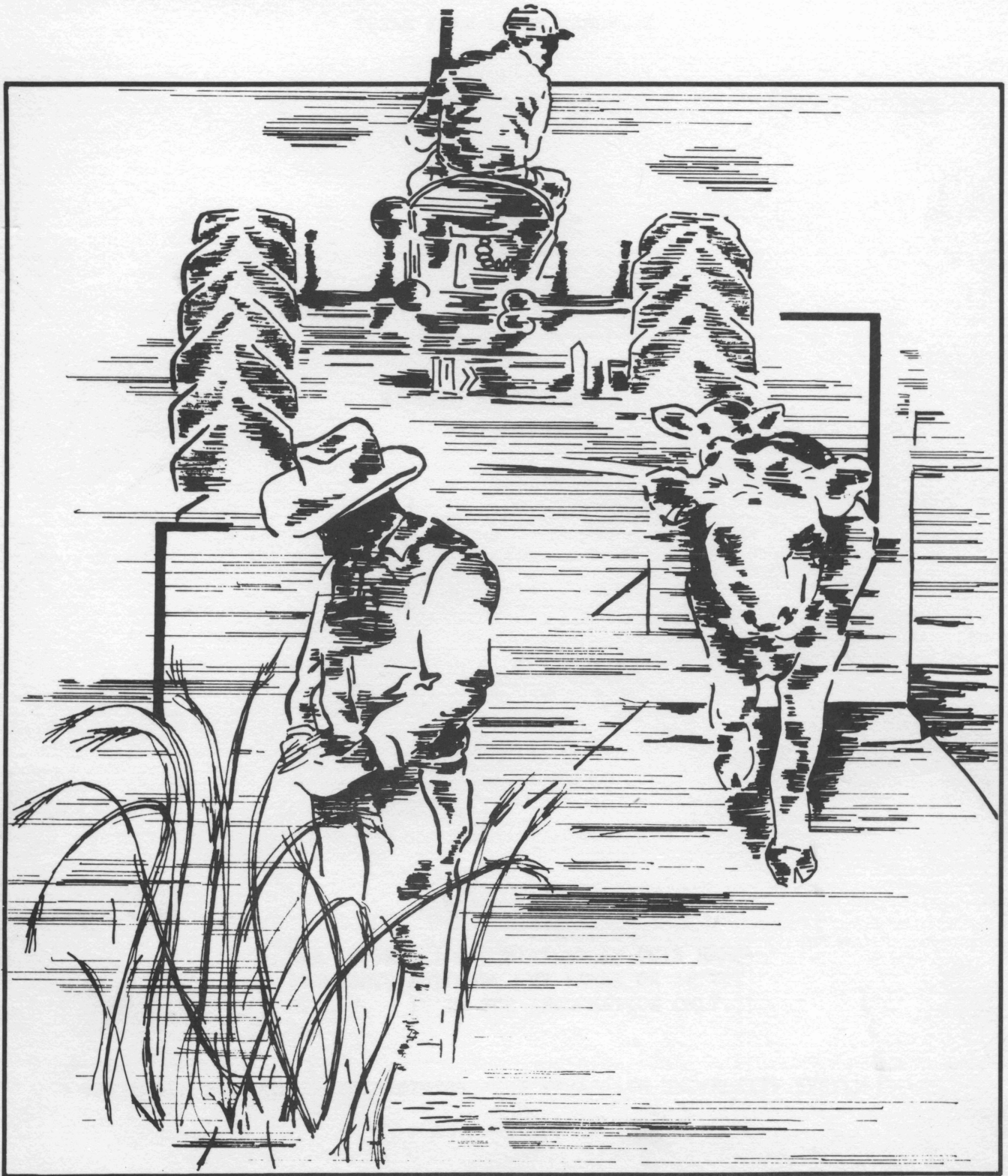


TEXAS FARM LABOR HANDBOOK



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TEXAS FARM LABOR HANDBOOK

This handbook provides a brief summary of many laws and regulations which relate to farm labor. Both state and federal regulations are covered. Employers and employees should be able to find answers to many questions about farm labor laws. The handbook and the state and federal labor laws are included and they should be contacted for more details.

This handbook provides information only. It is not an official interpretation of any regulation or law. The information contained in the handbook does not have weight of law and no one should assume responsibility for any action taken on the basis of any information contained in the handbook.

RICHARD A. EDWARDS *

THE INFORMATION CONTAINED IN THIS HANDBOOK DOES NOT HAVE THE FORCE OR INTENT OF LAW. IT IS FOR INFORMATION ONLY.

* EXTENSION ECONOMIST-AGRIBUSINESS, THE TEXAS A&M UNIVERSITY SYSTEM.

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This handbook provides a brief summary of many labor regulations which relate to farm labor. Both state and federal regulations are covered. Employers and employees should be able to find answers in the handbook to most questions about farm labor. If not, the addresses and phone numbers of the responsible agencies are included and they should be contacted for more details.

This handbook provides information only. It is not an official interpretation of any regulation or law. The information contained in the handbook does not have weight of law, and the user must assume responsibility for any action taken on the basis of any information contained in the handbook.

This handbook would not have been possible without the support and cooperation of personnel from several federal and state agencies. Special thanks must go to Dr. Bernard Erven, Department of Agricultural Economics and Rural Sociology, Ohio State University and the other authors responsible for the Ohio Farm Labor Handbook. This handbook was used as a guide and as a resource for sections dealing with federal regulations. Recognition is also extended to Mr. Judon Fambrough for his assistance and to Jana Wardlaw for her help with the typing of the manuscript.

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RESPONSIBLE AGENCY

The Industrial Accident Board

Lyndon B. Johnson Building

P.O. Box 12737, Capitol Station

Austin, Texas 78711

Map on the last page of this booklet shows how to contact us by the area offices.

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TEXAS WORKERS' COMPENSATION LAW

OBJECTIVE

Workers' Compensation is an insurance system that provides payment of benefits to an employee or his survivor for work-related disease, injury, or death which is deemed to be sustained in the course of employment.

COVERAGE

All employers of one or more employees are covered by the Act except agricultural labor and domestic services.

FACTORS FOR CONSIDERATION

While employers of agricultural labor are not required by Texas law to provide this coverage, an injured employee still has recourse under common law to sue the employer for negligence.

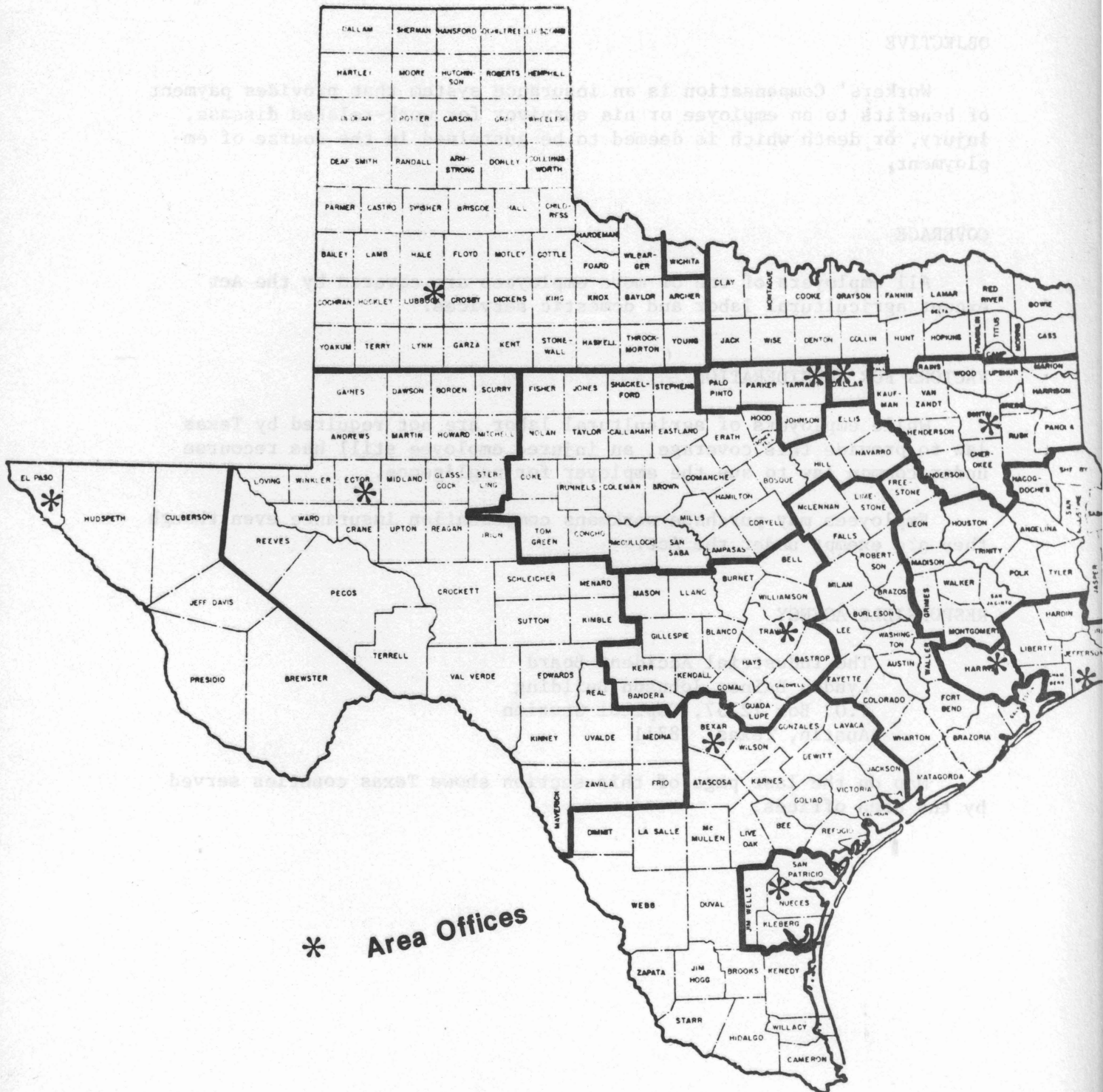
Employees may purchase workmans compensation insurance even though they are exempt under the Act.

RESPONSIBLE AGENCY

The Industrial Accident Board
Lyndon Baines Johnson Building
P.O. Box 12757, Capitol Station
Austin, Texas 78711

Map on the last page of this section shows Texas counties served by the area offices.

WORKERS' COMPENSATION AREA OFFICES



INDUSTRIAL ACCIDENT BOARD OFFICESAUSTIN

P.O. Box 12757 - Capitol Station
Austin, TX 78711

BEAUMONT

Goodhue Building, Suite 605
398 Pearl Street
Beaumont, TX 77701

Phone: 713-832-8446
Texas: 8-855-8401

Mike Brumley - PHE/Office Mgr.

CORPUS CHRISTI

4410 Dillon Lane, Suite 23
Corpus Christi, TX 78415

Phone: 512-854-4858
Texan: 8-823-9383

Roy Evans - PHE/Office Mgr.

DALLAS

Maplewood Plaza, Suite 120
5925 Maple Avenue
Dallas, TX 75235

Phone: 214-350-7841
Texan: 8-830-2435

Paul Goodwin - Office Mgr.
Richard Fulcher - PHE
Tom Soloman - PHE

EL PASO

Gateway East Building, Suite 414
6070 Gateway East
El Paso, TX 79905

Phone: 915-778-4299
Texan: 8-915-778-4299

Javier Valle - PHE/Office Mgr.

FORT WORTH

1315 Calhoun Street, Suite 7
Fort Worth, TX 76102

Phone: 817-335-2459
Texan: 8-832-6230/6239

Harold Hendley - PHE/Office Mgr.

HOUSTON

Seven Eleven Building, Suite 900
711 Main Street
Houston, TX 77002

Phone: 713-228-1455
Texan: 8-851-4571

Jan Kelly - Office Mgr.
Roger Wich - PHE
Shelly Ross - PHE
Wil Simpson - PHE
Sandi Tompkins - PHE

LUBBOCK

4823 Avenue Q
Lubbock, TX 79412

Phone: 806-744-4569

Texan: 8-862-4331

Claudine Edwards - Office Mgr.

ODESSA

Ector County Courthouse, Room 201
300 North Grant
Odessa, TX 79761

Phone: 915-563-2316

Texan: 8-844-9306

Ron Laidley - PHE/Office Mgr.

SAN ANTONIO

Morris K. Bldg., Suite 303
214 Dwyer Street
San Antonio, TX 78204

Phone 512-225-4391

Texan: 8-829-8655

John Gonzales - PHE/Office Mgr.

