

Risk Management Activities: Employment and Labor

Introduction

The subject of Employment and Labor on your small farm operation is an area of great interest and concern. As your farm grows and changes, you may realize that you need to expand beyond a family operation. At this point you have several options for assistance with the labor. For example, you may choose to use contract workers or to hire employees. No matter how you decide to fill your labor requirements, it is your responsibility to ensure safety on the jobsite and provide insurance for possible injuries. The follow section provides an overview of how you can rest easy as a farm owner, with the help of the Washington Department of Labor and Industries and your private insurance company.

Employment Basics

Determining whether or not the person working on your farm is an employee will help you understand your obligations for safety and liability. Here is a quick definition of an employee:

- They are on your farm at your request to perform tasks you identify. You usually provide the tools and equipment.
- You instruct them in their work, evaluate and terminate their employment if necessary.
- They are working in exchange for being paid a wage or other financial compensation.
- They are hired with the understanding that they are your employees.

You can minimize your liability as an employer by adopting these practices:

- Train your employees for the tasks they are hired to do, providing safety equipment and a safe working environment.
- Follow wage and hour standards required by the State of Washington, and the withholding of federally required taxes (Income tax, Social Security, Medicare.)
- Provide employee financial protection through state and federal unemployment insurance and worker's compensation through the Department of Labor and Industries.
- Obtain additional liability through your insurance company to ensure the very highest standard of care for the employee.

It only takes a couple of hours of your time to set your business up to handle employees. You may wish to ask your accountant to assist you or your first employee may be a certified bookkeeper. You will need to obtain a federal tax employer number and register your employees. In addition, you will need to register as an employer with the State of Washington for purposes of unemployment insurance and worker's compensation. Then you can hire employees, making sure to comply with the minimum wage and hour requirements. It is a good idea to set up a standardized system of record keeping for your employees, making sure they fill out the tax forms you need to keep on file and timecards to record their hours worked. Before long, you will receive tax forms in the mail to remind you to file quarterly reports. Most reporting can now be done in a fraction of the time over the internet.

Employees and Liability Insurance

As your direct farm operation grows and you feel the need to hire employees, your insurance agent will most likely encourage you to change your policy from a homeowner's policy to a farm or commercial policy. This is for your protection as an owner, to ensure that you have adequate liability coverage.

The laws of the State of Washington require the enrollment of your employees in their Labor and Industries system. This process is done on an individual basis. You will call their employment representatives and they will assign your workers a classification based on the work they do for you and the risks involved. This will protect you from personally being liable to pay damages if they are injured on the job. The premium is split between the employer and the employee and is based on the quantity of hours worked.

Helpful Hint: When you call L & I to set up your farm for employees, get the name and direct line phone number of your representative. This is a huge agency and it streamlines your phone sessions if you always talk with the same person. For additional information see the following website for Agricultural Labor and Industries information: <http://www.lni.wa.gov/Forms/pdf/700127a0.pdf>

You may wonder why you need additional liability coverage for your employees from a private insurer if you have worker's compensation in place. The answer is that there could arise circumstances involving employees on your premises that the Department of Labor and Industries will not pay damages for.

If an employee accidentally injures a visitor to your farm, this is covered by the employer's liability policy without an additional endorsement.

A Washington Stop Gap Endorsement is needed for other circumstances. This is an endorsement you must request. Here are two examples:

- An employee is injured on the farm after hours or on their day off.
- At the fair, the employer's horse injures an employee who is just visiting, not working.

If you are in full compliance with the Department of Labor and Industries, Washington Stop Gap Endorsement will most likely pay for this type of employee damage. If you are not enrolled with the Department of Labor and Industries, you are in big trouble. This is a good way to lose the farm.

The Employee Dishonesty Endorsement covers theft of your property or product by your employee. Request this endorsement as a part of your property coverage. However, if your employee steals from clients on your property or while doing deliveries off of your property, an additional endorsement on top of the Dishonesty Endorsement is needed to cover this type of theft. It might be worth it, if you have a rapid turnover of employees and deliveries are common.

Be smart, follow the employment laws of your state and talk to your insurance agent about complete liability coverage. Remember, it is your duty to care for the people who visit your farm, including your employees.

