introduced to give rate relief to employers, increase benefit payments to injured workers, improve workplace safety, reduce medical-legal expenses, and decrease the number of psychiatric and post-termination claims.

The reform package includes the following seven bills plus clean-up legislation passed in September:

- AB 110 — The major bill in the package, makes changes throughout the workers' compensation system.
- SB 30 — Repeals the minimum rate law as of January 1, 1995.
- AB 119 — Limits psychiatric and post-termination claims.
- SB 484 — Appropriates funds to implement the new workers' compensation laws.
- SB 983 — Allows certain workers' compensation benefits and dispute resolution processes to be negotiated through collective bargaining in the construction industry.
- SB 1005 — Establishes the Commission on Health and Safety and Workers' Compensation.
- AB 1300 — Expands anti-fraud measures.

Another bill, SB 223, was enacted in September to clarify the reform package. An important provision in it concerns the effective date of the new rates under open rating. The new rates will be effective on the first normal anniversary date of a policy on or after January 1, 1995, and no policy may be issued or renewed for a period of less than one year for the purpose of changing the policy's normal anniversary date.

AB 110, AB 1300, SB 484, and SB 983 contained urgency clauses. Their provisions have various effective dates noted in the following discussion.

Changes Affecting Employers

The change of most immediate importance to employers is the decrease in premium rates, effective July 16, 1993. Each insurance company will determine how it will carry out the rate changes. All employers insured by State Fund, for example, will receive a 7 percent decrease in their rates on the portion of their 1992 or 1993 policies remaining as of that date. This means that the policy premium for an employer is based on the rate existing at the policy anniversary date for the effective period before July 16, and on a 7 percent lower rate for the period thereafter (see the following example).

Classification: 0171-Field Crops, Farm. Rate per $100 of Payroll (Annual Payroll of $1,200,000)

Beginning date of policy	Rate before 7/16/93	Annual premium without rollback	Rate after 7/16/93	Annual premium with rollback
12/1/92	$19.65	$235,800	$18.27	$229,568
3/1/93	$20.32	$243,840	$18.90	$233,167
8/1/93	N/A	N/A	$18.90	$226,800

In the long run, the provisions of SB 30 will have the most significant effect on workers' compensation rates. This bill repeals the minimum rate law, effective January 1, 1995. Under the old law, the Workers' Compensation Insurance Rating Bureau (WCIRB) proposed a schedule of new rates, which was then submitted to the Insurance Commissioner for public hearings and final rate determination. The WCIRB based the proposed rates on the loss experience (including an expense provision to cover the cost of adujusting claims) of each industry.

The new law requires a rating organization to publish "pure loss" rates by industry, with no expense provision. Each insurance carrier will then file its own rates with the Insurance Commissioner based on the pure loss rates, and it will factor in its costs of doing business. The rating organization must publish its first set of pure loss rates by October 1, 1994, and insurance carriers must file their rates at least 30 days before use. Since the new rates are to be effective for new and renewal policies as of January 1, 1995, carriers must file their rates no later than December 1, 1994.

The legislature expects that increased competition among insurance companies, due to the elimination of the guaranteed expense allowance, will result in lower rates for most medium to large employers. As the insurer of many smaller employers, State Fund is committed to stabilizing the rates for this segment of the business community as well.

Benefit Changes

Workers will receive a long-overdue benefit increase for covered injuries occurring on or after July 1, 1994 (see following table).

Increases in WC Benefits Over Next Three Years

	Temporary & permanent total disability			
	Maximum weekly benefit beginning:			
	Current	7/1/94	7/1/95	7/1/96
	$336	$406	$448	$490
	Permanent partial disability			
	Maximum weekly benefit beginning:			
Disability rating	Current	7/1/94	7/1/95	7/1/96
0.25 %– 14.75%	$140	$140	$140	$140
15% – 24.75%	$140	$148	$154	$160
25% – 69.75%	$148	$158	$164	$170
70% – 99.75%	$148	$168	$198	$230

	Death		
Total no. of	Maximum benefit beginning:		
dependents	Current	7/1/94	7/1/96
One	$95,000	$115,000	$125,000
Two	$115,000	$135,000	$145,000
Three or more	$115,000	$150,000	$160,000

The new legislation bars claims where the cause of injury was a lawful, nondiscriminatory, good faith personnel action. It also makes substantial changes to the thresholds for psychiatric claims and post-termination claims based on injuries occurring on or after July 16, 1993. The applicant must now show that the actual events of employment were the predominant cause (over 51 percent) of a psychiatric injury.