TYLER

Smith County Courthouse, Room 402
Tyler, TX 75701

Phone: 214-595-3314

Texan: 8-836-2294

Paul Robinson - PHE/Office Mgr.

FEDERAL MINIMUM WAGE LAW

OBJECTIVE

Federal minimum wage standards are established in the Fair Labor Standards Act of 1938, as amended. This act also establishes overtime pay, equal pay, recordkeeping, and child labor standards for covered employment unless a specific exemption exists. The objective of the act is to establish fair labor standards in employment in and affecting interstate commerce. The act is specifically concerned with the maintenance of the minimum standard of living necessary for health, efficiency, and general well-being of workers.

The child labor provisions of the act are discussed in another section of this handbook. This section is concerned with the minimum wage and related provisions of the act. The Fair Labor Standard Act, as amended, includes separate standards and some exemptions for agricultural employment. Only the agricultural employment provisions are discussed here.

COVERAGE

Agricultural employers who use more than 500 man-days of labor in any calendar quarter of the preceding year must pay at least the minimum wage. The act exempts all other agricultural employers from the minimum wage provisions.

EMPLOYER PROVISIONS

Minimum Wage

Beginning January 1, 1979, the minimum wage for farm workers covered by the act is \$2.90 an hour. This minimum will increase to:

\$3.10 an hour beginning January 1, 1980

\$3.35 an hour beginning January 1, 1981

Workers paid on a weekly, monthly, or piece-rate basis also are covered by the act. The hourly rate for an employee paid a salary for a regular or specified number of hours a week is obtained by dividing the salary by the number of hours. The hourly rate of pay for an employee paid on a piece-rate or piece-work basis is obtained by dividing the total weekly earnings by the total number of hours worked in the same week.

Wages which are required by the act are due on the regular payday for the pay period covered.

500 Man-Day Test

Employers who use more than 500 man-days of labor in any calendar quarter of the preceding year must pay the minimum wage. A "man-day" is any day during which an employee performs agricultural labor for at least one hour. Five hundred man-days is approximately equivalent to seven employees employed full-time in a calendar quarter (7 employees X 5.5 days per week X 13 weeks = 500.5 days.)

If the employer did not employ more than 500 man-days of agricultural labor in any quarter of the preceding calendar year, his agricultural employees are exempt from the minimum wage provisions of the act for the entire following calendar year.

All employees except members of the employer's immediate family are included in the 500 man-day test. If the employer is a corporation, there are no family exemptions.

Exemptions

The minimum wage provisions of the act do not apply to certain exempt employees. They are:

1. Employees who are members of the employer's immediate family.
If the employer is a corporation, there are no family exemptions.
2. Hand-harvest workers who commute daily from their permanent residence and who were employed in agriculture less than 13 weeks during the preceding calendar year are paid on a piece-rate basis for work generally recognized as piece-rate work.
3. An employee who is 16 years of age or under, employed as a hand-harvest laborer beyond commuting distance from his permanent home on the same farm where his parent or person standing in the place of his parent is employed, and paid on a piece-rate basis at the same rate as employees over age 16 on the same farm.
4. Employees principally engaged in the range production of livestock.

Perquisites

The value of housing, board, other facilities and items provided employees may be added to the cash wages paid a worker in determining total compensation. Consequently, an employer would be in compliance with the act if cash wages were less than the minimum hourly requirement, but the difference was made up through perquisites.

The value placed on a perquisite is usually the reasonable cost to the employer of providing the perquisite. The total value may include the cost of operation and maintenance, including depreciation and interest. Fair rental value also can be used in some cases where housing or a garden plot is furnished.

The employee must receive the benefits of the facility for which he is being charged and his acceptance of the facility must be voluntary. The perquisites must be offered for the benefit of the employee and not for the benefit or convenience of the employer.

Employers should contact the nearest Wage and Hour Division of the U.S. Department of Labor for more detailed information concerning individual situations.

Overtime Pay

The law does not require overtime pay for farm workers.

Student Wages

Full-time students may be employed at rates lower than the minimum required for other farm workers. The wage paid these full-time students must be no less than 85 percent of the minimum wage otherwise applicable. The maximum number of full-time students which can be employed on any workday at the subminimum wage is 6. These students employed at subminimum rates can work no more than 8 hours per day, 20 hours per week, and 40 hours per week during summer months. Employers must obtain a Full-time Student Certificate if student employees are to be paid less than the minimum wage. These certificates are available from the regional office of the U.S. Department of Labor. The address is:

Wage-Hour Division, Section 14
Special Minimum Wage Programs
555 Griffin Square Building
Dallas, Texas 75201

Handicapped Workers

There are special provisions in the law relating to minimum wage requirements for handicapped workers. Employers may obtain information concerning these provisions from local offices of the U.S. Department of Labor.

Recordkeeping

Payroll records containing the following information with respect to each worker subject to the minimum wage must be kept:

1. Name in full and home address
2. Sex and occupation in which employed

3. Birthdate (if under 19 years of age)
4. Number of man-days worked each week or each month
5. Time of day and day of week when workweek begins
6. Basis on which wages are paid (for example, per hour)
7. Hours worked each workday and total hours worked each workweek
8. Total daily or weekly earnings
9. Total additions to or deductions from wages paid each pay period
10. Total wages paid each pay period
11. Date of payment and pay period covered by payment

Only items (1) and (2) are required for employees who qualify for exemption from the minimum wage as members of the employer's immediate family.

Items (1), (2), (3), and (4) need be maintained for those hand harvest laborers exempt from minimum wage provisions as explained under exemptions earlier in this section of the handbook.

These regulations do not prescribe a special form of record nor are any reports necessary. Records kept for other purposes will suffice if they contain the necessary information.

These recordkeeping requirements do not apply to an employer not subject to the act as determined by the 500 man-day text. However, and employer with nearly 500 man-days of labor in a calendar quarter should have a record of the number of man-days worked each week or each month by each employee. Such a record will provide and employer a basis for proving he is not subject to the act.

Poster

An official poster containing a "Notice to Employees," furnished by the Wage and Hour Division of the Department of Labor, must be posted where employees can readily see it. This poster contains basic information about the act.

EMPLOYEE PROVISIONS

There are several methods available to employees for recovering unpaid minimum wages:

1. The Wage and Hour Division of the U.S. Department of Labor may supervise payment of back wages.

2. The Secretary of Labor may bring suit for back wages and an equal amount as liquidated damages.
3. An employee may file a private suit for back pay and an equal amount as liquidated damages, plus attorney's fees and court costs.
4. The Secretary may obtain an injunction to restrain any person from violating the law, including the unlawful withholding of proper minimum wage compensation.

A two-year statute of limitations applies to the recovery of back pay, except in the case of willful violation, in which case a three-year statute applies.

RESPONSIBLE AGENCY

The Wage and Hour Division of the U.S. Department of Labor is responsible for the minimum wage provisions of the act. Texas area offices of the Division are:

Corpus Christi: Room 714 - The Six Hundred Building
600 Leopard Street
Phone: 512/888-3156

Dallas: Praetorian Building, Room 200
1607 Main Street
Phone: 214/767-6294

El Paso: Room 2, 1515 Airway Boulevard
Phone: 915/543-7634

Fort Worth: Room 7A12, 819 Taylor Street
Phone: 817/334-2678

Houston: 2320 LaBranch, Room 2101
Phone: 713/527-4106

San Antonio: U.S. Federal Building
A-511, 727 E. Durango
Phone: 512/229-6125

Waco: 101 Citizen's Tower
5th and Franklin Streets
Phone: 817/756-6511, Ext. 296

Map on last page of this section shows counties served by each area office.

SPECIAL NOTES

Texas Minimum Wage Law. There is a Texas Minimum Wage Law which applies to agricultural labor. However, the federal Fair Labor Standards Act supercedes the Texas Act when employers are covered by both laws. Groups which are exempt from the Texas state law are producers engaged in the production of livestock or in dairy farming.

For those agricultural employees covered by the Texas Minimum Wage Law, the state minimum rate is \$1.40 per hour. For workers living on premises provided by the employer, the weekly minimum weekly salary is \$30 per week plus the living quarters. Piece-rate workers covered by the Texas Act work in piece-rates determined by the commissioner of agriculture. This rate is set for each agricultural commodity produced in substantial quantity in Texas and is based on the output of a worker of average ability. If no piece-rate is set, the minimum hourly rate for agricultural workers will apply.

RESPONSIBLE AGENCIES

The Department of Labor and Standards
Sam Houston Building
Austin, Texas 78711
Phone: 512/475-2403

Department of Agriculture
P.O. Drawer BB
Austin, Texas 78711
Phone: 512/475-4664
(Piece Rates for Commodities)

*** Area Office**

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FEDERAL INCOME TAX WITHHOLDING LAW

OBJECTIVES

The objectives are to collect income tax revenues on a current basis and to reduce the amount of tax owed by a taxpayer at income tax filing time.

COVERAGE

The Internal Revenue Service has permitted tax withholding on wages of agricultural workers since January 1, 1971. Withholding is still not required on wages of farm workers although the Government Accounting Office has urged that such a change be made.

EMPLOYER PROVISIONS

Applications for Withholding

An employee wanting income tax withheld may request his employer in writing to withhold income tax. No particular form is necessary for this request. The request must contain the name, address, and Social Security number of the employee, and the name and address of the employer. A form W-4 must be furnished by the employee to the employer along with the written request. The W-4 is a simple card form to claim withholding exemptions. If the farm employer accepts the written request and W-4 form from the employee and commences withholding, this action indicates voluntary agreement on his part. The voluntary withholding agreement may be terminated by either employer or employee by giving written notice 30 days prior to the desired termination date.

Deposit of Withholding Tax

It may be necessary for the employer to deposit tax currently. For example, when undeposited taxes (from withholding and Social Security) accumulate to \$200 or more, a deposit may be made by the 15th day of the following month. Form 511, Federal Tax Deposit, is used to make such deposits with a commercial bank authorized to receive federal tax deposits or with a Federal Reserve Bank.

Information Returns

It is the responsibility of the farm employer to file an annual information return with the IRS for payments made to farm employees during the year for salaries, fees, and other compensations for personal services totaling \$600 or more to any individual. The federal form W-2 is used for this purpose and is due January 31.

EMPLOYEE PROVISIONS

Farm employees should be aware that every citizen or resident of the U.S., whether an adult or minor, who had \$3,300 or more income in 1979 must file a return. In the case of married couples filing joint returns, the amount is \$5,400. These figures increase by \$1,000 if the individual or his spouse is over 65 years of age and by \$2,000 if both are over 65.

A farm employee is required to file a declaration of estimated income tax (form 1040-ES) if he has income of \$500 or more from sources not subject to withholding or expects to have a tax of \$100 or more above tax withheld. The tax may be paid in four equal installments. Some employees have been penalized for not filing estimates.

Working Students Subject to Withholding

Under the tax law, an individual is not subject to withholding of Federal Income Tax if:

1. he paid no tax last year
2. he does not anticipate any Federal Income Tax Liability this year. Such a student should fill out form W-4, Withholding Exemption Certificate, and give it to his employer. These forms can be obtained from the Internal Revenue district office. Students who do this will not have to wait for refunds.

Family Employees

The low income provision in the law applies to children employed by their parents. The parents should maintain a record of payments including purpose and amounts. A child employed by his parent can earn up to \$3,300 and pay no tax.

RESPONSIBLE AGENCY

The Internal Revenue Service of the U.S. Department of the Treasury is the responsible agency. District offices are located in Austin and Dallas.

SOCIAL SECURITY EMPLOYEE TAXES

OBJECTIVE

The objective of the social security coverage of hired farm workers is to provide monthly cash benefits to replace a part of the earnings lost through an employee's retirement, death, disability, or hospitalization.

COVERAGE

Covered farm employers must withhold tax from their employee's cash wages and match the employee tax with an equal amount. The total amount of tax is forwarded to the Internal Revenue Service. These social security taxes are often referred to as FICA (Federal Insurance Contributions Act) taxes.

Farm employers are included in the provision of this regulation if there are one or more agricultural employees on the farm who meet either of these two tests:

1. Employees paid \$150 or more in cash wages in the year.
2. Employee performed agricultural labor on the farm for 20 or more days during the year for cash wages computed on a time basis (e.g., hourly, daily, weekly, or monthly).

Some types of family employment are not covered by social security. Non-covered family employment is any work performed by:

1. a child under 21 years of age in the employ of his father or mother (Note that this is under 21 years of age rather than under 18 years.);
2. a man in the employ of his wife;
3. a woman in the employ of her husband;
4. a parent in the employ of his son or daughter performing:
 - a. domestic service in or about the private home of the son or daughter;
 - b. work not in the course of the son's or daughter's trade or business.

