



## DEPARTMENT OF AGRICULTURE AND MEASUREMENT STANDARDS

**RUBEN J. ARROYO**  
Agricultural Commissioner  
Sealer of Weights and Measures

1001 South Mount Vernon Avenue · Bakersfield, California 93307  
Telephone 661-868-6300 · Fax 661-868-6301 · [agcomm@co.kern.ca.us](mailto:agcomm@co.kern.ca.us)

### NOTICE OF PROPOSED ACTION, GROUNDS THEREFORE, AND OF OPPORTUNITY TO BE HEARD

Crystal Organic Farms, LLC  
P.O. Box 81498  
Bakersfield, CA 93380

Operator Identification Number: 15-09-1504514  
File Number: 010 -ACP-KER-09/10

You are hereby notified that pursuant to the provisions of Section 12999.5 of the California Food and Agricultural Code, the Agricultural Commissioner proposes to fine you \$1,000.00.

Grounds upon which the proposed fine is based are as follows:

On July 10, 2009, a crew of 36 field workers was working on your property harvesting green onions identified on your Operator Identification Number 15-09-1504514 as site 09HS01RB. Directly east of your green onion site, a pesticide application consisting of Fujimite® and Assail®, was being made to Ha's Farm apple orchard site number 2. Crystal Organic Farm's employee, Jorge Meza, was notified by several field workers that they were experiencing symptoms of eye irritation and of a strong chemical odor coming from the pesticide application being made to the neighboring apple orchard. Crystal Organic Farms failed to immediately remove the field workers from the field when there were reasonable grounds to suspect that employees had a pesticide illness, or when an exposure to a pesticide had occurred that might reasonably be expected to lead to an employee's illness. The pesticide application to the neighboring apple orchard resulted in fieldworkers seeking emergency first aid, decontamination by emergency responders and medical attention at hospitals.

The individual statutes (regulations) violated are cited below with a description of the facts of each violation and an explanation of how the fine level was determined.

#### **VIOLATION I**

Crystal Organic Farms, LLC violated section 6766(c) of the California Code of Regulations by failing to ensure that employee(s) are taken to a physician immediately when there are reasonable

Notice of Proposed Action

Restricted Materials Permit Number:

File Number: 010-ACP-KER-09/10

Page two of four

grounds to suspect that an employee has a pesticide illness, or when an exposure to a pesticide has occurred that might reasonably be expected to lead to an employee's illness.

The Agricultural Commissioner proposes to fine you \$1,000.00 for the above described violation. The violation is considered as a Class B because it is a violation which posed a reasonable possibility of creating a health effect. The fine range for a Class B violation is \$250.00 - \$1,000.00.

## **CODE SECTION VIOLATED**

### **6766. Emergency Medical Care.**

(c) When there are reasonable grounds to suspect that an employee has a pesticide illness, or when an exposure to a pesticide has occurred that might reasonably be expected to lead to an employee's illness, the employer shall ensure that the employee is taken to a physician immediately.

The amount of each fine is determined by applying the circumstances of each violation to the fine guidelines that have been adopted for use in these actions. Those guidelines are found in Title 3, California Code of Regulations Section 6130 which provides:

### **6130. Civil Penalty Actions by Commissioners.**

(a) When taking civil penalty action pursuant to section 12999.5 of the Food and Agricultural Code, county agricultural commissioners shall use the provisions of this section to determine the violation class and the fine amount.

(1) For purposes of this article, violations shall be designated as "Class A," "Class B," and "Class C."

(A) Class A: Violations which created an actual health or environmental hazard, violations of a lawful order of the commissioner issued pursuant to sections 11737, 11737.5, 11896, or 11897 of the Food and Agricultural Code, or violations that are repeat Class B violations. The fine range for Class A violations is \$700-\$5,000.

## Notice of Proposed Action

Restricted Materials Permit Number:

File Number: 010-ACP-KER-09/10

Page three of four

(B) Class B: Violations which posed a reasonable possibility of creating a health or environmental effect or violations that are repeat Class C violations. The fine range for Class B violations is \$250-\$1,000.

(C) Class C: Violations that are not defined in either Class A or Class B. The fine range for Class C violations is \$50-\$400.

(2) A violation shall be classified as a repeat violation, if it occurs within two years of a violation for which a civil penalty was levied against that person in the same county and of the same class.

(3) The person charged with a violation(s) shall be notified of the proposed fine action, including the amount of the proposed fine(s). When a penalty is proposed for a repeat violation, the Notice of Proposed Action shall identify the prior violation and the record of the proceedings shall include a copy of the decision regarding that prior violation. The commissioner shall send a copy of the notice to the department at the same time the notice is provided to the person charged with a violation(s).

(4) If the person against whom the commissioner levied a fine requested and appeared at the hearing offered by the commissioner, the commissioner's decision shall include information concerning the person's right to appeal the commissioner's decision to the Director.

(5) The Department, on at least an annual basis, shall inform commissioners of violations for which fines have been levied.

You are entitled to review the Agricultural Commissioner's evidence supporting these charges during the regular business hours at the office of the Kern County Department of Agriculture and Measurement Standards, 1001 South Mount Vernon Avenue, Bakersfield, California 93307.

You are also entitled to a hearing to review the Commissioner's evidence and present any evidence, oral or written, as to why the Commissioner should not take the proposed action against you. You are not required to be represented by legal counsel, but your attorney may be present if you wish. A tape recording will be made of the entire hearing proceeding and will be available for review on appeal to the Director of the California Department of Pesticide Regulation.

Notice of Proposed Action

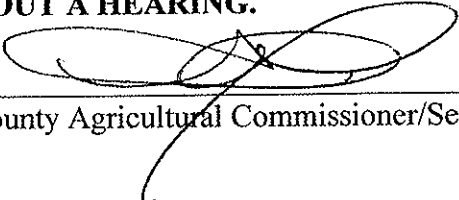
Restricted Materials Permit Number:  
File Number: 010-ACP-KER-09/10

Page four of four

A hearing in this matter will be scheduled and held at the office of the Kern County Department of Agriculture and Measurement Standards located at the above noted address, if you request a hearing in writing within 20 days after receipt of this notice.

**FAILURE TO TIMELY REQUEST A HEARING IS A WAIVER OF THE RIGHT TO A HEARING, AND THE AGRICULTURAL COMMISSIONER MAY TAKE THE ACTION PROPOSED IN THIS NOTICE WITHOUT A HEARING.**

Dated: 10-6-09

  
\_\_\_\_\_  
Kern County Agricultural Commissioner/Sealer

Check payable to: KERN COUNTY DEPARTMENT OF AGRICULTURE  
Mail to: KERN COUNTY DEPARTMENT OF AGRICULTURE AND  
MEASUREMENT STANDARDS  
1001 South Mount Vernon Avenue  
Bakersfield, CA 93307