Post-termination claims are those which are filed after an employee has been fired or laid off. Under the new law, it will be more difficult for an employee who is given notice of termination or layoff to file a valid claim for an injury that occurred before that date. To receive workers' compensation in such cases, an employee must prove one of the following: (1) that a sudden or extraordinary event in the scope of employment caused the injury; (2) that the employer had received notification of the injury before issuing the notice of layoff; (3) that medical records from before the termination notice show the injury had existed; (4) that the injury took place after the notice but before the actual discharge; or (5) that a court or other legitimate trier of fact has found that the employee had been racially or sexually harassed.

Costs of vocational rehabilitation benefits have been escalating rapidly in recent years, in 1990 accounting for over 10 percent of the total costs incurred for claims. The reform legislation places a cap of $16,000 on vocational rehabilitation services for injuries occurring on or after January 1, 1994, and, with some exceptions, it restricts the worker to one vocational rehabilitation plan.

The new law encourages the use of modified or alternative work assignments to get injured employees back to work as soon as possible. An employer's liability for vocational rehabilitation services may be terminated if such work is provided and meets certain wage and duration requirements. In addition, an employer who provides modified or alternative work may be eligible for a refund on its workers' compensation premium.

Litigation of claims has continued to be a major cost driver in the workers' compensation system. The number and cost of medical-legal evaluations have grown rapidly. To bring under control the expenses they entail, the new legislation mandates a more restrictive fee schedule for medical-legal reports and limits the number of them that either side may obtain in a disputed claim. The expense of any additional report must be borne by the party that orders it.

The treating physician will have a more prominent role in medical decisions, with responsibility for giving opinions on all medical issues necessary to determine eligibility for compensation. That physician's report is presumed to be correct, except where each party in a represented case has selected a qualified medical evaluator.

Cancellation Notice

The new legislation defines conditions under which an insurer may cancel a policy and sets minimum time periods for notifying an employer of cancellation. The insurer must give 10 days' notice for cancellation based on the following: (1) failure to pay workers' compensation premiums; (2) failure to report payroll or permit the insurer to audit the payroll; (3) material misrepresentation by the policyholder or agent; and (4) failure to cooperate in the investigation of a claim. The following require 30 days' notice: (1) material failure to follow federal or state safety orders or written safety recommendations by the insurer's loss control representative; (2) a material change in ownership; (3) a change in business that materially increases the hazard or requires additional or different classifications.

Employer Bill of Rights

The reform package gives employers expanded access to information about their claims or policy history. Upon request of a policyholder, the insurance carrier is obligated to provide a written report on those parts of a claim's reserves that affect the employer's premium. This report is to include information on estimated medical-legal costs, vocational rehabilitation, and other expenses. The insurer must disclose all elements of a claim file that will affect

the employer's premium. Confidentiality provisions in the law, however, may restrict an employer's access to the injured worker's medical records and all documents protected under attorney-client privilege. Signed releases may also be required to obtain copies of claims information.

In addition to these requirements of insurers, there are new duties for the Workers' Compensation Insurance Rating Bureau. The WCIRB is to provide, at the employer's request, a written report containing information about that employer's loss experience, claims, classifications, and policy contracts. The report also must include information about rating plans, manual rules, and any other information that affect the employer's premium rates. The WCIRB will create the position of ombudsman to help employers obtain and evaluate the report from the bureau.

After January 1, 1994, every policyholder should be provided information about the new services and the changes in the law. Insurers must inform all of their policyholders about the ombudsman and the report available from the WCIRB. The insurer also must provide an explanation of the changes in workers' compensation laws and a summary of the changes in the rating law.

Workplace Safety

A major concern of the legislature has been establishment of programs to improve workplace safety. All insurers must provide loss control consultation services that meet minimum requirements to be published by the California Department of Industrial Relations (DIR). Insurers will inform all their policyholders of the loss prevention services available from them at no additional cost.

The DIR Division of Occupational Safety and Health is directed to create a program to identify and inspect the most hazardous industries. It also will set up model programs for prevention of repetitive motion injuries. Carriers may also be required to expand their loss control services to targeted hazardous industries.