The family employment exclusion does not apply to work performed for:

1. a corporation or an association classifiable as a corporation, even though the relationship set out exists between the employee and the person or persons controlling the corporation;
2. a partnership, unless the relationship exists between the employee and each of the partners.

These family exemptions are required, not optional. For example, a 20-year-old employed by his father cannot elect social security coverage.

EMPLOYER PROVISIONS

Employers meeting the employee test are required to withhold social security tax from the cash wages paid each employee. The current law specifies the following wage base, tax rate, and maximum tax contribution for each employee:

<u>Year</u>	<u>Wage Base</u>	<u>Tax Rate</u>	<u>Maximum Tax</u>
1979	\$22,900	6.13	\$1,404
1980	25,900	6.13	1,588
1981	29,700	6.65	1,975

The wage base is the maximum total earnings in a calendar year on which an employee pays social security tax. To illustrate, an employee earning \$10,000 in 1979 pays social security tax of \$613 ($\$10,000 \times .0613$) and the employer pays a matching tax of \$613. An employee earning \$25,000 in 1979 pays social security tax of \$1,404 ($\$22,900 \times 0.0613$) and the employer pays a matching tax of \$1,404.

The total tax due (employer and employee portions) is forwarded to the Internal Revenue Service. The tax due for a current year must be forwarded to IRS by January 31 of the following year. However, if the total social security tax due reaches \$200 or more for part of the year, payment to IRS must be made before January. In such cases, the tax must be forwarded to IRS by the 15th of the month following the month in which a total of \$200 or more has been withheld.

Social security withholding and income tax withholding from employees' earnings have overlapping deposit requirements. The discussion of federal income tax withholding in this handbook should be considered in combination with this discussion of social security withholding.

Each employee from whom social security taxes have been withheld must be provided a statement showing total wages and social security taxes withheld. This statement must be provided on or before January 31. It also may show income tax withheld.

EMPLOYEE PROVISIONS

Each employee must have a social security account number. This social security number is also the employee's taxpayer identification number. If an employee does not have a number, he should apply for one at the nearest Social Security office. New rules effective in 1978 require that an applicant for a social security account number prove his age, identity, and citizenship. The employee should take this proof to the Social Security Office along with the form SS-5.

If an employee already has a social security number, another number should not be obtained even if there is a change of employers. If a social security number is lost, a duplicate card showing the original number should be requested from the nearest Social Security office.

RESPONSIBLE AGENCY

The Social Security Administration is responsible for the administration of benefits; whereas, the Internal Revenue Service collects the social security tax contributions. There are Social Security field offices located throughout the state. A local telephone directory should be consulted for the address and telephone number of the nearest office.

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UNEMPLOYMENT INSURANCE

OBJECTIVE

The objective of unemployment insurance is to replace temporarily part of a person's income loss as a result of unemployment.

COVERAGE

Effective January 1, 1978, some agricultural employment is covered by unemployment insurance. Coverage includes those farm employers who during the current or previous calendar year (a) employed 10 or more workers in each of 20 or more weeks or (b) paid \$20,000 or more in cash wages in any calendar quarter of the current or preceding calendar year.

A person employed for any portion of any day of a week is counted as one of the 10 persons in a week necessary for employer coverage. To illustrate, ten people employed for one hour on a Monday would cause the week to be counted as one of the 20 necessary. It normally takes at least 20 individuals all employed on the same day to have the week count as one of the weeks toward the 20. However, this is modified when the employer has the same individuals employed on a continuing part-time relationship. For example, if five individuals work regularly $2\frac{1}{2}$ days per week and another five individuals work regularly the other $2\frac{1}{2}$ days, the employer is considered to have 10 workers in employment during the week. If the farm operator has only hourly workers with no continuing relationship, there would have to be at least 10 of these workers in 1 day before the week would be counted.

A calendar quarter is 3 calendar months. The first quarter begins January 1, the second quarter begins April 1, etc. Cash wages include all wages paid in cash including bonuses, commissions, and incentive payments. Cash wages do not include the cash value of housing, fuel, use of vehicle, agricultural products, or any other medium of compensation which is not cash. (For a more detailed discussion, see the special note at the end of this section.)

Exemptions for Relatives and Minors

An employer's parents, spouse, and children under the age of 18 are excluded from coverage. These persons are not counted in the number of employees and weeks of employment tests for employer coverage. Their wages are not included in the \$20,000 quarterly payroll test for employer coverage. Payroll tax contributions are not made on their wages. This employment does not qualify them for any unemployment insurance benefits.

There are no exemptions for minors other than minor children of the employer. Minors are included in the test for employer coverage and their wages are included in the taxable payroll. They are not excluded from benefits solely on the basis of age.

Termination of Coverage

A farm employer who meets the coverage criteria of 10 or more workers in 20 or more weeks or \$20,000 quarterly payroll at any time during the calendar year is subject to coverage during the entire calendar year and the entire following calendar year. Coverage terminates only when an employer has no employment during all of a calendar year. To illustrate, assume that a farm employer had a \$22,000 payroll during May and June, 1978, and \$18,000 payroll during May and June, 1979, and no employees during the calendar year 1980. In this situation, the employer would be covered and required to make tax payments in each of the quarters in 1978 and 1979. There would be no tax payments in 1980 because of no payroll. There would be tax payments in 1981 only if the employer met the coverage criteria of 10 or more workers in 20 or more weeks of \$20,000 quarterly payroll at any time during the year.

Crew Leaders

It is possible for a crew leader rather than the farm operator to be the employer liable for paying the unemployment tax, maintaining the required records and submitting the required reports. The crew leader is the liable employer only if he:

1. furnishes individuals to perform services in agricultural labor and pays the individuals, and
2. holds a valid certificate of registration under the Farm Labor Contractor Registration Act (see section of his handbook on Farm Labor Contractor Registration Act), and
3. pays \$20,000 or more in cash remuneration for agricultural labor in a calendar quarter within the current or preceding year or employs 10 or more farm workers in 20 or more weeks in the current or preceding calendar year.

All of these conditions must be met for the crew leader to be the liable employer. If a crew leader operates in more than one state, the payroll or number of employees test noted above in (3) could have been met in one or more other states.

EMPLOYER PROVISIONS

Unemployment insurance benefits to unemployed workers are financed by an employer payroll tax. Only those employers meeting the coverage characteristics must pay the tax. To be covered, an employer must have, during the current or previous calendar year, (1) employed 10 or more

workers for one day or more in each of 20 or more weeks or (b) paid \$20,000 or more in cash wages in one or more calendar quarters. Covered employers are required to make payroll tax contributions on behalf of workers.

Effective January 1, 1978, the taxable wage base is \$6,000, i.e., the first \$6,000 paid each worker is taxable. There is a 0.7 percent federal unemployment tax (FUTA). The 0.7 percent rate applies to all covered employers. The FUTA tax is \$42.00 per worker covered per year (\$6,000 X .007). Additionally, there is a state tax which varies from .1 percent to 4.5 percent of the taxable wage base. The variation in this state tax rate results from individual employer experience ratings. Employers who seldom lay off workers have a low tax rate while those who often lay off workers have a tax rate near or at the maximum of 4.5 percent. Employers not previously subject to the unemployment insurance payroll tax are taxed at the standard rate of 2.7 percent of the taxable wage base until their experience rating is established. (The federal rate of .7 percent is in addition to the Texas rate.) Farm employers first covered January 1, 1978 will continue with the standard rate until January 1, 1980 at which time the tax rate will be determined solely by the number of unemployment claims dollars charged to that employer.

Tax Deposits

The federal tax (FUTA) is deposited with an authorized commercial bank or a federal reserve bank. If an employer's liability for FUTA taxes exceeds \$100 for any calendar quarter and any preceding quarter, the tax must be deposited within one month following the close of the quarter.

The state tax is deposited with the Texas Employment Commission. Covered employers must make a quarterly report even if no tax payment is due. The quarterly reports must be completed and payment made within one month following the close of the quarter.

Recordkeeping

Employers subject to unemployment insurance contributions must have personnel and payroll records on which to base information provided the Texas Employment Commission. Employers have certain general responsibilities under the law. Covered employers are required on a continuing basis to: (1) keep employees informed as to their "covered" status, (2) furnish identification notices to employees upon separation, (3) maintain a 5-year record of employment, and (4) upon request, supply wage separation or other pertinent information to the Texas Employment Commission or other states' employment services agencies.

EMPLOYEE PROVISIONS

To receive unemployment insurance benefits, an unemployed Texas farm worker has to meet certain requirements. An individual must have been employed by a covered employer one or more days in each of 20 weeks or more during the first 52 weeks of the last 54 weeks preceding the date of filing for the benefits. The person must have earned not less than \$20 in each of the 20 weeks. The 20 or more weeks of work may have been in agricultural and/or nonagricultural employment. The person must be totally or partially unemployed, able to work, available for full-time work, and seeking work. Workers meeting these requirements may receive weekly benefits for a period of up to 26 weeks.

A person who quits a job without just cause is disqualified from unemployment insurance benefits. However, some reasons for quitting a job do not disqualify a person from benefits. The primary reasons are a genuine lack of work or a change in contract for hire. This change could relate to wages, hours, or other conditions of hire. For example, an employee is hired to pick citrus at an agreed upon piece-rate. When he comes to work, he is assigned a job harvesting cabbage at a different piece-rate. If the man quits, he is qualified to receive the benefits because the terms of hire were changed.

A person who is discharged by his employer with just cause is also disqualified from unemployment insurance benefits. To be disqualifying, it must be established that the employer discharged the employee for misconduct related to the work. (Misconduct is intentional or willful disregard of employer's best interest.) A worker may not be disqualified by his actions away from the job unless such actions affected the work or it can be proved that they were detrimental to the employer's business. Examples of discharges with just cause are the violation of established employer rules such as absenteeism or habitual tardiness (not connected with an illness), use of intoxicants on the job, failure to maintain equipment, or failure to observe safety regulations' insubordination, or refusal to perform work as directed by the employer; and neglect of duty, or performing work in a negligent manner.

The weekly benefit amount received by unemployed workers and the number of benefit weeks depend on the unemployed worker's average weekly wage when employed, the number of weeks of work during the previous 52 weeks and the number of dependents. The weekly benefit amount is basically 50 percent of the average weekly earnings while employed. However, there are minimum and maximum weekly benefit amounts. The current range for workers is \$15 to \$91. The maximum amounts escalate automatically as the average weekly earnings of covered workers increase. It is expected the maximum will increase to \$105 in October, 1979.

Under certain circumstances (related to unemployment rates), the period of time during which an unemployed person may receive benefits is extended beyond 26 weeks. The nearest Texas Employment Commission office should be contacted for detailed information concerning the most current provisions of the unemployment insurance program.

RESPONSIBLE AGENCY

In Texas, the unemployment insurance program is administered by the Texas Employment Commission. The unemployment insurance programs in each of the states are controlled by the Federal Unemployment Tax Act, under which the Secretary of Labor must approve all state laws and their operation. Local Employment Commission offices located throughout the state receive and process unemployment insurance claims.

Unemployed migrant farm workers having returned to their home states may file claims at their local employment services offices.

Further information on unemployment insurance can be obtained from local offices of the Texas Employment Commission.

