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Running a Successful Farm Business

Labor on the Farm

Labor laws can be challenging to understand, especially for seasonal and family businesses. The following information and regulations are for every classification of worker you might have on your farm. As an employer, farms have legal responsibilities when hiring employees, interns, apprentices and volunteers. In this fact sheet, you will find information on:

- Managing people;
- Labor laws for employees;
 - Employer Identification Number (EIN);
 - minimum wage;
 - hiring young workers;
 - hiring family;
 - Washington State Department of Labor and Industries (L&I) requirements;
 - providing a safe workplace for your employees;
 - payroll taxes;
- Labor laws for interns;
- Labor laws for apprentices; and
- Labor laws for volunteers.

Managing People

For any size of business or farm, having a management plan for employees, volunteers, interns, and even other family members can align expectations and reduce potential conflict. Making everyone's roles and duties on the farm clear is especially useful when new people (who don't know your history) come on board.

Management plans build understanding about why and how decisions are made, and clarify exactly what each person's responsibilities will be on the farm. By sharing ownership in the outcomes, employees are better able to understand the big picture and focus on the right priorities. Formal management plans and employee manuals may also help in securing funding, abiding by legal requirements with employees, and improving on-farm safety.

There are many ways to approach how to manage everyone working on or with your farm. If you are just getting started, there are seven key processes to focus on:

1. create written job descriptions and an overall plan for how each job fits into the whole;
2. create clear hiring protocols;
3. provide an orientation to your farm and the job as well as ongoing training (informal and formal);
4. develop clear employer/employee communication, including a written grievance policy;
5. schedule times to review job goals and performance;

6. clarify compensation and check related laws; and
7. schedule times to review your management plan to keep it updated and relevant.

Managing people is a real skill and can be real work. However, having a productive team and avoiding personnel tension and even possible legal issues is a real benefit in the long run.

Labor Laws for Employees

An employee is generally someone for whom an employer determines their work schedule, hours, and job responsibilities. In order to have employees, you must follow these legal requirements:

- have an Employer Identification Number (EIN);
- pay wages;
- pay L&I premium for workers compensation insurance that covers on the job injuries;
- provide a safe workplace for your employees; and
- file payroll tax forms and make payments.

L&I has developed an Agricultural Employer Worksheet to help you know whether you are following state Agricultural Employment Standards and the Minimum Wage Act when you employ workers. It is available at www.lni.wa.gov/Forms/pdf/700125af.pdf.

For each new hire, employers need to have employees complete an Employment Eligibility Verification, Form I-9, from the Department of Homeland Security U.S. Citizenship and Immigration Services. Employees must also complete an IRS Employees Withholding Allowance Certificate, Form W-4. Employers must collect these, and keep them in each employee's file.

Washington State requires all employers to report new hires and rehires to the Department of Social and Health Services (DSHS). The New or Rehired Employees Form and methods for reporting can be found at www.dshs.wa.gov/pdf/esa/dcs/18-463.pdf.

Employer Identification Number (EIN)

Any business that hires employees must obtain a federal Employer Identification Number (EIN), also known as a Federal Tax Identification Number by filing Form SS-4 or applying online with the Internal Revenue Service (IRS). An EIN is a nine-digit number that IRS assigns in the following format: XX-XXXXXXX. It is used to identify the tax accounts of employers. Businesses that are not sole proprietorships are also required to have an EIN.

The federal identification number assigned to your business will be registered with the IRS, the Social Security Administration, and the U.S. Department of Labor. While most applications take four weeks to process, if you apply online, most businesses will receive a number immediately.

Contact the IRS for more information such as help documents and videos, to apply online or to obtain an SS-4 form by visiting www.irs.gov, or calling (800) 829-3676.

Minimum Wage

Employers are required to pay the state minimum wage to workers age 16 and older. Minimum wage is set annually by the L&I. The current minimum wage can be found online at www.lni.wa.gov/workplacerights/wages/minimum.

There are three exemptions to the state minimum wage for agricultural workers. They only apply if all three of the following requirements are met:

1. Workers are employed as hand-harvest laborers who are paid piece rate; and
2. They commute daily from their permanent residence to the farm; and
3. They were employed in agriculture less than 13 weeks during the preceding calendar year.

