

2009 Handbook of Employment Regulations Affecting Florida Farm Employers and Workers: Occupational Safety and Health Act (OSHA) [Federal]¹

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Purpose

Provides general safety standards, inspection, and posting requirements for covered employers and their workers.

- Family farm operators who employ only immediate family members.
- Agricultural employers who employed ten or fewer employees (full-time or part-time) at all times during the previous twelve months and do not maintain a migrant labor camp.

Who Must Comply

Employers engaged in businesses involved in interstate commerce are subject to the regulations of the Occupational Safety and Health Act (OSHA).

Note: Exemption means exempt from audits and inspections. It does not mean that the hazards and liability have been removed or eliminated.

Exemptions

Exempted from OSHA regulations are the following:

Definitions

A farming operation is defined as any operation where a farmer grows or harvests crops, raises livestock or poultry, or is engaged in related

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activities. Farming operations include farms, ranches, orchards, dairy farms, or similar establishments. Production of ornamental plants and other nursery products is considered a farming operation.

Requirements for Employers of Eleven or More Workers

- Inform employees of your safety regulations.
- Post OSHA's Job Safety and Health poster in a permanent place where notices to employees are customarily posted.
- Report within eight hours to the nearest OSHA area office (by telephone or in writing) any fatal accident involving an employee or any other accident resulting in the hospitalization of three or more employees.
- Maintain up-to-date (within six working days) records of all occupational injuries and illnesses.
- Post the annual summary of your OSHA No. 200 log on February 1st of the following year. This posting must be maintained for the entire month of February in a conspicuous place.
- Retain all records of occupational injuries and illnesses for five years after the end of the year.
- Furnish a place of employment free from recognized hazards that could cause death or serious physical harm to employees. (This requirement enables an OSHA inspector to cite an employer who should have recognized a serious hazard, even if OSHA does not have a specific standard related to that hazard.)

OSHA's Agricultural Standards

OSHA has the following standards that apply specifically to agriculture:

- Storage and handling of anhydrous ammonia.
- Temporary labor camps.
- Pulpwood logging.
- Slow-moving vehicle emblems, signs, and tags.

- Rollover protective structures.
- Guarding of farm field equipment, farmstead equipment, and cotton gins.
- Field sanitation (enforced by the Wage and Hour Division).

Included in these standards are very specific training requirements. For example, the Hazard Communication Standard requires employers using hazardous chemicals to instruct employees on their safe handling (see EDIS document FE409, *OSHA Hazard Communication Standard [Federal]*).

Employee Requirements

Each employee must comply with all safety and health regulations that are applicable to his or her own actions and conduct. He or she must obey all rules, regulations, and safety procedures required by his or her employer to comply with the law, including participation in safety training and certifying that he or she has received such training. The employee is not subject to fines for noncompliance as is his or her employer; however, repeated failure to observe recommended safety procedures or use provided safety equipment is grounds for dismissal when properly documented.

Inspections

There are four categories of OSHA inspections. They are:

1. Imminent danger.
2. Fatality/catastrophic investigations.
3. Complaints/referrals.
4. Programmed.

The first three categories are considered unprogrammed inspections conducted in response to specific evidence of hazardous conditions at a workplace. Programmed inspections can be health and/or safety inspections and are normally comprehensive in scope.

OSHA is authorized to conduct workplace inspections without advance notice. Inspectors (also

called compliance officers) are authorized to enter workplaces without delay and at reasonable times. If an employer refuses admission to his or her property, OSHA must obtain a warrant.

Note: Always insist on seeing an OSHA compliance officer's credentials. Also, be aware that an OSHA inspector has the right to interview employees during work hours.

Enforcement

Penalties for OSHA violations can be very costly. OSHA classifies violations by their nature: willful, repeated, serious, other-than-serious, and failure to abate/correct.

Civil penalties include:

1. *Willful and repeated* violations: a minimum fine of \$5,000 per violation and up to a maximum of \$70,000.
2. *Serious* violation: a mandatory fine of up to \$7,000. A serious violation occurs when there is a *substantial probability* of death or physical injury in the work place and the employer has not exercised *reasonable diligence* to inform employees and mitigate the risk(s).
3. *Other-than-serious* violations: fines between \$0 and \$7,000 per violation.
4. Failure to abate/correct a violation: fine up to \$70,000 per day for every day after the permitted correction period has expired.
5. Failure to publically post OSHA requirements: up to \$7,000 per violation.

Amount of civil penalties can take into account the good faith of the employer, previous history, size of the business, and gravity of the violation.

Criminal penalties can arise from a death of an employee or obstruction of an OSHA investigation.

1. For a first time offense when a *willful* violation results in an employee death, up to \$10,000 or up to 6-months imprisonment, or both.

2. For a second offense when a *willful* violation results in an employee death, up to \$20,000 or up to 12-months imprisonment, or both.
3. Any one giving false statements pursuant to an OSHA inspection could face up to \$10,000 in fines, up to 6-months imprisonment, or both.
4. A person giving advanced notice of an OSHA inspection will face criminal penalties of up to \$1,000 in fines, up to 6-months imprisonment, or both.

Job and Workplace Safety Information

Florida is one of twenty-four states that do not have an approved OSHA state plan. Instead, the state of Florida has formed an alliance with OSHA through the Safety Florida Consultation Program at the University of South Florida in Tampa.

Safety Florida Consultation Program

University of South Florida

13201 Bruce B. Downs Boulevard, MDC 56

Tampa, FL 33612

Dial toll-free 1(866) 273-1105

<http://www.usfsafetyflorida.com>

Other Information

- For additional information, contact your County Cooperative Extension Service Office or the Extension Safety Specialist, Department of Agricultural and Biological Engineering, IFAS, University of Florida, Gainesville, FL 32611, (352) 392-1864 (safety programs, publications, and audio-visual materials are available)
- For pesticide safety training material, contact your County Cooperative Extension Service office or the Pesticide Information Office, Building 847, University of Florida, Gainesville, FL 32611, (352) 392-4721

- Labor Bulletin No. 469, Florida Fruit and Vegetable Association, Orlando, FL, September 18, 1989
- FFVA Bulletin No. 509, Florida Fruit and Vegetable Association, Orlando, FL, May 31, 1996
- FFVA Bulletin No. 513, Florida Fruit and Vegetable Association, Orlando, FL, February 21, 1997
- Labor Relations Bulletin No. 528, Florida Fruit and Vegetable Association, Orlando, FL, December 10, 1998
- Labor Relations Bulletin No. 531, Florida Fruit and Vegetable Association, Orlando, FL, January 16, 2001
- Labor Relations Bulletin No. 547, Florida Fruit and Vegetable Association, Orlando, FL, February 21, 2001
- Labor Relations Bulletin No. 553, Florida Fruit and Vegetable Association, Orlando, FL, December 18, 2001

Note: The National Agricultural Safety Database (NASD) provides a compendium of agricultural safety and health resources. It contains OSHA standards that apply to agriculture and that have been reviewed and/or revised.

<http://www.nasdonline.org/>

<http://www.osha.gov>

Responsible Agency

Administration and Supervision:

U.S. Department of Labor

Occupational Safety and Health Administration

200 Constitutional Avenue NW

Washington, DC 20210

<http://www.osha.gov>

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61 Forsyth Street SW

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