Note map on the last page of this section for Texas counties served by each local office

SPECIAL NOTE

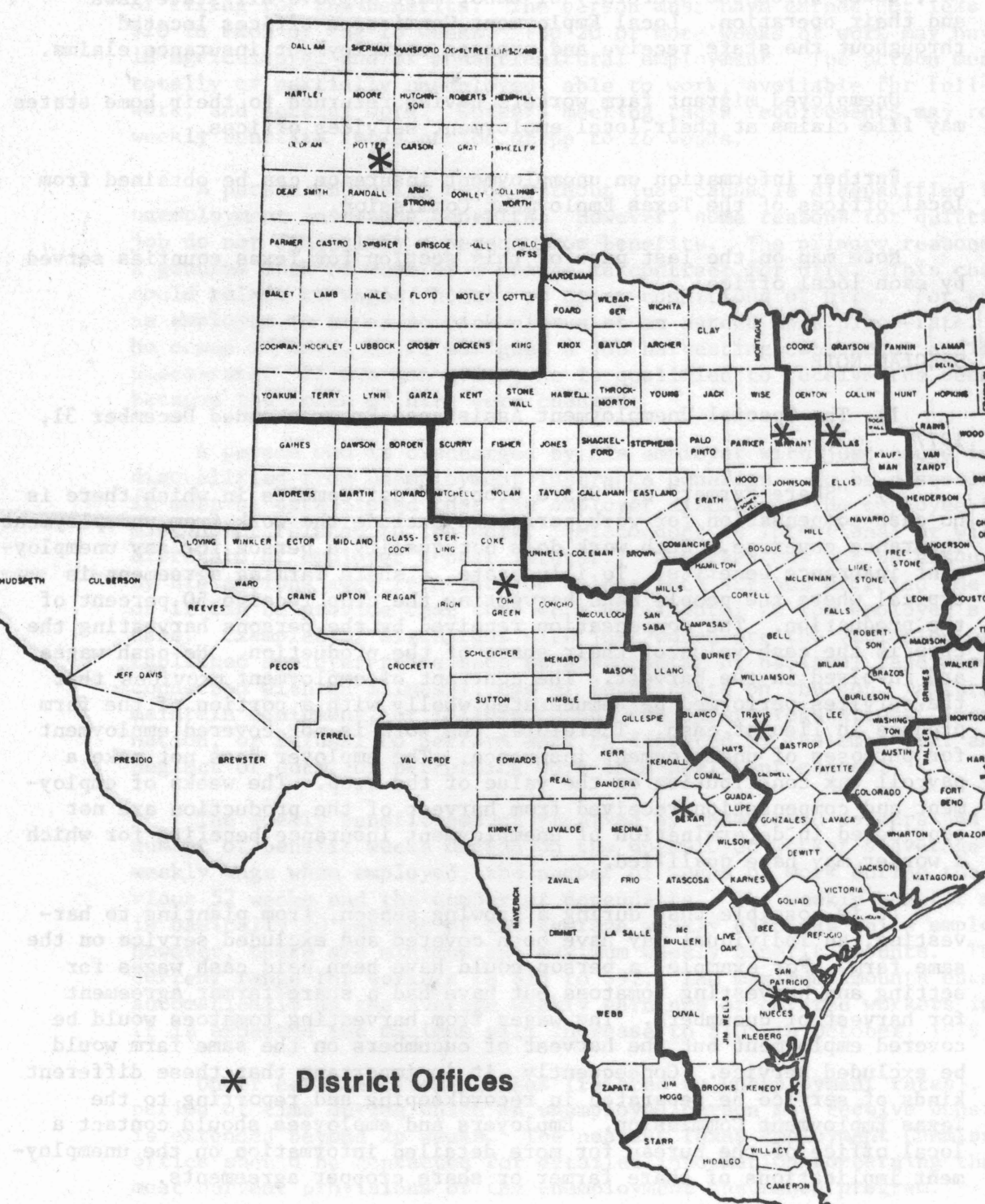
1) The Special Unemployment Assistance Program ended December 31, 1977.

2) "Share Farmer" or "Share Cropper" agreements in which there is no cash compensation for work performed exclude the work from unemployment insurance coverage. Such work does not qualify a person for any unemployment insurance benefits. To illustrate, a share farming agreement is typical where the people hand harvesting the crop receive 50 percent of the production. The compensation received by the persons harvesting the crop is the cash value of their share of the production. No cash wages are involved in the harvest. The contract of employment provides that the services performed be remunerated wholly with a portion of the farm produce in lieu of cash. Therefore, the work is not covered employment for purposes of unemployment insurance. The employer does not make a payroll tax contribution on the value of the crop. The weeks of employment and compensation received from harvest of the production are not considered in determination of unemployment insurance benefits for which a worker may have qualified.

It is possible that during a growing season, from planting to harvesting, an individual may have both covered and excluded service on the same farm. For example, a person could have been paid cash wages for setting and harvesting tomatoes but have had a share farmer agreement for harvest of cucumbers. The wages from harvesting tomatoes would be covered employment but the harvest of cucumbers on the same farm would be excluded service. Consequently, it is important that these different kinds of service be separated in recordkeeping and reporting to the Texas Employment Commission. Employers and employees should contact a local office of the bureau for more detailed information on the unemployment implications of share farmer or share cropper agreements.

TEXAS EMPLOYMENT COMMISSION

Districts and Offices



EMPLOYMENT OF MINORS

INTRODUCTORY NOTE

This section of the Handbook outlines the federal and state laws dealing specifically with the employment of minors in agriculture. Three areas are covered by the discussion:

1. The Federal Fair Labor Standards Act provisions for child labor. The child labor section of this act is concerned with ages at which minors can be employed.
2. Jobs in agriculture declared hazardous by the U.S. Secretary of Labor and the associated employment restrictions for minors.
3. Jobs in agriculture prohibited by Texas Code.

These areas are closely related, but there are separate regulations for each area affecting employment of minors.

OBJECTIVES

The objectives of the laws and regulations affecting employment of minors are to provide for the health, safety, and welfare of employed youths and to prevent their exposure to certain hazardous jobs.

COVERAGE

Employment of minors under age 16 is subject to federal requirements set by the Fair Labor Standards Act, most recently amended in 1977. The requirements for agriculture are fewer than those for other industries. Employment of children by their parents or by persons standing in the place of their parents on a farm owned or operated by such parent or person is exempt from the act. There are some other specific exemptions to coverage as discussed in the employer provisions section below.

Effective June 6, 1978, the U.S. Secretary of Labor declared certain jobs in agriculture hazardous for children under the age of 16 years. The same exemption for children employed by their parents or by persons standing in the place of parents discussed in the previous paragraph applies to hazardous occupation regulations. There are also specific exemptions for youth having completed a tractor and farm machinery certification course. This course is conducted by Extension agents and/or vocational agriculture teachers. There are also exemptions for student-learners enrolled in a vocational education training program in agriculture.

EMPLOYER-EMPLOYEE PROVISIONS

Federal Child Labor Regulations from Fair Labor Standards Act

There are no regulations in the Fair Labor Standards Act affecting children ages 16 and above.

Children 14 and 15 can be employed in any non-hazardous agricultural occupation outside school hours.

Children under 14 may be employed in agriculture if one or more of the following conditions are met:

- a. If child is 12 or 13, employed outside school hours, and one of the following:
 1. has written consent of his parents (or a person standing in the place of the parents).
 - or
 2. is employed on the same farm where his parents are employed (or a person standing in the place of the parents).
- b. If child is less than 12, one of the following:
 1. if child is employed by his parents (or a person standing in place of his parents) on a farm owned and/or operated by his parents.
 2. if child is employed with the parents' written consent and on a farm that is exempt from minimum wage and equal pay under the 500 man-day test (see minimum wage section of this handbook).

The Secretary of Labor is authorized by the act to grant a waiver from these employment restrictions for children ages 10 and 11. The children must be employed as hand harvesters in an agricultural operation which has been, and is customarily paid on a piece-rate basis. Children cannot be employed for more than 8 weeks in any calendar quarter. An employer or group of employers may apply to the Secretary for the waiver. The Secretary may not issue a waiver unless data are provided by the applicant to demonstrate that:

1. the crop to be harvested is one with a particularly short harvesting season;
2. the child labor provisions of the act would cause severe economic disruption in the industry;
3. the employment of the children would not be deleterious to their health and well-being;

4. the level and type of pesticides and other chemicals used would not have an adverse effect on the health of the children;
5. individuals age 12 and above are not available to harvest the crop;
6. children under 12 years of age have been traditionally and substantially employed in the industry without displacing substantial job opportunities for individuals over 16 years of age.

If the Secretary grants a waiver, it shall require that the children:

1. be employed outside of local school hours;
2. must commute daily from their permanent residence to the farm where employed;
3. be employed for not more than 13 weeks between June 1 and October 15 of any calendar year and in accordance with any other terms prescribed by the Secretary.

For each violation of the child labor provisions of the Fair Labor Standards Act, employers may be subject to a civil money penalty of up to \$1,000. Willful violation and offenses after conviction for a similar offense can result in fines up to \$10,000, up to 6 months imprisonment, or both.

Hazardous Occupations in Agriculture (Federal Regulation)

The employer is prohibited from hiring children under 16 years of age in those jobs declared hazardous by the U.S. Department of Labor unless they have successfully completed the 4-H or vocational agriculture certification program or qualify under the student-learner exemption. Additional information on these three programs may be found in the Child Labor Bulletin #102 which is available from the Department of Labor's regional office. This address may be found in another section of this handbook. Jobs designated as hazardous to youth under 16 years of age include:

1. Operating a tractor of more than 20 PTO horsepower, or connecting or disconnecting an implement or any of its parts to or from such a tractor.
2. Operating or assisting to operate (including starting, stopping, adjusting, feeding, or any other activity involving physical contact associated with the operation) any of the following machines:
 - (a) corn picker, cotton picker, grain combine, hay mower, forage harvester, hay baler, potato digger, or mobile pea viner;

(b) feed grinder, crop dryer, forage blower, auger conveyor, or the unloading mechanism of a non-gravity-type self-unloading wagon or trailer;

(c) power post-hole digger, power post driver, or non-walking-type rotary tiller.

3. Operating or assisting to operate (including starting, stopping, adjusting, feeding, or any other activity involving physical contact associated with the operation) any of the following machines: trencher or earthmoving equipment; fork lift; potato combine; or power-driven circular, band, or chain saw.
4. Working on a farm in a yard, pen, or stall occupied by a: bull, boar, or stud horse maintained for breeding purposes; or sow with suckling pigs, or cow with newborn calf (with umbilical cord present).
5. Felling, bucking, skidding, loading, or unloading timber with butt diameter of more than 6 inches.
6. Working from a ladder or scaffold (painting, repairing, or building structures, pruning trees, picking fruit, etc.) at a height of more than 20 feet.
7. Driving a bus, truck, or automobile when transporting passengers, or riding on a tractor as a passenger or helper.
8. Working inside a fruit, forage, or grain storage facility designed to retain an oxygen deficient or toxic atmospheres; an upright silo within 2 weeks after silage has been added or when a top unloading device is in operating position; a manure pit; or a horizontal silo while operating a tractor for packing purposes.
9. Handling or applying (including cleaning or decontaminating equipment, disposal or return of empty containers, or serving as a flagman for aircraft applying) agricultural chemicals classified under the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 135 et seq.) as Category I of toxicity identified by the word "poison" and the "skull and crossbones" on the label; or Category II of toxicity, identified by the word "warning" on the label.
10. Handling or using a blasting agent, including but not limited to dynamite, black powder, sensitized ammonium nitrate, blasting caps, and primer cord.
11. Transporting, transferring, or applying anhydrous ammonia.

Youth aged 14-15 having completed training and receiving certification in a bona fide 4-H or FFA tractor operator course (Item 1 above) and machinery operator course (Item 2 above) can apply for and accept employment in these two areas within the limits indicated in Items 1 and 2. Training programs are offered annually, usually in late winter or early spring.

NOTE: There are no certificate training programs for those tasks listed in Items 3 through 11, and employment of youth under 16 years of age is prohibited for these jobs.

Employers should check the specific level of certification that a prospective youthful employee (age 14 or 15) has documented on his certificate. If, for example, the youth has been certified for only item 1 as indicated above, then he cannot be hired to do tasks listed in item 2.

Employers are responsible for instructing employees on safe and proper operation of equipment. The employer also is required to supervise work where feasible and make midmorning and midafternoon checks of field work. Copy of the certification is to be maintained by the employee and a copy also is provided to employer to keep on file.

Texas Code Relating to the Employment of Minors in Agricultural Labor

Children at any age may be employed at farm labor as members of the family of a farmer, rancher, or dairyman on their own premise whether owned or leased. Nothing in the Texas Act prevents school children of any age working from June 1 to September 1 of each year except that they shall not be permitted to work in a factory, mill, workshop, or other place where the employment of children is prohibited by law.

Children under 15 may not work over 8 hours a day, over 48 hours a week, or between 10 p.m. and 5 a.m.

Children under 17 are prohibited from working in any mine or quarry or place where explosives are used.

RESPONSIBLE AGENCIES

The agency responsible for enforcement of the Federal Child Labor Laws and Federal Hazardous Occupation Regulations is the U.S. Department of Labor, Wage and Hour Division. Area offices in Texas are shown in the section regarding minimum wage laws.

The state agency responsible for enforcement of the Texas Code relating to prohibited jobs for minors is the:

Texas Department of Labor and Standards
Sam Houston Office Building
Austin, Texas
Phone: 512-475-3499

ALIEN WORKER EMPLOYMENT

DEFINITIONS

An alien is a foreign born resident in the U.S. who has not become naturalized. Alien farm workers may be legal or illegal aliens. A certified alien farm worker is one who is legally in the country through a certification program administered by the U.S. Department of Labor. An illegal alien (undocumented alien) is not certified by the Department of Labor and his presence in the U.S. is in violation of the Immigration and Nationality Act.