Hiring Young Workers

Children 12 and 13 years old are allowed to work only during non-school weeks and only for hand-harvesting berries, bulbs, cucumbers, and hand-cultivating spinach. Workers under the age of 16 must be paid at least 85% of the state minimum wage. Young workers are not allowed to do certain hazardous work. For a complete fact sheet showing employer requirements for hiring young workers ages 14 to 18 in agriculture such as the Minor Work Permit Endorsement, and defined hazardous work activities, visit www.lni.wa.gov/IPUB/700-096-909.pdf.

Hiring Family

If you have relatives, including children, who work for you, they must be treated as employees with the same rights as any other paid worker in the state of Washington. This applies to anyone you expect to show up for work at a certain time. However, these requirements do not include family members who share ownership of a business, or children under the age of 18 who work on a farm owned by their parents. At age 21, workers' compensation coverage is mandatory.

Family Farm Exemption

Children between ages 18 and 21 must be covered by workers' compensation unless an Application for Exclusion/Inclusion of Mandatory Coverage (Family Farm) is filed by the parents. To qualify for the Family Farm Exemption, the family farm may be a sole proprietorship, partnership or corporation so long as the controlling interest is with the family. The form for Application for Exclusion/Inclusion of Mandatory Coverage (Family Farm) is available at www.lni.wa.gov/Forms/pdf/213113a0.pdf.

For a complete fact sheet showing employer requirements for hiring family members visit www.lni.wa.gov/IPUB/101-077-909.pdf.

Labor and Industries Requirements

L&I requires certain workplace posters to be posted for employees. A list of workplace posters required and recommended by L&I, other Washington State and federal agencies is available at www.lni.wa.gov/IPUB/101-054-000.pdf. All posters are free and available in both English and Spanish. Be aware that private companies will try to sell these to you.

L&I requires that employers maintain records of employees for three years. Records must include: employee name and address, occupation and L&I job classification, dates of employment, amount paid each pay period, wage rate or rates of pay, and total hours worked each pay period, and termination date and cause. These records are subject to audit.

L&I conducts workshops around the state designed for new businesses or businesses that plan to hire workers for the first time. It explains an employer's rights and responsibilities and provides an overview of the services and resources available at Labor and Industries. It also covers workplace

safety and health requirements, claims management strategies, risk management, quarterly reporting requirements and wage-and-hour laws. For complete information, please visit L&I online at www.lni.wa.gov or call (800) 574-2829.

L&I also has a webpage specifically about Agriculture business requirements at: www.lni.wa.gov/WorkplaceRights/Agriculture. Small business support is available through L&I's small business liaisons at 1-800-987-0145, SmallBusiness@Lni.wa.gov, or www.lni.wa.gov/main/smallbusiness.

Providing a Safe Workplace for Your Employees

As an agricultural employer with one or more employees you are responsible for following guidelines and statutory requirements in order to maintain a safe workplace. There are specific workplace standards and reporting provisions with which an employer must comply. Details can be found on the L&I website under several different headings pertaining to safety on the job.

You may want to request a safety and health consultation from L&I. A consultant, not an inspector, will meet with you and conduct a walkthrough survey of your worksite to identify hazards and recommend remedies. You must correct in a timely manner any serious hazards found during the consultation, but the consultant will not issue a citation or fine you.

To request a free consultation, visit www.SafetyConsultants.Lni.wa.gov or call the L&I office nearest you and ask to speak to the Consultation Manager. In addition to safety and industrial hygiene consultations, specialists in ergonomics and risk management are available to assist employers as well.

To learn about the safety standards for agriculture and resources available for employee safety and health trainings visit www.lni.wa.gov/safety/topics/atoz/default.asp?KWID=353. The safety standards for agriculture are available in English or Spanish, through the L&I website at www.lni.wa.gov/safety/rules/chapter/307.

Payroll Taxes

Employers are required to withhold federal income, Social Security and Medicare taxes from employees' wages. Employers are also required to pay worker's compensation and state unemployment insurance. For more information, on your payroll responsibilities please see the Fact Sheet on Taxes.

Labor Laws for Interns

An intern must be registered in an internship program at an accredited educational institution such as a college, community college, or university where a student pays the school and receives academic credit. An internship allows an employer to be exempt from:

- paying wages; and
- paying unemployment insurance tax through state Employment Securities (ESD) and federal (FUTA).