Managed Care of Occupational Injury

Employers may extend their control of an injured worker's medical care beyond the current 30-day time limit, for a period that depends on how many Managed Care Organizations (MCOs) they offer care through and whether they provide non-occupational health insurance. An employer who offers at least two MCOs to employees can have medical control for 90 days. Control is extended to 180 days if the employer offers at least two MCOs and provides coverage for non-occupational health care. Control of medical care extends to 365 days if the employer offers two MCOs and provides non-occupational health coverage, ***and*** if the employee's personal physician or chiropractor is affiliated with at least one of the MCOs.

Health and Safety Commission

The legislature has created a new commission of employers and employees to oversee the workers' compensation system in its entirety. The reform package eliminates the old Health and Safety Commission and replaces it with an eight-member Commission on Health and Safety and Workers' Compensation. Four members of this commission will represent employers, and four will represent organized labor. The commission will conduct continuing examination of the workers' compensation system and of activities to prevent industrial injuries and occupational diseases. It may conduct relevant studies and investigate programs in other states, and is to issue a yearly report to the governor and the legislature. SB 484 appropriated $500,000 to the commission.

Conclusion

The 1993 reform package brings sweeping change to the workers' compensation system in California. Both industry and government leaders expect that the changes will bring runaway costs under control.

But there are many uncertainties about how parts of the new legislation will be implemented and what its results will be. Insurers must create new procedures for a wide range of services. State agencies such as the Department of Industrial Relations and the Department of Insurance, as well as the Workers' Compensation Insurance Rating Bureau, must create several new rules and procedures. Many new policies and procedures need to be developed under the rating system that replaces the repealed minimum rate law. Their effects cannot be known until after January 1, 1995.

Policyholders and the general public should remain alert to information from agencies and insurers as they make the decisions remaining to implement workers' compensation reform. □

California Follows Most of Federal Family and Medical Leave Act

Susan R. Mendelsohn

After the federal Family and Medical Leave Act became effective in August 1993, California employers of 50 or more employees faced a maze of overlapping federal and state provisions on family leave. Passage of AB 1460 has now brought the California Family Rights Act more closely into line with the federal Act, with pregnancy disability leave remaining a notable area of difference.

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The state legislature has enacted, and the Governor has signed, a bill that revises California's Family Rights Act ("Cal-FMLA") to substantially conform it to the federal Family and Medical Leave Act (FMLA). As "urgency legislation," AB 1460 took effect immediately on October 5, 1993. The Department of Fair Employment and Housing is beginning to write interpretive regulations and is expected to issue drafts within a few months.

Key Provisions

- The obligation to offer family and medical leave applies to employers with 50 or more employees.
- The revised Cal-FMLA gives eligible employees the right to take up to 12 weeks of unpaid family or medical leave in a 12-month period for the care of a seriously ill child, spouse, or parent, for the birth or adoption of a child, *or* for the employee's own serious health condition that is not pregnancy-related. Generally, FMLA and Cal-FMLA leaves are to run concurrently. The new law eliminates the complication of coordinating California's old "four months off in two years" provision with the FMLA.
- California's pregnancy disability leave law, however, still gives employees who are *disabled* on account of pregnancy, childbirth, or related medical condition the right to up to four months of leave. This pregnancy disability leave does *not* count against the 12 weeks of leave available under Cal-FMLA. After the employee is released from disability, she is eligible for up to 12 weeks of additional family and medical leave to care for the newborn.
- Employees on medical or family care leave are entitled to continuation of medical coverage under the same terms as if they were still working. If returning within 12 weeks from this leave, they generally have the right of reinstatement to their former or equivalent positions.

Changes Made in Cal-FMLA

The new bill, AB 1460, makes changes in almost every major area of Cal-FMLA. In particular:

Employee Eligibility. Under both federal and California law, employees are now eligible to take family and medical leave (other than pregnancy disability leave) if they have been employed for more than 12 months *and* have at least 1,250 hours of service. Previously, the state law covered employees if they had 12 months of service and were eligible for at least one other benefit. Employers are not required to allow such leave to persons working in a location with fewer than 50 employees within a 75-mile radius. Thus, a vegetable producer with 70 workers in Santa Maria and 35 in Blythe would have to provide the leave to the employees in Santa Maria, but not to those in Blyth. Employees continue to be eligible for pregnancy disability leave under the Fair Employment and Housing Act, regardless of length of service or number of hours worked, as long as the employer has 5 or more employees.

Purposes of Leave. California law is broadened to permit leaves for the employee's own serious health condition, in addition to previous provisions for the care of a seriously ill child, spouse or parent, and for the birth or adoption of a child.