CERTIFICATION OF ALIEN FARM WORKERS

Employers may request admission of aliens into the U.S. for temporary farm work. Such admission is possible only if the Department of Labor certifies that qualified Americans are not available and that the employment of an alien would not adversely affect the wages and working conditions of similarly employed workers in the United States. Department of Labor Regulations set forth the fact-finding process for granting or denial of temporary labor certification. These regulations also set forth the responsibilities of employers wishing to hire aliens in temporary farm work.

Employers wishing to hire certified aliens must demonstrate that they have attempted to recruit U.S. workers through advertising, through the public employment service and by other specified means. These recruitment efforts must assure that there has been an adequate test of the availability of U.S. workers.

An employer who desires to use foreign workers for temporary agricultural employment must file an application including a job offer for United States workers with a local office of the Texas Employment Commission. The application should be filed a minimum of 80 days before the estimated date of need for the workers. This would allow sufficient time for the required 60 day recruitment period and a determination by the Regional Administrator of the Department of Labor as to the availability of United States workers 20 days before the date the workers are needed.

The Department of Labor regulations also specify requirements for housing, payment of transportation costs, amount and length of employment and various other conditions of employment.

Employers wanting more detailed information should contact:

Division of Labor Certification
U.S. Department of Labor
Room 8410, 601 D Street, N.W.
Washington, D.C. 20213

Phone: 202/376-6295

The Texas Employment Commission also can provide information about the certification of alien farm workers.

ILLEGAL ALIENS

With the exception of registered farm labor contractors, farm employers are not prohibited by any federal or state law from employing illegal aliens. (Note section of this Handbook on Farm Labor Contractor Registration Act.) Several bills have been introduced in the U.S. Congress which would prohibit employment of illegal aliens, but as of July 1, 1979, no such law has been enacted. Although an illegal alien can be legally employed, actual involvement in securing such employees or shielding them from detection can lead to severe penalty for criminal violations.

If an illegal alien is apprehended, he is subject to expulsion from the United States. He also may be subject to severe penalty for criminal violations relating to illegal entry into the country.

Immigration and Naturalization Service investigators and United States Border Patrol agents continuously seek out and apprehend illegal aliens either employed or unemployed. Typically, Border Patrol agents visit a farm after receiving information indicating the presence of illegal aliens. Employers who are known to employ illegal aliens on a continuous basis also are contacted frequently.

The general policy of the Immigration and Naturalization Service is to solicit a farm employer's permission to gain admission to the premises. Urgency of a situation may make it infeasible to get prior permission. There are legal alternatives available to the Service if a farm employer refuses permission. The details of these alternatives are beyond the scope of this Handbook. Employers may contact the Service for more detailed information.

The Immigration and Nationality Act does not set forth any record-keeping requirements for farm employers. The Immigration and Naturalization Service may review employment records on occasion. Any method of recordkeeping would be satisfactory, provided the records were not kept in a manner to deliberately interfere with detecting illegal aliens.

RESPONSIBLE AGENCIES

Division of Labor Certification
U.S. Department of Labor
Room 8410, 601 D Street, N.W.
Washington, D.C. 20213

Phone: 202/376-6295

Immigration and Naturalization Service
Room 1C13, Federal Building
1100 Commerce Street
Dallas, Texas 75242

Phone: 214/749-2643

Immigration and Naturalization Service
343 U.S. Courthouse, P.O. Box 9398
El Paso, Texas 79984

Phone: 915/543-7600 or 7601

Immigration and Naturalization Service
719 Grimes Avenue
Harlingen, Texas 78550

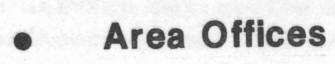
Phone: 512/425-7333

Immigration and Naturalization Service
Federal Building
515 Rusk Avenue, P.O. Box 61630
Houston, Texas 77208

Phone: 713/226-4251

Map on the last page of this section shows Texas counties served by the Texas offices of the Immigration and Naturalization Service.

GRATION AND NATURALIZATION SERV TEXAS OFFICES



FARM LABOR CONTRACTOR REGISTRATION ACT

OBJECTIVE

The objective of the act is to reduce irresponsible activities of farm labor contractors which exploit farm operators, farm workers, and the general public. This objective is accomplished by requiring farm labor contractors, their full-time or regular employees and farmers using the services of farm labor contractors to observe certain rules as set forth in the act.

COVERAGE

This act as amended is concerned primarily with farm labor contractors (crew leaders). A farm labor contractor (crew leader) is any person who, for a fee for himself or on behalf of another person, recruits, solicits, hires, furnishes or transports any number of workers (excluding members of the contractor's immediate family) for agricultural employment, whether within a state or across state lines.

"Person" includes any individual, partnership, association, joint stock company, trust, or corporation. "Fee" includes any money or other valuable consideration paid or promised to be paid to a person for services as a farm labor contractor. "Immediate family" of the contractor includes only a spouse; children, stepchildren, and foster children; parents, step-parents, and foster parents; and brothers and sisters. "Agricultural employment" is defined very broadly to include virtually all aspects of employment in agriculture. In addition to farm employment, the definition includes handling, planting, drying, packing, packaging, processing, freezing, or grading prior to delivery for storage of any agricultural or horticultural commodity in its unmanufactured state.

It is important to note that the act appears to be concerned only with migrant farm workers. However, the term "migrant worker" for purposes of this act includes any individual whose primary employment is in agriculture, or who performs agricultural labor on a seasonal or other temporary basis. The key element of this definition is that any individual who is performing agricultural work is a migrant worker for purposes of this act. Whether or not the worker migrates is not considered.

Some provisions affect those farmer operators or growers who engage the services of a farm labor contractor. However, employers who personally recruit farm workers solely for their own operations are exempt from the act.

Other exemptions include:

1. An employer's regular or full-time employee who engages in farm labor contractor activities only on an incidental basis and only for the employer.
2. Common carriers engaged solely in transporting farm workers.
3. Any person who engages in contracting activity within a 25-mile intrastate radius of his permanent home state and does not engage in contracting activity for more than 13 weeks in a calendar year.

FARM OPERATOR PROVISIONS

The 1974 amendments to the act added new requirements for farm operators. A farm operator who deals directly with a labor contractor must make sure that the contractor is properly registered before using his service. The user must determine that the farm labor contractor or crew leader has a valid U.S. Department of Labor certificate of registration which authorizes the contractor to perform the services required by the user. Contractors who house or transport workers must have certificates specifying those activities. For example, a farmer may arrange for the crew leader to transport workers. The farmer must examine the crew leader's certificate of registration to determine whether or not transportation of workers is authorized. If workers are transported by a crew leader not authorized to provide transportation, both the farmer and the crew leader may be cited for civil money penalty for unauthorized activities.

There are four types of cards farmers may need to check. The orange card is a certificate of registration for the contractor. A supplemental yellow card is used to authorize housing of workers. A blue employee identification card is required of the contractor's employees who are principal assistants.

Farm operators using the services of labor contractors are required to maintain payroll records of workers recruited for their benefit. The farmer must have these records even if the workers are paid directly by the contractor.

These payroll records must show, for each worker, total earnings in each workweek in the payroll period, itemized withholdings from wages, and net earnings. If a worker is paid on an hourly basis, the number of hours worked each day, the total hours worked each workweek, and the rate per hour must be recorded on the payroll record. If a worker is paid on a piece-rate basis (for example, per hamper of tomatoes harvested), the number of units of work performed (hampers, baskets, boxes, etc.), the hours worked each workweek, and the rate per unit must be shown on the records. The farmer must also have a copy of all information which the contractor is required to provide the worker.

A farmer may be fined up to \$1,000 for each violation of the act. Violations for the farmer would include hiring unregistered contractors and not having the required records.

A farmer claiming to be aggrieved by a violation of the act may file suit in a United States District Court.

WORKER PROVISIONS

A farm worker claiming to be aggrieved by a violation of the act may file suit in a United States District Court. If a worker files a complaint or lawsuit under the act, the law protects him from retaliatory discrimination by the contractor or anyone else.

FARM LABOR CONTRACT PROVISIONS

Farm labor contractors covered by this act have several specific responsibilities. They must:

1. Register with the U.S. Department of Labor. A Certificate of Registration must be carried at all times and shown to appropriate persons when dealing as a farm labor contractor. Any full-time or regular employee who may act in behalf of a registered contractor must obtain and carry an identification card. Farm labor contractors may apply for registration at any local office of the Texas Employment Commission. Certificates of registration and employee identification cards are effective for the remainder of the calendar year during which they are issued unless suspended or revoked. If application for renewal has been made on or before November 30 on the year preceding the year for which renewal is sought, the authority to operate under an existing certificate shall not expire until the renewal application shall have been finally determined. The certificates and cards may be denied, suspended, or revoked for failure to comply with the act.
2. At the time of recruitment, inform each worker in writing on a form such as WH-416 (information on wages and working conditions), in a language in which the worker is fluent, of all living and working conditions, including location of work site, crops and operations on which worker may be employed, wages, housing facilities, transportation and insurance, the period of employment, charges to be made for the services provided, the existence of any labor dispute at the work place, or any kickback arrangement between the farm labor contractor and local commercial or retail merchandises who deal with the workers.
3. Clearly post, in a language in which the worker is fluent, the terms and conditions of occupancy for housing owned or controlled by the farm labor contractor.

4. Upon arrival at a place of employment, post the conditions of employment, in a language in which the workers are fluent, in a prominent place readily seen by the employees. Workers must be notified of any changes in such conditions.
5. If responsible for paying the wages, keep payroll records and provide each worker with a statement of earnings, withholdings, and reasons for withholdings. A copy of this payroll information must be given to the farm operator.
6. Notify the Department of Labor within 10 days of any change in address, the purchase of a vehicle for transporting or facilities for housing migrants. Also, notify the Department within 10 days after the contractor obtains or learns of the intended use of any real property. This notification is to be before actual use of the real property.
7. Buy insurance that protects migrants and their property if transported by bus, truck or private automobile owned, operated, controlled, or caused to be operated by the farm labor contractor. This required limit for bodily injuries or death of one person is \$100,000. The required limit for bodily injuries or death of all persons injured or killed in any one accident (subject to a maximum of \$100,000 for bodily injuries or death of one person) is \$300,000 if the passenger equipment is for 12 passengers. The required limit for loss or damage in any one accident to property of others (excluding cargo) is \$50,000. Any licensed insurance agent can sell this insurance.
8. Not knowingly hire an illegal alien; that is, one who has not been lawfully admitted for permanent residence or has not been authorized by the Attorney General to accept such employment. Acceptable evidence of legal employability includes: a birth certificate, certificate of citizenship or naturalization, U.S. identification card, passport identifying the worker as a U.S. citizen, consular report of birth or, in the case of an alien, an alien registration receipt card.

RESPONSIBLE AGENCY

Additional information may be obtained from any local office of the Texas Employment Commission.

The agency responsible for the enforcement of the Farm Labor Contractor Registration Act is the U.S. Department of Labor, Wage and Hour Division. A listing of its area offices and a map showing counties served by each office are included in the minimum wage section of this handbook.

TEXAS PROVISIONS

Any person or company that obtains or seeks to obtain workers for any employer for a fee must be licensed as a labor agent by the state. Requirements for obtaining a license include paying license fees and posting a performance bond.

Among other conditions required to keep their license, contractors must do the following:

1. Promptly pay or distribute to the proper persons all money or other valuable things given to the contractor for distribution.
2. Have available for inspection in both Spanish and English a written statement showing the rate of pay to the workers and the amount of compensation received from the third party.
3. Have adequate insurance to cover injury to workers or damage to their property in case of an accident involving any vehicle used to transport such workers.
4. Post the labor agent license on all vehicles used to transport workers.
5. At the time of payment, or at least twice a month, give each worker a complete written statement of wages earned and deductions made from the worker's pay.

The act does not apply to farmers or stock raisers who act jointly in securing labor for their own use where no fee is charged or collected, nor does it apply to employers or their representatives who recruit workers through the Texas Employment Commission.

RESPONSIBLE AGENCY

The administering agency is the Department of Labor and Standards Division of Employment Agencies, Sam Houston Office Building, Austin, Texas, 512-475-7026.

Reference: Labor Agency Law, Article 5221a-5, R.C.S.