An internship still requires that an employer:

- provide a safe workplace.

L&I premium for workers compensation insurance that covers workplace injuries can be paid by the educational institution sponsoring the internship. For more information on unpaid internships, visit: www.lni.wa.gov/WorkplaceRights/files/UnpaidInternshipsFactSheet.pdf, or call (866) 219-7321.

Small Farm Internship Pilot Project

The small farm internship pilot project started July 1, 2014 and will run through December 1, 2017. The pilot project includes the following counties: San Juan, Skagit, King, Whatcom, Kitsap, Pierce, Jefferson, Spokane, Yakima, Chelan, Grant, Island, Snohomish, Kittitas, Lincoln, and Thurston. Farms in these counties with annual sales of less than \$250,000 per year are eligible to enroll. Small farms will be required to apply, be accepted, and receive a certificate from L&I before offering internships.

Approved small farms may have up to three interns at a time. Interns must be 18 or older. A farmer can have more than three interns a year. For example, a farmer could have intern A, B, and C in January-March, and interns D, E, F in April- June, and so on for the next two quarters to total 12 interns in one year, but not to exceed three interns at any one time. Small farms will be required to fill out a one page application, attach a copy of their IRS tax return showing total farm sales, attach an education plan for the intern(s), and once accepted, purchase workers compensation insurance at a special rate for the intern. If a building project (i.e., hoop house, hen house, or processing facility) is part of the intern's education, it must be included in the education plan. For more information, visit: www.lni.wa.gov/WorkplaceRights/Agriculture/SmallFarmInternship/default.asp, or call (800) 509-8847.

Labor Laws for Apprentices

The term “apprentice” is an employment classification with a formal structure set by federal and state law. The business employing the apprentice designs a personalized program that must be proposed to and approved by the Washington State Apprenticeship Council (a division of L&I).

In order to have apprentices, you must follow these legal requirements:

- Have an Employer's Identification Number (EIN);
- Pay at least minimum wage with raises based upon demonstrated competencies;
- Pay L&I premium for workers compensation insurance that covers on the job injuries;
- Pay Unemployment insurance tax through state Employment Securities(ESD) and federal (FUTA);
- Provide a safe workplace for your employees; and
- Provide 144 hours of pre-planned instructional time per year.

While there is no cost to register an apprenticeship program, it does take time. Plan for three to six months to create, register and approve an apprenticeship program.

The employer benefits from apprentices by building long-term labor support and training someone from the beginning with their knowledge and techniques. As a Washington State registered apprentice, an apprentice will receive a 50% tuition waiver at a Washington State community or technical college.

To create an apprenticeship program you will need to be either a farm, group of farms or trade organization.

Registered apprenticeship programs start with the formation of an apprenticeship committee. Committees develop program guidelines that include:

- Criteria for becoming an apprentice
- Skill and proficiency requirements to reach journey worker/professional level
- Number of apprenticeship openings
- Wage rates and progressions based upon demonstrated competencies
- Required course curriculum to complement on-the-job training
- Supervision methods
- Equal opportunity procedures

For a fact sheet on full apprenticeship requirements visit

www.lni.wa.gov/TradesLicensing/Apprenticeship/files/pubs/RegisteredApprenticeshipemployerfactsheet.pdf. Or for a local apprenticeship consultant go to:

www.lni.wa.gov/TradesLicensing/Apprenticeship/About/AppCoordinators/default.asp, or call (360) 902-5320.

Labor Laws for Volunteers

According to L&I rules, volunteers are not allowed in a “for-profit” business. Employers must follow all state employee guidelines for people seeking to trade, barter or volunteer on their farm. Arranging for volunteer agricultural workers through established exchange programs does not exempt an employer from these requirements.

There are only two programs through L&I for volunteers that are not required to meet all other state employee guidelines. One is the Sports Teams and Youth Workers program and the other more applicable to farms is the K-12 Student Volunteers program for which information can be found at www.lni.wa.gov/IPUB/213-023-000.pdf. This can apply to 4-H projects.

For complete information about employment standards and workplace rights, contact L&I at (866) 219-7321.

Recommended Fact Sheet

6. Taxes

For further information, to provide comments, or suggest a resource to add to this fact sheet, please email smallfarms@agr.wa.gov or call (360) 902-2888.