Duration of Leave. Federal and state laws now both provide for up to 12 weeks of family and medical leave in a 12-month period in most situations. But they differ somewhat in provisions for intermittent leave and for pregnancy disability leave. Under Cal-FMLA, leave can be taken in increments as small as one day; FMLA, however, allows for intermittent leave in the shortest unit of time (e.g., one hour or less) that the employer's payroll system uses in accounting for absences or use of leave. Since FMLA is more generous, employers in California will be required to comply with the federal provisions.

Benefits. Like FMLA, Cal-FMLA requires employers to continue health insurance benefits during the leave under the same conditions as when the employee was working. The employer may recover insurance premiums paid for a worker who fails to return from leave, unless the failure to return is caused by a serious health condition that would entitle the employee to family or medical leave, or by circumstances beyond the employee's control.

Proof of Need. Both federal and state law permit the employer to require the employee to provide medical certification of the need for leave. Disclosure of the following can be requested:

1. The date on which the serious health condition began.
2. The probable duration of the condition.
3. A statement that the serious health condition warrants the employee's participation to provide care for the family member during the period of treatment or supervision.
4. An estimate of the amount of time the employee needs to care for a family member. For the employee's own serious health condition, the employer can require a statement that the employee is unable to perform the functions of his or her job.

Unlike FMLA, the Cal-FMLA does not allow the employer to require the employee to give any detailed medical facts (such as a specific diagnosis). Since the Cal-FMLA provision offers more protection for the employee, it will prevail.

Under both Acts, the employer may require the employee to obtain a recertification regarding the need for a family or medical leave. The employer may require the opinion of a second health care provider designated or approved by, and at the expense of, the employer. If the second opinion differs from the original one, the employer can require the employee to obtain an opinion from a third health care provider, whose opinion shall be binding. The employer can also require a fitness for work certification from employees who return from a medical leave of absence.

Special Rules for Pregnancy Disabilities

Cal-FMLA specifically excludes pregnancy disability from the "serious health conditions" for which employers are obligated to provide family and medical leave. The Cal-FMLA provisions are to be construed as separate and distinct from the pregnancy provisions of the Fair Employment and Housing Act (FEHA), which give employees the right to take up to 4 months off if disabled on account of pregnancy, childbirth or related medical condition.

Therefore, a pregnant employee may be able to take a total of 7 months off—4 months of pregnancy disability leave plus 12 weeks of family and medical care leave—in a 12-month period. However, in most normal pregnancies, the period of disability will probably be less than four months. The provisions for health care coverage while on a pregnancy disability and related child care leave are complex. In brief, the employer is required to furnish company-provided health care benefits for up to 12 weeks of a pregnancy-related disability, based on FMLA. After the employee is released to return to work, she will have the right to an additional 12 weeks of child care leave under Cal-FMLA, during

which the employer is required to furnish her with company provided benefits.

Conclusion

Employers are encouraged to review their leave policies for consistency with the federal and revised California laws. Additional clarification of employee rights and employer responsibilities in this area will be forthcoming in regulations to be developed by DFEH, and some provisions of the Act may be subject to legal challenge. □

New EPA Standard Includes Heat Stress Management

Among requirements of the revised federal Worker Protection Standard for Agricultural Pesticides, which was published in August 1992 and is scheduled for full implementation by April 15, 1994, are provisions for heat stress management. Heat stress can be a severe problem for agricultural workers, especially those who need to wear protective gear. The new standard developed by the U.S. Environmental Protection Agency (EPA) includes a requirement that pesticide handlers and "early entry" workers (those who go into an area while entry is restricted after pesticide treatment) be instructed in the prevention, recognition, and first-aid treatment of heat illness. Appropriate measures to prevent heat illness are to be taken, if necessary, before those employees begin working. EPA and the Occupational Safety and Health Administration (OSHA) plan to release a guide and a variety of training materials in November to help employers train workers and supervisors in controlling heat stress and recognizing, preventing, and treating heat illnesses. The following information is based on a draft of the guide.

According to the EPA, an average of nearly 500 people die each year in the United States from the effects of heat. During a heat wave in 1980, over 1,700 people died from heat-related illness. More than 20 percent of people afflicted by heat stroke die, even young, healthy adults. Less extreme forms of heat illness affect very many more people, often at work. Heat stress can cause weakness, fatigue, reduced alertness, and impaired judgment and may be an underlying cause of other types of illness and injury on the job.