EMPLOYEE PROVISIONS

Each agricultural employer must obtain a license to operate his labor camp. Application for the license shall be made to the State Commissioner of Health. Upon receipt of the application and license fee,

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MIGRANT LABOR CAMP REGULATIONS

Texas farm employers providing temporary housing for migrant farm workers potentially face three sets of housing regulations:

1. Agricultural labor camp regulations administered by the Texas Department of Health.
2. Federal regulations administered through the United States Department of Labor by the Texas Employment Commission.
3. Occupational Safety and Health Act (OSHA) temporary labor camp regulations administered by the Occupational Safety and Health Administration.

These regulations are similar, but there are some important variations in housing requirements and enforcement responsibilities. Therefore, farm employers and employees need to be familiar with the three sets of regulations and the variations in inspection requirements.

State of Texas Labor Camp Regulations

OBJECTIVE

The objective of these state regulations is to assure that migrant farm workers have adequate, safe, sanitary, and healthful housing facilities during the time they are employed in Texas.

COVERAGE

Any agricultural employer who operates an agricultural labor camp in Texas is covered by state regulations. For practical purposes, a farm employer has an agricultural labor camp if he is providing housing free or by rental arrangement to two (2) or more seasonal, temporary, migrant families or three (3) or more seasonal, temporary, migrant workers and accompanying dependents for more than three (3) days. To illustrate, one family of four workers living in a building on the employer's farm would not constitute an agricultural labor camp. Four workers not in the same family living on the farm would constitute a camp. Two families of two workers each would also constitute a camp.

EMPLOYER PROVISIONS

Each agricultural employer must obtain a license to operate his labor camp. Application for the license shall be made to the State Commissioner of Health. Upon receipt of the application and license fee,

a temporary license is issued permitting operation until an official inspection can be made. The fee ranges from \$15 to \$50 depending on the number of beds or housing units.

After an inspection is made and if the camp meets the reasonable minimum standards of construction, sanitation, equipment, and operations outlined by the Act, a permanent license is issued. Unless otherwise revoked the license is good for one year. It is not transferable. Renewal should be made not less than 30 days prior to expiration.

If the camp does not pass inspection, the commissioner may issue a temporary permit for a period not to exceed six months to allow time for the necessary improvements.

Licenses may be suspended or revoked for violations of the law or rules and regulations promulgated by the State Board of Health prescribing standards for living quarters at the camps.

The regulations allow investigations of the camp by representatives of the health department upon proper notice. Investigations are to be made at reasonable hours to investigate whether provisions of the act have been or are being violated.

Violations of the act are misdemeanors and affect both owners and users of the camp. Operators of a camp without a license are subject to a fine not to exceed \$25 or a maximum of 30 days in jail or both. Each day of violation is considered a separate offense.

EMPLOYER PROVISIONS

Employees who vandalize, misuse, or violate applicable regulations are subject to a maximum fine of \$25 or a jail sentence not to exceed 10 days or both.

RESPONSIBLE AGENCY

The Texas Department of Health is responsible for the administration for the agricultural labor camp provisions of the Texas Code. Permit applications must be filed with the Texas Department of Health. Facilities inspections are performed by the department's regional offices in the respective areas of coverage.

The Texas Department of Health is the agency responsible.

General Sanitation Division
1100 West 19th Street
Austin, Texas 78756
512-458-7521

The addresses and counties served by area offices are shown on the map at the end of this section.

U.S. Department of Labor Federal Labor Camp Regulations

OBJECTIVE

The objective of these federal regulations is to assure that migrant farm workers recruited for Texas farm employers through the U.S. Department of Labor services have housing in Texas which is hygienic and adequate to the climatic conditions of Texas, large enough to accommodate the workers, and in a condition that does not endanger the lives, health, or safety of the workers and their families.

COVERAGE

A Texas agricultural employer using the interstate worker recruitment service of the U.S. Department of Labor must have housing approved by the department. Texas employers not using this service of the Department of Labor are not affected by these federal housing regulations. In Texas, the Department of Labor assistance in recruitment of migrant farm workers is provided through the Texas Employment Commission.

The inspection of labor camps for the Department of Labor is based on federal regulations. Thus, a camp inspection by the Texas Department of Health does not satisfy the Department of Labor requirement for a camp inspection for users of their services. However, the Texas Department of Health and Texas Employment Commission work in cooperation so that both inspections are normally made at the same time.

EMPLOYER PROVISIONS

There are no provisions affecting Texas agricultural employers not using the Department of Labor interstate worker recruitment services. Employers using the services of the department must have their housing approved through the Texas Employment Commission.

An employer initiates the interstate worker order through a local office of the Texas Employment Commission. Through an interagency agreement, the Texas Department of Health inspects facilities for the Texas Employment Commission. The Department of Health will inspect the housing and report on the conditions found at the time of inspection to the Texas Employment Commission. The Department of Health will inspect the housing and report on the conditions found at the time of inspection to the Texas Employment Commission. The Employment Commission then decides if the facilities are suitable for occupancy.

The inspection is to determine whether or not the minimum standards specified in the federal regulations are satisfied. The standards are similar to those specified in the Texas code, but there are some differences. The federal code specifies standards for the housing site; water supply; condition of housing and space provided; screening; heating; electricity and lighting; toilets; bathing, laundry and handwashing; cooking and eating facilities; garbage and other refuse disposal; insect and rodent control; sleeping facilities; and fire, safety, and first aid.

EMPLOYEE PROVISIONS

There are no provisions specifically for employees.

RESPONSIBLE AGENCY

The Texas Employment Commission is responsible for administering the interstate recruitment services and the associated housing inspections. The unemployment insurance section of this handbook includes a listing of the Commission's local offices.

OSHA Temporary Labor Camp Regulations

OBJECTIVE

The general purpose of the Occupational Safety and Health Act is to assure, as far as possible, every working man and woman in the nation safe and healthful working conditions and to preserve our human resources. The OSHA labor camp regulations are part of OSHA's effort consistent with the act's general purpose.

COVERAGE

Farm employers with 10 or fewer employees have been exempt from all OSHA regulations since October 1, 1976. One year extensions of the exemptions have been made each year since 1976. The current exemption expires September 30, 1979. Unless the exemption is extended or made permanent, all farm employers will be covered after September 30, 1979.

During the exemption period, temporary labor camps of farm employers with 11 or more employees are subject to OSHA regulations. There is no licensing procedure under OSHA regulations. Labor camp inspections are made in response to employee complaints or following a report of a fatality and on a random basis.

EMPLOYER PROVISIONS

An agricultural labor camp must be maintained in a condition that satisfies the minimum requirements of OSHA Standard 1910.142.

It is the duty of the camp operator to report immediately to the local health officer the name and address of any person known to have or suspected of having a communicable disease.

EMPLOYEE PROVISIONS

There are no provisions specifically for employees.

- **Public Health Region Headquarters**

REGIONAL PERSONNEL

ENVIRONMENTAL AND CONSUMER HEALTH PROTECTION
SERVICES TEXAS DEPARTMENT OF HEALTHPUBLIC HEALTH REGION 1

P.O. Box 968 (mailing address)
West Texas State University Sta.
Old Health Center Bldt.
300 Victory Dr.
Canyon, Texas 79016

Phone: (806) 655-7151
TEXAN 844-2801 or
TEXAN 844-2802

Henry C. Moritz, M.D., Regional
Director of Public Health
Ron Freeman, P.E., Reg. Dir. of
Environ. & Consumer Hea. Protec.

PUBLIC HEALTH REGION 2

3411 Knoxville, Suite 100
Lubbock, Texas 79413

Phone: (806) 797-4331
TEXAN 862-9752 (Eng.)
TEXAN 862-9733 (Dr.)

John P. Board, Jr., M.D., Reg.
Director of Public Health
Ned V. Brookes, P.E., Reg. Dir.
of Environ. & Consumer Hea.
Protec.

PUBLIC HEALTH REGION 3

P.O. Box 10736 (mailing address)
5308 El Paso Drive
El Paso, Texas 79997

Phone: (915) 779-3531
TEXAN 846-8127

John L. Bradley, M.D., Regional
Director of Public Health
Charles T. Grmishaw, P.E., Reg.
Dir. of Environ. & Consumer
Health Protection

PUBLIC HEALTH REGION 4

Old Courthouse, Second Floor
301 Oak Street
Abilene, Texas 79602

Phone: (915) 673-5231
TEXAN 840-1292

Myron J. Wolthen, M.D., Regional
Director of Public Health
Stanley Thompson, P.E., Reg. Dir.
of Environ. & Consumer Hea. Protec.

PUBLIC HEALTH REGION 5

701 Directors Drive
P.O. Box 5627 (mailing address)
Arlington, Texas 76011

Phone: (817) 460-3032 or
(817) 460-3033
TEXAN 833-9011

Hal J. Dewlett, N.D., REgional Dir.
of Public Health
L. Don Thurman, P.E., Reg. Dir. of
Environ. & Consumer Hea. Protec.

PUBLIC HEALTH REGION 6

P.O. Box 190 (mailing address)
Alexander Nursing Bldg.
(2401 S. 31st St.)

Scott and White Hospital
Temple, Texas 76501

Phone: (817) 778-6744
TEXAN 820-1431

John Wellman, M.D., Dr. P.H., Reg.
Director of Public Health
Thomas D. Tiner, P.E., Reg. Dir. of
Environ. & Consumer Hea. Protec.

PUBLIC HEALTH REGION 7

P.O. Box 2501 (mailing address)
Cotton Belt Office, 1517 W. Front St.
Tyler, Texas 75710

Phone: (214) 595-3585
TEXAN 830-6268 (Eng.)
TEXAN 830-6011 (Dr.)

Marietta Crowder, M.D., Regional Dir.
of Public Health
W. T. Ballard, P.E., Reg. Dir. of
Environ. & Consumer Hea. Protec.

PUBLIC HEALTH REGION 8

P.O. Box 592 (mailing address)
500 South Rangerville Road
Harlingen, Texas 78550

Phone: (512) 423-0130
TEXAN 820-4521 (Eng.)
TEXAN 820-4501 (Dr.)

Charles B. Marshall, Jr., M.D., Reg.
Director of Public Health

PUBLIC HEALTH REGION 9

P.O. Drawer 630 (mailing address)
 Old Memorial Hospital Building
 Garner Field Road
 Uvalde, Texas 78801
 Phone: (512) 278-7173

Rodger G. Smyth, M.D., Regional
 Director of Public Health
 Robert G. Barrick, P.E., Reg. Dir.
 Environ. & Consumer Hea. Protec.

PUBLIC HEALTH REGION 10

Beaumont, Texas
 Phone:

Marietta Crowder, M.D., Regional
 Director of Public Health
 W. T. Ballard, P.E., Reg. Dir. of
 Environ. & Consumer Hea. Protec.

PUBLIC HEALTH REGION 11

1110 Avenue G
 Rosenberg, Texas 77471
 Phone: (713) 342-8685

TEXAN 851-3500 (Eng.)
 TEXAN 851-3000 (Dr.)

Nina M. Sisley, M.D., Regional
 Director of Public Health
 Charles A. Schaefer, P.E., Reg. Dir.
 of Environ. & Consumer Hea. Protec.

PUBLIC HEALTH REGION 12

Midland, Texas
 Phone:

John P. Board, Jr., M.D., Regional
 Director of Public Health
 Ned V. Brookes, P.E., Reg. Dir. of
 Environ. & Consumer Hea. Protec.

TRANSPORTATION OF MIGRANT WORKERS: FEDERAL MOTOR CARRIER SAFETY REGULATIONS

OBJECTIVE

The objective of these regulations is to assure reasonably safe condition and operation of vehicles in which migrant farm workers are being transported.

COVERAGE

These regulations apply to the transport of migrant farm workers if the total distance is more than 75 miles, but only if such transportation is across a state line. Therefore, the regulations do not apply to employers transporting farm workers within Texas. Also, the regulations do not apply if fewer than three workers are transported at any one time, or if a passenger automobile or station wagon is used. A migrant worker transporting himself or his immediate family is not affected.

EMPLOYER PROVISIONS

These regulations are not oriented directly to employers of migrant farm workers. Rather, compliance is required of the person or business responsible for the transportation of the workers. This could include a crew chief who transports migrant workers, or an owner of a truck who transports a group of migrants.

SPECIFIC PROVISIONS

The regulations pertain to qualifications of drivers or operators, the driving of motor vehicles, parts and accessories necessary for safe operation, hours of service by drivers, maximum driving time, and inspection and maintenance of motor vehicles. There are detailed provisions under each of these categories. Those involved in transport of migrant workers should consult the reference listed. Only a brief summary of the provisions is included here.