Other Types of Labor on the Farm

Contract Labor

Small producers often use contract labor prior to entering an employment situation. The legal limit that you can pay for casual labor before needing to provide them with tax form 1099 and reporting your payment to the IRS is \$600 annually. All payments to contractors will show up somewhere in your expenses and need to be accounted for when you do your taxes. It is vitally important that you protect yourself when using contractors on the farm. You should have an official “contract” with them, stating the parameters of the work they are providing for you. They should supply you with proof of their own liability insurance. If they damage your property or injure a visitor to your farm, they will be liable. Whether or not they have insurance may determine whether or not you enter into a contract with them.

For information about Contract Labor regulations consult this website:
Know the Rules for Hiring Contract Labor
http://www.score.org/bp_contract_labor.html

Students

If individuals pay you to be educated on your farm, you are considered a school, which is a business enterprise. Your commercial liability insurance and not the Department of Labor and Industries cover the students at your school.

Interns

Hands-on experience on your farm is called an internship. You enter into an agreement with the student/intern to work on your farm for a certain period of time. In exchange you will provide training and experience in the aspects of their

interest. If you provide room and board or a stipend, the intern is considered an employee, even though you are not paying them minimum wage. In that case you must enroll them with the Department of Labor and Industries for coverage.

If your intern does not receive room and board or a stipend and the arrangement is less formal or they may only receive a few boxes of vegetables in season, they may be considered volunteers.

If you are interested in providing internships on your farm, speak to your representative at Labor and Industries and your insurance agent. Unique to this situation is whether or not education is considered tangible compensation for labor on your farm. Even if you do not consider the intern to be an employee, in the case of an injury or death, the state and the courts may impose liability to you. For this reason, it is best for you to provide the same level of care for the intern as you do for your employees.

For information on setting up an internship program, download the following handbook from the Northeast Organic Farming Association-New York. It was designed for New York State, however it is very informative and useful. "Internships in Sustainable Farming: A Handbook for Farmers" by Doug Jones <http://nofany.org/images/publications/internshipandbook.pdf>

Volunteers

Volunteers come with a wide range of circumstances. If a neighbor weeds your beets and takes home enough to can, they are considered a visitor on your farm and the liability in your farm policy should cover them. If you enter into an agreement with a volunteer to regularly work on your place in exchange for produce, they you should enroll them with the Department of Labor and Industries. This involves paying a very reasonable rate per hour that they spend on your farm and filing quarterly forms. Currently the rate for volunteer labor is 6 to 7 cents per hour, substantially less than all other farm classifications. In case of injury, they will completely pay the medical costs.

CSAs

Community Supported Agriculture farms provide produce for their members or subscribers. Labor issues arise if members spend time on the farm as a part of the membership requirements or in exchange for membership. A CSA can reduce the need for involving the Department of Labor and Industries if they are explicit in their membership agreements that no time on the farm is required but that members can "visit" the farm any time they wish. In this way, members will not resemble employees and need enrollment in the system.

Since there is no standardized CSA membership agreement, it is best to consult your Labor and Industries representative and insurance agent when setting up your

business. Correct wording is very important and may save you a lot of money in premiums or lawsuits.

For a history of Community Supported Agriculture and survey of recent research, consult this website, a product of the National Sustainable Agriculture Information Service: <http://attra.ncat.org/attra-pub/PDF/csa.pdf>

Remember, these two facts of life.

“First, insurance companies are not charities. If they think someone else is responsible for coverage they will take that position, regardless of what the policy holder wants.

Second, if someone is injured on your property, you may ultimately be responsible even if the other person has insurance.”

*“The Legal Guide for Direct Farm Marketing”
Neil D. Hamilton*

Take the time to thoroughly research how to protect every type of visitor on your farm.

Supporting resources:

[Washington Department of Labor and Industries Forms](http://www.lni.wa.gov/Forms/pdf/700127a0.pdf)

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L & I Agricultural Website and Telephone Resources (pg. 8 of pdf)

Summary of Agricultural Employment Regulations and Farm Labor Contractor Requirements (pg. 4-5 of pdf) summarizes laws employer’s need to know to ensure they are in compliance with state employment laws. It also notes where there are differences between state and federal employment laws.

Agricultural Employer Worksheet (pg. 6-7 of pdf) was designed to help agricultural employers know whether they are correctly following the agricultural minimum wage and employment standard regulations.