The EPA advises employers to take into account the weather, workload, protective gear to be worn, and condition of the workers in devising basic preventive measures. The danger of heat stress increases with higher temperature and humidity, under direct sunlight, during heavy work, and with use of protective equipment and clothing, especially coated and nonwoven synthetic garments. Workers' susceptibility also increases with age, lack of rest, lack of physical fitness, and use of certain drugs and medications, but even persons in good shape can become seriously ill from heat. Those who gradually adjust to working in a warm or hot environment are less likely to become ill.

Employers are also advised to make sure workers drink enough water and to adjust work practices for the conditions of each day. For example, heavy work and pesticide handling might be scheduled for the cooler hours, and work/rest cycles could be set up.

If workers become too hot despite precautions, the EPA suggests shortening the work periods and lengthening the rest periods and providing shade or cooling by awnings, cooling vests, hats, and the like. Less fit workers could be assigned to lighter work. It might be necessary to halt work altogether under extreme conditions.

Early recognition and immediate treatment are the keys to first aid for heat illness. Symptoms of heat exhaustion include profuse sweating, headache, fatigue, dry mouth, fast pulse (if conscious), dilated pupils, nausea, confusion, and dizziness. Heat stroke, a medical emergency, often occurs suddenly and includes dizziness, confusion, irrational behavior, and coma. Sweating may slow down or stop; the pulse is fast, if the person is conscious, and breathing is rapid; nausea and convulsions may occur.

Treatment for overheating includes having the affected person rest in a cool, shaded area and drink plenty of water. If a worker gets heat stroke, body temperature has to be lowered as rapidly as possible to avoid permanent damage. The recommendations are to place the worker in the shade, remove clothing, wrap him or her in a sheet, pour water on the sheet, and keep it wet. Cool the head with wet compresses, and fan the worker with a towel or large piece of cardboard. These procedures should be continued while the worker is being transported to medical care. If the heat stroke

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victim is a pesticide handler or early entry worker, possible contamination needs to be considered but it is important to not delay treatment in any case. Medical personnel can act most effectively if informed of the possibility of pesticide contamination.

More on the EPA Standard

Overall provisions of the revised federal Worker Protection Standard in general cover display of information at a central location, pesticide safety training, decontamination sites, exchange of information between growers and employers of commercial pesticide handlers, emergency assistance, notice of applications, monitoring of handlers using highly toxic pesticides, specific instructions for handlers, equipment safety, duties related to personal protective equipment, duties related to early entry, and special application restrictions in nurseries and greenhouses. California is revising its pesticide safety regulations to conform to federal guidelines; the California revisions are also anticipated to take effect by next April.

Upon request, EPA will send information on the revised Worker Protection Standard, including a bulletin summarizing the provisions for users of agricultural pesticides. *[NOTE: Where state regulations are more restrictive than the Worker Protection Standard, the state regulations will supersede the federal standard.]*

In November, *A Guide to Heat Stress in Agriculture*, a summary in English and Spanish, and training materials will be available. For information, contact Katherine H. Rudolph, Life Scientist, U.S. Environmental Protection Agency, 75 Hawthorne Street (A-4-5), San Francisco, CA 94105-3901 (phone 415/744-1065; FAX 415/744-1073). □

Farm Worker Message Service

Migrant farm workers in the King City and Arvin areas during the season have been able to receive messages from callers anywhere in the United States through two toll-free voice-message services. The Migrant Communications Link, through a grant from Pacific Bell, uses "Voice Forms" technology that automatically takes messages in Spanish 24 hours a day.

The easy-to-use service has been available, this year, to farm workers near the King City and Arvin migrant centers. Family and friends call the toll-free number and leave messages, which the workers then pick up up at the migrant center. The King City center (phone 800/842-5527) is open until the end of November, after which it will close until June 1994. The Arvin center is now closed but will reopen in April 1994, when its phone number (800/642-5527) will be reactivated.

The project is sponsored by La Cooperativa Campesina de California, the California Department of Economic Opportunity, Pacific Bell, and the Department of Housing and Community Development, as well as the Housing Authorities of both Kern and Monterey counties. □

Resources

Publications

Pesticide safety "novela," in Spanish. *Protección de su Salud* presents basic education on pesticide safety in colorful comic-book style. Underwritten by the Western Agricultural Chemicals Association (WACA) and National Agricultural Chemicals Association (NACA), the booklet is offered to growers for distribution to employees. Copies, as long as they last, can be obtained from Steve Sutter at the UC Cooperative Extension Fresno County office (209/488-3560).