Each driver must have a physical examination which certifies satisfaction of minimum physical requirements. Minimum age for drivers is 21. Drivers must be experienced, have knowledge of traffic regulations and the English language, and have a driver's permit. Emergency devices must be available. Hours of driving must be limited. Vehicles must be equipped in accordance with minimum requirements and must be systematically inspected and maintained.

EMPLOYEE PROVISIONS

There are no provisions which apply specifically to employees.

RESPONSIBLE AGENCY

The U.S. Department of Transportation, Federal Highway Administration, Bureau of Motor Carrier Safety, Washington, D.C., 20590 regulates transportation of migrant farm workers through Federal Motor Carrier Safety Regulations, Title 49, C.F.R., Part 398.

Texas farm employers with questions concerning transportation of migrant farm workers should contact:

Office of Motor Carrier Safety
Federal Highway Administration
U.S. Department of Transportation
1100 Commerce
Dallas, Texas 75200

Telephone: 214-749-1851

Texas Motor Carrier Regulations

COVERAGE

Any company or person who transports five or more migrant workers to or from that work place for a distance of more than 50 miles must comply with detailed safety rules. These regulations do not apply if transportation is in a passenger car or station wagon.

PROVISIONS

The regulations specify detailed driver and vehicle requirements. Briefly, the driver requirements are 1) must carry a medical statement certifying that they are in good physical condition, 2) have a valid permit, have driving experience and a knowledge of traffic rules, and 3) must follow safe driving practices including limitations on hours of driving. Vehicle requirements are 1) must have proper lighting and safety equipment, 2) all equipment must be in good safe condition, and 3) passengers must have protection from the cold and rain.

At least every 6 hours passengers should be given a meal stop of at least 30 minutes. There must be a minimum of one rest stop between meal stops.

More complete details on the above items may be obtained from the Texas Department of Public Safety, Austin, Texas 78773, (512-452-0331) who is responsible for enforcement of the state regulations.

CIVIL RIGHTS REGULATIONS

OBJECTIVE

The objective is to prevent discriminatory employment practices on the basis of race, color, religion, sex, national origin, handicap, or ancestry.

COVERAGE

The Federal Civil Rights Act of 1964 applies to farm employers. The law applies only to employers with 15 or more employees.

EMPLOYER PROVISIONS

The federal law prohibits any discriminatory employment practices by employers of 15 or more employees on the basis of race, color, religion, sex or national origin.

Age discrimination is prohibited by the Age Discrimination in Employment Act of 1978 by employers of twenty or more employees. The act protects persons ages 40 to 69.

Prior to employment, an employee must not:

- A) publish advertisements indicating any preference, specifications or discrimination based on race, color, religion, sex, age, national origin or ancestry.
- B) use any information regarding these characteristics in any hiring decision.

All applications for employment must be maintained for six months.

The age discrimination provision requires covered employers to maintain a file which contains records of any personnel action for 1 year after the date of such action. It further requires a 3-year holding period for a record containing name, address, date of birth, occupation, rate of pay, and compensation earned each pay period.

If an employer has any government contracts, there may be additional requirements, including and "affirmative action plan" for insuring continued nondiscriminatory practices.

The Equal Employment Opportunity Commission requires the display of an EEDC poster. In addition, an age discrimination statement is to be displayed.

EMPLOYEE PROVISIONS

There are no provisions which apply specifically to employees.

RESPONSIBLE AGENCY

Equal Employment Opportunity Commission, 212 North St. Paul,
Dallas, Texas 75202; Phone: 214-767-4607.

Federal Building, Room 1101, 2320 LaBranch, Houston, Texas, 77004;
Phone: 713-226-5561.

2211 East Missouri, Property Trust Building, Room 3-235, El Paso,
Texas, 79903; Phone: 915-543-7596.

727 East Durango, Suite B-602, San Antonio, Texas, 76206; Phone:
512-229-6051.

Texas Provision: Discrimination on the basis of physical handicap
is prohibited, providing the disability does not impair the applicant's
ability to perform the task in a satisfactory manner.

OSHA: OCCUPATIONAL SAFETY AND HEALTH ACT

OBJECTIVES

This act became effective April 28, 1971. Its purpose is to assure, as far as possible, every working man and woman in the nation safe and healthful working conditions and to preserve our human resources. The law is administered by the Occupational Safety and Health Administration (OSHA) of the U.S. Department of Labor.

COVERAGE

The provisions of the law apply to every employer in any state or territory of the United States engaged in any business that affects interstate commerce. Agriculture is included. The federal law pre-empted the Texas Occupational Safety Act of 1967.

Texas farm employers must comply with the OSHA law if their labor force is not exempted under the provisions of the "temporary" Agricultural Exemption listed below. Immediate members of the farm family are not considered employees when working on the family farm. In most instances, when farmers exchange labor with one another as a neighborly gesture, neither is considered the other's employee.

Agricultural Exemption (temporary)

Farm-employers hiring 10 or fewer employees at any one time during the year are exempt from OSHA inspection and all subsequent rules and penalties for the period October 1, 1976 through September 30, 1979. Farm employers hiring 11 or more employees at any one time during the year are subject to inspection for the same period indicated above. Farm employers with 11 or more employees are generally exempt from civil penalties from nonserious first-insurance violations unless 10 or more violations are found on any one inspection. Serious, willful, or repeated violations will be subject to citation on any inspection.

The inspection exemption is good only for the period indicated unless again extended by Congress in 1979. Farm employers should check with their local Extension office in September, 1979 to see if the agricultural exemption noted in this text will be in force for another 12-month period extending into 1980. Knowledge of the OSHA regulations and compliance procedures related to agricultural labor is still an employer responsibility regardless of the number of employees, and it is important that farmers provide the safest possible working environment and equipment for employees regardless of the status of federal and state regulations from one year to another.

A May 23, 1978 Supreme Court decision indicates that an OSHA inspection is required to produce a search warrant prior to entering the workplace if requested by the employer. The inspector still has a right to enter the workplace but must first obtain a warrant showing due cause for the inspection if the employer refuses entry. The Court also indicated that a majority of employers can be expected, in normal course, to consent to inspection without warrant. It would seem that farmers confronted with an inspection should not make too big a point of the necessity for a search warrant since it might leave the impression that there is something to hide in the workplace. This is especially relevant since farmers with 11 or more employees are generally exempt from penalties for first-instance nonserious violations unless 10 or more are found on any one inspection.

EMPLOYER PROVISIONS

Agricultural Standards

SMV Emblem. This standard requires the use of the SMV emblem on farm machinery classified as slow moving vehicles. Texas highway law already clarifies the use of the SMV emblem. Those farmers using approved SMV emblems in the manner specified by Texas law will be in compliance.

NOTE: This standard is in the process of being revoked. However, this should not affect the use of the SMV emblem in Texas because, as indicated, SMV use is required by Texas law.

Anhydrous Ammonia. This is largely an equipment standard. Dealers supply most of the anhydrous ammonia application equipment, and farmers are responsible for complying with this standard when employees are using application equipment. Farmers should ask suppliers to verify that their equipment meets OSHA standards. A supplier with application equipment that does not meet OSHA standards appears to be somewhat negligent by providing sub-standard equipment for use by farmers. Find a supplier who has equipment that meets OSHA standards. Equipment owned by farmers should meet OSHA standards. If it does, employees can use it. If it does not meet standards, it must be brought up to standard or used only by the farm operator. Key points to consider are quality and condition of hoses and valves.

Personal protective equipment must be used by employees who handle anhydrous ammonia. This includes approved gloves and goggles in addition to 5 gallons of water mounted on equipment and recommended squeeze bottle for personal use.

Temporary Labor Camps. This standard covers environmental aspects of temporary housing for employees and primarily affects those farmers dealing with seasonal labor for specialized crops. (For more detail, see the section of this handbook concerned with migrant labor camp regulations.)

Pulpwood and Logging. This standard is directed toward those who hire employees specifically for this type of work. The standard covers both protective equipment and working practices. The standard is detailed and specific to this industry. Persons involved in pulpwood and logging employment should secure the appropriate OSHA regulations and interpret them for their specific situation.

Rollover Protective Structures (ROPS) for Farm Tractors. This federal standard requires that all employee-operated tractors of over 20 horsepower manufactured after October 25, 1976 must be equipped with a seat belt and cab or protective frame meeting crush resistance requirements specified in the standard. Frames and cabs that meet this standard are equipped with a label stating they meet OSHA regulations. Employees must use seat belts when operating a tractor equipped with such frames or cabs. Selected "Low Profile" tractors for use in orchards and other special situations are exempt from the ROPS standard only if used exclusively in low profile situations.

Required Employee Training (ROPS). Employees who operate any farm tractor must be taught operation practices listed in the standard for employee instruction-training. Points specifically listed are:

1. Securely fasten seat belt if tractor has Rollover Protective Structure (ROPS).
2. Where possible, avoid operating tractor near ditches, embankments, and holes.
3. Reduce speeds when turning, crossing slopes, and on rough, slick, or muddy surfaces.
4. Stay off slopes too steep for safe operation.
5. Watch where tractor is going, especially at row ends and around trees.
6. Permit no riders other than operator.
7. Operate the tractor smoothly. Avoid jerky turns, starts, or stops.
8. Hitch only to the drawbar and hitch points recommended by tractor manufacturers.
9. When tractor is stopped, set brakes securely and use park lock, if available.
10. Employees must be informed of any other operating practices dictated by the work environment.

Machinery Guarding and Shielding. This standard is to protect employees from hazards associated with moving farm machinery parts. The standard includes farm field equipment such as tractors and field implements and self-propelled equipment in addition to farmstead equipment normally considered to be stationary. The stationary equipment includes augers, elevators, self-unloading equipment, and bunker feeders. The examples cited in the preceding statements are only a few of those pieces of equipment covered by the standard. It is safe to assume that any piece of farmstead or field equipment, stationary or otherwise, with moving parts, is included.

A simplified version of this standard has been developed because of the complexity of the language and broad coverage of equipment involved.

A brief resume of the guarding and shielding standard follows:

- Effective October 25, 1976, all power take-off drives, regardless of date of manufacture, must be guarded.
- Farmstead and field equipment manufactured after October 25, 1976, is expected to have a variety of shielding and guarding devices as standard equipment. Equipment manufactured prior to that date must have selected decals or warning signs to warn employees of dangers not covered by shields and guards in the newer equipment.
- Electrically powered farmstead equipment is required to meet specific disconnect and lockout requirements as a precaution against equipment starting up while an employee is servicing, adjusting, or doing other maintenance jobs. The effective date is October 25, 1976.
- In addition to operator training on specific equipment, there is a general operator instruction guide to be given all employees working with farm machinery and equipment. This training order is effective October 25, 1976 and applies to farm field equipment and farmstead equipment and includes tractors or implements, self-propelled implements, or any combination thereof used in agricultural operations and agricultural equipment normally used in a stationary manner. This includes, but is not limited to, material handling equipment and accessories for such equipment whether or not the equipment is an integral part of a building.

Required Employee Training - Guarding and Shielding. At the time of initial assignment and at least annually thereafter, the employer shall instruct every employee in the safe operation and servicing of all covered equipment with which he is or will be involved, including at least the following safe operating practices:

1. Keep all guards in place when the machine is in operation.
2. Permit no riders on farm field equipment other than persons required for instruction or assistance in machine operation.

3. Stop engine, disconnect the power source, and wait for all machine movement to stop before servicing, adjusting, cleaning, or unclogging the equipment, except where the machine must be running to be properly serviced or maintained, in which case the employer shall instruct employees in all steps and procedures which are necessary to service or maintain the equipment safely.
4. Make sure everyone is clear of machinery before starting the engine, engaging power, or operating the machine.
5. Lock out electrical power before performing maintenance or service on farmstead equipment.

Additional Training Recommendations

The employer will benefit from thorough and complete employee training in safe operation, maintenance, and servicing of all equipment. The ROPS and guarding and shielding standards specifically indicate the minimum information to be communicated. Farmer employers should use additional training resource materials available from county or state Extension offices. A list of available materials is shown at the end of this section.

The training and documentation method recommended in Texas is to discuss and demonstrate the safety procedures with the employee. After watching the employee's work habits, the employer might want to document the fact that the employee was either corrected or retrained on selected points of safety relating to the specific job he is performing.

Documentation of this nature should be kept on file for future reference in case of an accident or death of an employee while on the job. The employer has the responsibility of seeing that the employee not only works in a safe manner but also that he uses safety equipment available to him. For example, simply supplying goggles and gloves for ammonia applicators is not enough. The employer has to make sure that this protective equipment is used. If the employer has to remind a worker repeatedly about using such protective equipment, documentation of such warnings could be valuable in the event of an accident.