***B.C. Farm Employers' Handbook*, 1993 edition.** Titles of the five booklets in this guide for farm managers are: *Personnel Planning and Regulations; Hiring; Supervising; Training, Motivating, and Evaluating; and Communications, Problem Solving, and Disciplining*. Although published in British Columbia, most of the information is not location-specific. The handbook was prepared by Lorne Owen, Provincial Farm Management Specialist, B.C. Ministry of Agriculture, Fisheries, and Food; Pat Davidson, Extension Education Consultant; Howard R. Rosenberg, Director, APMP, University of California, Berkeley; and Lindsay Brooks, President, Strategic Quality Institute. The APMP has a limited number of sets available at no charge upon request to: Noreen Wong, Agricultural and Resource Economics, 207 Giannini Hall, University of California, Berkeley, CA 94720 (phone: 510/643-6359; FAX: 510/642-6108).

Revised poster booklet. *Abundance of Posters (and Leaflets) Required in Agricultural Employment*, first published by Steve Sutter in October 1990 is now in its seventh printing. The booklet includes 3 pages of text, 8 request cards covering up to 37 placards and brochures, and 5 required posters employers need to make themselves. To order, send Steve a check for $2 payable to "County of Fresno"; write "poster booklet" on the check margin. Mail to Steve at UC Cooperative Extension, 1720 S. Maple Ave., Fresno, CA 93702.

***Instructor's Guide to Farm Safety* Training — booklet and tape**. The 6-page booklet, published in English and Spanish by the UC Agricultural Health and Safety Center, and accompanying audio cassette are available for $5 from Steve Sutter. Make check payable to "County of Fresno," write "Instructor's Cassette" on the margin, and send to APMP, 1720 S. Maple Ave., Fresno, CA 93702.

TIPP checklist, in Spanish as well as English. Steve Sutter's June 1993, 30-point *Targeted Industries Partnership Program (TIPP) Checklist* is now also available in a Spanish translation by Myriam Grajales-Hall, UC Riverside. For a free copy of the list in English or Spanish *(Lista de Verificación de Trabajadores Agrícolas en California)*, write or phone Steve at 1720 S. Maple Ave., Fresno, CA 93702; 209/488-3560.

Sexual harassment information for employees. The California Chamber of Commerce has published an "employer-friendly" pamphlet that may be used in place of the Department of Fair Employment and Housing (DFEH) pamphlet. California law requires that employers post the DFEH poster (available from local DFEH offices) and distribute the DFEH pamphlet or "equivalent" information to employees. The Chamber of Commerce pamphlets, in English or Spanish, may be ordered at $10 for 25 copies by phoning 800/331-8877 and requesting the "Sexual Harassment Prevention Pamphlet."

Consumer education news briefs, in Spanish. Myriam Grajales-Hall, Spanish Broadcast and Media Information Representative, UC Cooperative Extension, Riverside, has prepared a series of "Cápsulas Informativas" as well as several news releases offering information for low-income Spanish-speaking consumers. Recent sets of news capsules, each of which is three or four paragraphs long, cover a wide range of subjects, including farm worker and family health, avoiding agricultural accidents, family nutrition, fruit and vegetable consumption, food safety, feeding of infants, guarding against fraud, qualifying for low-rate credit cards, and security deposits by tenants to landlords. For more information, phone Myriam Grajales-Hall at 909/787-4397.

***Guide to Federal and State Requirements for Employee/ Migrant Housing*,** a 14-page booklet, presents housing standards requirements in easy-to-read tabular form with state and federal regulations compared for each subject. Prepared jointly by the U.S. Department of Labor Wage and Hour Division, and the California Department of Housing and Community Development Division of Codes and Standards, the booklet has been reprinted by the UC Agricultural Personnel Management Program in Fresno County and can be obtained from Steve Sutter at 1720 S. Maple Ave., Fresno, CA 93702 (phone: 209/488-3560). The price is $1.50 per copy; make checks payable to "County of Fresno."

Recorded Information

Personnel management updates. The Fresno County UC Cooperative Extension "AgLine," a recorded news and information service, includes tapes on personnel management (tape 7110), field sanitation requirements (7310), and hazard communication (7320). The service, accessible by touch-tone phone, is free (other than normal telephone toll charges, if any). Phone 209/488-1940. □

Events

California Agricultural Employment Work Group (CAEWG). *October 27, 9:00 a.m. to 1:00 p.m.* Sacramento: Leonard Carter Conference Room (Room 282), on the second floor of Office Building One, 915 Capitol Mall (directly opposite the State Library building). The agenda will include extensive discussion of Farm Worker Services Coordinating Council (FWSCC) initiatives. Emphasis will be given to the Targeted Industries Partnership Program (TIPP). Also planned is a comprehensive legislative update with the outlook for pending legislation. For more information on this and meetings scheduled for February and May 1994, call Tony Bland at 916/741-4194.