Recordkeeping Requirement

Employers are required to keep OSHA records of work-related accidents, injuries, illness and days off the job only if they had 11 or more employees on any one day during the calendar year. A summary of such records, if required, is to be posted during the month of February each year. See "Recordkeeping Requirements," OSHA leaflet O-570-326.

Employer Rights Related to Inspection and Citations

The OSHA law provides specific rights for employers in relation to inspection of the workplace and possible citations and fines. An employer has the right to request and receive proper identification from an OSHA official in addition to being advised of the reason for the visit. The employer may participate in the inspection of the workplace.

An inspection may result in the citing of one or more hazards in the workplace that are perceived as being dangerous to employees. In this instance, the inspecting official will immediately discuss the hazards with the employer and also send a written report at a later date by certified mail. Generally there will be a time period in which the employer is expected to correct hazards cited.

Some hazards may be severe to the extent that penalties are involved. If the employer disagrees with a citation and/or penalty, he has recourse which includes requesting an informal meeting with OSHA officials. Further steps in contesting a citation will be fully explained by OSHA officials. Further steps in contesting a citation will be fully explained by OSHA officials involved.

EMPLOYEE PROVISIONS

Each employee must comply with the safety and health standards. He must obey all the rules, regulations, and orders issued under the terms of the act that pertain to his conduct in the workplace. However, he is not subject to fines for noncompliance as is the employer. The employee is required to participate in training and instruction as it relates to specific job assignments, and to use and maintain personal protective equipment provided.

OSHA REGIONAL AND AREA OFFICES

Dallas	U.S. Department of Labor - OSHA
Regional Office	555 Griffin Square Bldg., Room 602
	Dallas, TX 75202
	Phone: 214/767-4731

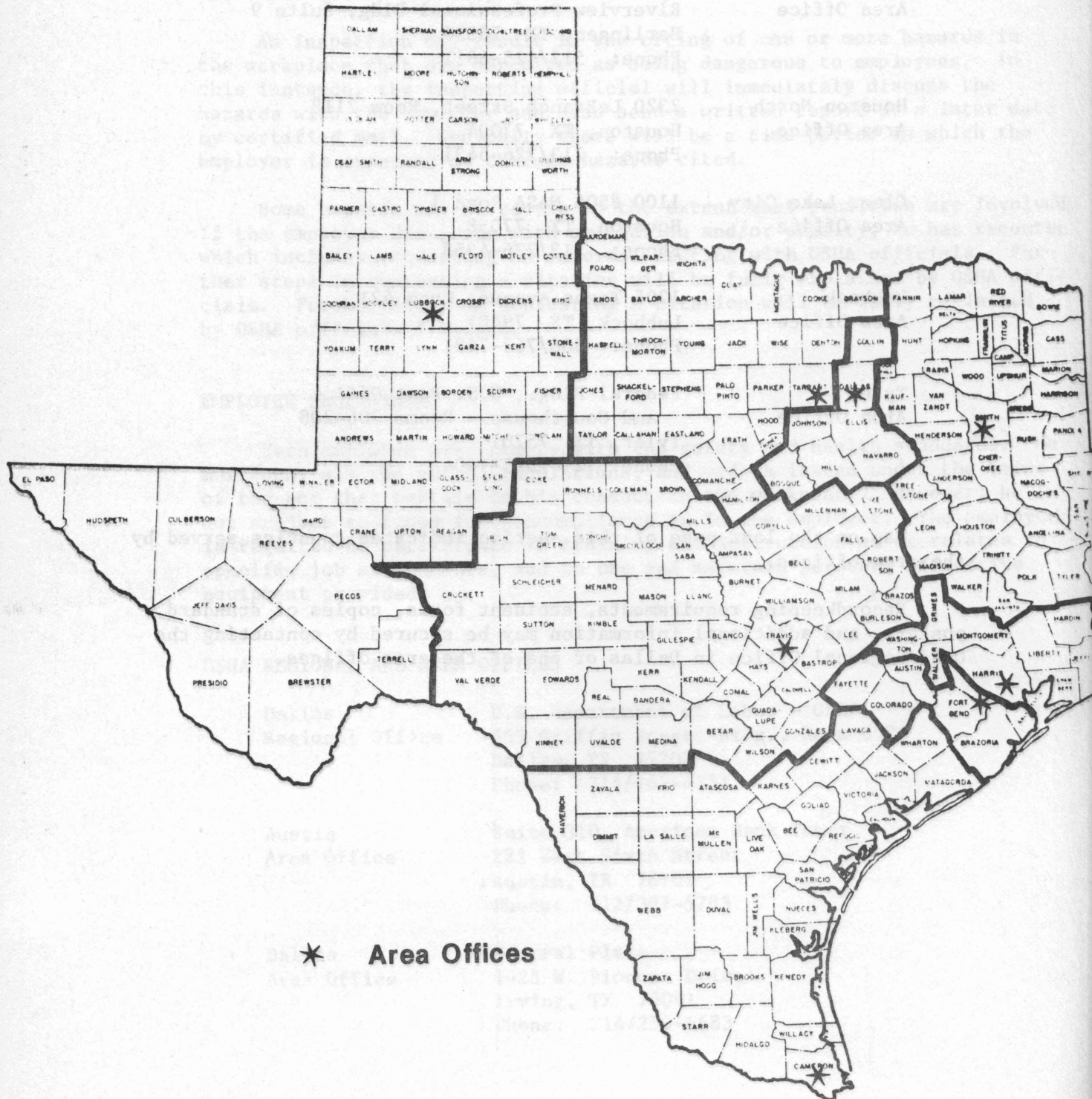
Austin	Suite 310, American Bank Tower
Area Office	221 West Sixth Street
	Austin, TX 78701
	Phone: 512/397-5783

Dallas	Central Place
Area Office	1425 W. Pioneer Drive
	Irving, TX 75061
	Phone: 214/259-6683

Fort Worth Area Office	Fort Worth Federal Center 4900 Hemphill - Bldg. 24, Room 145 P.O. Box 6892 Fort Worth, TX 76115 Phone: 817/334-5274
Harlingen Area Office	1325 South 77 Sunshine Strip Riverview Professional Bldg, Suite 9 Harlingen, TX 78550 Phone: 512/425-6811
Houston North Area Office	2320 LeBranch Street, Room 2118 Houston, TX 77004 Phone: 713/226-5431
Clear Lake City Area Office	1100 #505 NASA Road 1 Houston, TX 77058 Phone: 713/226-4358
Lubbock Area Office	1205 Texas Avenue, Room 421 Lubbock, TX 79401 Phone: 806/762-7681
Tyler Area Office	Federal Bldg., U.S. Post Office and Courthouse - Rooms 206-208 Tyler, TX 75701 Phone: 214/595-1404

Map on the last page of this section indicates counties served by the area offices.

Recordkeeping requirements, accident forms, copies of standard posters, and additional information may be secured by contacting the OSHA Regional Office in Dallas or one of the area offices.



Albert J. Saulter
Regional Administrator, Region VI
U.S. Department of Labor - OSHA
555 Griffin Square Bldg., Room 602
Dallas, TX 75202
Phone: 214/767-4731

Vernon "Pete" Loftis
Labor Liaison Officer, Region VI
U.S. Department of Labor - OSHA
555 Griffin Square Bldg., Room 602
Dallas, TX 75202
Phone: 214/767-4731

TEXAS AREA OFFICES

Austin Area
James E. Powell, AD
Suite 310, American Bank Tower
221 West Sixth Street
Austin, TX 78701
Phone: 512/397-5783

Dallas Area
Lloyd A. Warren, AD
Central Place
1425 Pioneer Drive
Irving, TX 75061
Phone: 214/259-6683

Fort Worth Area
Charles M. Freeman, AD
Fort Worth Federal Center
4900 Hemphill - Bldg. 24, Room 145
P.O. Box 6892
Fort Worth, TX 76115
Phone: 817/334-5274

Harlingen Area
Thomas T. Curry, AD
1325 South 77 Sunshine Strip
Riverview Professional Bldg., Suite 9
Harlingen, TX 78550
Phone: 512/425-6811

Houston North Area
Gerald A. Baty, AD
2320 LaBranch Street, Room 2118
Houston, TX 77004
Phone: 713/226-5431

Clear Lake City Area
R. Davis Layne, AD
1100 #505 NASA Road 1
Houston, TX 77058
Phone: 713/226-4358

Lubbock Area
Jerry D. Bailey, AD
1205 Texas Ave., Room 421
Lubbock, TX 79401
Phone: 806/762-7681

Tyler Area
C. R. Holder, AD
Federal Bldg., U.S. Post Office
and Courthouse - Rooms 206-208
Tyler, TX 75701
Phone: 214/595-1404

Contact the Extension Safety Engineer, Room 303, Agricultural Engineering Building, Texas A&M University, College Station, Texas 77843, for copies of the bulletins or use of the slide sets or motion pictures.

PUBLICATIONS

A New Approach to Accident Causes and Countermeasures (TAP 757)

New (Guarding) Standards Protect Farm Workers (TAP 771)

Texas Farm and Ranch Accident Costs (TAP 841)

Grain Dust Explosions Can Be Prevented (TAP 870)

Parents: Don't Let Your Children Burn (L-1495)

Power Tools (NSC-1)

Tractor Safety Equipment (NSC-2)

Safe Tractor Operation (NSC-3)

Personal Protective Equipment for Agriculture (NSC-4)

Respirator Protection in Agriculture (NSC-5)

Hearing Protection in Agriculture (NSC-6)

Fire Protection on the Farm and Ranch (NSC-7)

Safety Hazard Checklist for Agriculture (NSC-8)

Falls Prevention - Home and Homeyard (NSC-9)

Falls Prevention - Agricultural Work (NSC-10)

Safe Handling of Anhydrous Ammonia (NSC-11)

Fire Protection on the Farm and Ranch (NSC-12)

Safe Movement of Farm Equipment on Public Roads (NSC-13)

Lawn and Garden Equipment Safety (NSC-14)

Electrical Safety on the Farm and Ranch (NSC-15)

Guarding and Shielding Farm Equipment (NSC-16)

Safe Use of Pesticides (NSC-17)

Safety with Animals (NSC-18)

Ladder Safety (NSC-19)

Safety Management in Agricultural Operations (NSC-20)

Wagon Safety (NSC-21)

Farm Tractor Safety (NSC-22)

SLIDE SETS

Basic OSHA Requirements for Farm and Ranch (SS-238)

OSHA Requirements for Agricultural Machine Guarding (SS-568)

Playset Safety (Tractor and Farm Machinery) (SS-823)

Straight Back Lifting Method (SS-608)

Power Mower Safety (SS-724)

Preventing Dust Explosions and Fires (SS-332)

Pesticide Safety on the Farm (SS-906)

Safe Use of Pesticides (SS-611)

MOTION PICTURES

Safe Operation of Farm Tractors (MP-725)

Wagon Safety including Blowers, Mixers, and Spreaders (MP-792)

Forage Harvest Safety (MP-791)

Farm Tractor Safety (MP-790)

Combine Safety (MP-788)

Lawn Mower Safety (MP-789)

Are We Fire Safe? (MP-592)

Epidemiology of Pesticides Poisonings (MP-678)

For the Rest of Your Life (Anhydrous Ammonia) (MP-755)

Organophosphate Pesticide Poisonings (MP-679)

Pesticide Safe Storage Stops Tragedy (MP-635).

Prescription for Safety (Comm. Pesticide Application (MP-644)

Safety Management in Agricultural Operations (MS-630)

UNIVERSITY

Wagon Safety (MS-631)

Safe Operation of Farm Tractors (MS-632)

Safe Operation of Farm Tractors (MS-633)

SLIDE 637

Safe Operation of Farm Tractors (MS-634)

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Safe Operation of Farm Tractors (MS-694)

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EMPLOYER-EMPLOYEE COLLECTIVE BARGAINING IN AGRICULTURE

There are no state of Texas or federal laws controlling or providing for collective bargaining by farm employers and employees. Agricultural employment is specifically exempted from the provisions of the National Labor Relations Act. This act and its amendments establish the rules and procedures for collective bargaining in industries other than agriculture. The act does not make bargaining between farm employers and employees illegal; it simply does not provide the rules and procedures for such bargaining. The exemption also excludes agriculture from the services of the National Labor Relations Board.

Any collective bargaining regulations existing in other states through state laws (California laws, for example) do not apply in Texas.

Educational programs conducted by the Texas Agricultural Extension Service serve people of all ages regardless of socio-economic level, race, color, sex, religion or national origin.

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