California Agricultural Safety Exposition. *November 2, registration at 7:00 a.m.* Modesto: Red Lion Inn and Convention Center. Sponsored by the Agricultural Personnel Management Association, UC Cooperative Extension, California Farm Bureau Federation and local farm and service organizations. Three groups of workshops will be given, and will include sessions on chemical safety, safety management, safety skills, and frontline safety. Steve Sutter will discuss "New EPA Pesticide Worker Safety Standards" in an afternoon workshop starting at 1:30. Expo registration is $80 at the door; $65 with discount. For more information contact California Agricultural Safety Exposition (CASE), 1601 Exposition Blvd., FB-7, Sacramento, CA 95815 (phone: 800/753-9073).

Research Seminar on Mexico and U.S.-Mexican Relations. *Wednesdays, 3:00 to 5:00 p.m.* La Jolla: UC San Diego Campus, conference room, 2nd floor, Institute of the Americas Building, 10111 N. Torrey Pines Road. The Fall Quarter series on new research and public policy perspectives is being conducted by the Center for U.S.-Mexican Studies, UC San Diego (phone: 619/534-4503), through December 8:

November 3. "Poverty in Contemporary Mexico: The Political Economy of Redistribution," J. Manuel Marroquín, economist, London School of Economics and Political Science, and guest scholar, Center for U.S.-Mexican Studies.

November 17. "Producing Gender, Engendering Production: The Constitution and Control of Ciudad Juarez's Maquiladora Workforce," Leslie Salzinger, sociologist, UC Berkeley, and Visiting Research Fellow at the Center.

December 1. "The Working Poor in a Post-Industrial Economy: An Ethnographic Study of a Mexican Immigrant Barrio in California," Christian Zlolniski-Palacios, anthropologist, UC Santa Barbara, and Visiting Research Fellow at the Center.

December 8. "Industrial Policy and Technology Transfer: The Development of the Mexican Computer Software Industry," Jorge Borrego, Center for Information and Communication Technologies, University of Sussex, England, and Instituto Mexicano de Comunicaciones, and Visiting Research Fellow, Center for U.S.-Mexican Studies.

Workshop. ***T****hursday, November 4, 1992, starting at 8:30 a.m*. Orland: Glenn County Fairgrounds, Arts and Crafts Building. Speakers will discuss regulations affecting agriculture, including pesticide use and worker safety. Sponsored by the California Rural Development Committee, UC Cooperative Extension, and Northern California Farm Bureau, the meeting is intended for anyone involved in agriculture or the economy of rural areas. For further information, contact L. Clair Christensen, Applied Behavioral Sciences Extension, University of California, Davis (phone: 916/752-3006).

Brown Bag Seminar Series, UC Agricultural Health & Safety Center. *Fridays, at noon.* UC Davis: ITEH Conference Room. Contact James Beaumont at 916/752-8036 to confirm dates and location.

November 5. "Mortality After Agricultural Illness and Injury Claims in California," James Beaumont, Associate Professor, Occupational/Environmental Medicine and Epidemiology, UC Davis.

December 3. "What Is the Workers' Compensation Rating Bureau and What Is Its Relationship to Agriculture?" Peter Murray, Senior Vice President, Workers' Compensation Insurance Rating Bureau (*Tentative: Call to confirm.*)

Agricultural Employer's Seminars. Two free meetings will focus on current legal and enforcement issues, including the Targeted Industries Partnership Program (TIPP). Contact Steve Sutter, UC Cooperative Extension, Fresno, at 209/488-3560 to preregister.

November 10, 8:30 to 11:30 a.m., Porterville College, College Avenue at Main Street. The program will include: a brief sample training program to meet U.S. EPA field worker standards that become effective April 15, 1994, by Steve Sutter and Bobby Bonds, Tulare Deputy Ag Commissioner; tips on employment eligibility verification compliance (filling out Form I-9) by Steve Borup, U.S. Border Patrol; and compliance with

hazardous-materials and community-right-to-know laws by Larry Dwoskin, Tulare County Health Department.

November 19, 8:30 to 10:15 a.m.. AgFresno, Special Events Building, Fresno County Fairgrounds. "Recollections About the TIPP" by panelists Joe Villarreal, Deputy Regional Administrator, U.S. Department of Labor, Wage and Hour Division, San Francisco; Manuel Cunha, Jr., Executive Vice President, Nisei Farmers League, Fresno; José Millan, Deputy Labor Commissioner, California Division of Labor Standards Enforcement, San Francisco; and Marion I. Quesenbery, Attorney, Labor Practice Group, Thelen, Marrin, Johnson and Bridges, San Francisco. After opening statements, the panel members will respond to questions from the audience. The program is being presented by the Employment Development Department and UC Agricultural Personnel Management Program in cooperation with area farm organizations.

American Agricultural Law Association, 14th Annual Educational Conference. *Thursday, November 11 to Saturday, November 13*. San Francisco: Hotel Nikko, 222 Mason Street. General sessions, beginning Thursday at 1:45 p.m. and ending Saturday at 12:15 p.m., will include agricultural law (annual review); reorganization of the USDA; assuring water supplies, business and tax planning; environment, health and safety; mediation; estate planning; and ethical duties in representing elderly clients. Registration fees are: members $225 ($250 after November 1); students $90 ($115 after November 1); nonmembers, add $25. For information, contact William Babione, AALA, University of Arkansas School of Law, Fayetteville, AR 72701; phone 501/575-7389.

1993 Employment Law Conference. *November 18-19*. San Francisco: Stouffer Stanford Court Hotel (also being held in three other U.S. locations). The program will provide updates on developments in such areas as equal employment opportunity, wrongful termination, the Americans with Disabilities Act, employee benefits, investigation and defense of sexual harassment claims, and Family and Medical Leave Act. The conference is sponsored by the National Employment Law Institute, 444 Magnolia Ave., Suite 200, Larkspur, CA 94939 (phone: 415/924-3844; FAX: 415/924-2908). Registration fee is $600.

Supervisory Skills Training in Spanish. *December 1–3, 10:00 a.m. to 5:00 p.m. (Dec. 1), 9:00 a.m. to 5:00 p.m. (Dec. 2), and 9:00 a.m. to 3:00 p.m. (Dec. 3).* Modesto: UC Cooperative Extension office, 733 County Center 3 (Corner Scenic Dr. and Oakdale Rd.). The three-day meeting, organized by Gregory Billikopf, UC Area Labor Management Farm Advisor, will cover delegation, conflict resolution, interpersonal relations, discipline, and farm safety and other topics of interest to Spanish-speaking foremen, supervisors, and farm labor contractors. The fee is $35 for registration by November 24 and $45 thereafter. Lunch is included each day. For more information, phone Melynda Ange at 209/525-6654.

Financing Agriculture in California's New Risk Environment. *December 1, 7:00 a.m. to 4:50 p.m.* Sacramento: Holiday Inn, Capitol Plaza. Speakers will present findings on agricultural credit from a borrower's perspective, the supply of credit, risk considerations and management, and policy options, followed by discussion by panelists and the audience. The conference is sponsored by the Agricultural Issues Center, University of California, Davis, CA 95616; phone 916/752-2320. Registration is $95 ($50 for students, higher education affiliates, government, and nonprofit organizations) if mailed or phoned by November 22; $120 thereafter.

1994 Personnel Management Meetings. Gregory Billikopf has scheduled a series of meetings to be held early in 1994. To receive more details as arrangements are finalized, contact Gregory at 209/525-6654.

Improving Employee Performance. *January 13*. Stockton. (To be presented in English)

Farm Safety. *February 15*, Stockton. *February 16*, Modesto. *February 17*, Merced. (English and Spanish)

Labor Law Update. *March 17*, Merced. (English) □

No Change in California Minimum Wage, But Federal Rate May Rise

Citing the state's economy and business competition from other states as deciding factors in its decision, the California State Industrial Welfare Commission voted in late August against raising the minimum wage rate. In this decision, the Commission rejected its own earlier recommendation to increase the rate from $4.25 to $4.50 an hour next January.

The U.S. Department of Labor, however, is assessing the federal minimum wage rate and may increase it by 25 cents to $4.50 per hour. Secretary of Labor Robert Reich has also suggested that the rate should be adjusted automatically in the future to reflect inflation. □

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We welcome readers' opinions, news items, and other information. Letters will be published as space permits.

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