

FARM LEGAL SERIES

June 2015

Employment Conditions, Wages, & Documentation

Dorraine Larison, Matthew Webster, Phillip Kunkel
Attorneys, Gray Plant Mooty

INTRODUCTION

Modern-day farms increasingly utilize both family and outside labor to complete agricultural work. Federal and state laws generally apply to farmers, but both include certain exemptions for farm operations.

WAGES

Minimum Wages

All farm workers are entitled to receive either the federal or state minimum wage, whichever is higher. The federal minimum wage is \$7.25 an hour. The Minnesota minimum wage has been recently modified, and it will be steadily increasing through 2016. As a result of the changes to the state minimum wage, the state minimum wage is currently higher than the federal minimum wage and farm employers will need to use the state minimum wage rates. The state minimum wage requirements are set forth below.

WHICH EMPLOYEES	STATE MINIMUM WAGE REQUIREMENTS
<i>Large-Employer Workers</i>	\$8.00/hour from 8/1/14–7/31/15 \$9.00/hour from 8/1/15–7/31/16 \$9.50/hour beginning 8/1/16
<i>Small-Employer Workers</i>	\$6.50/hour from 8/1/14–7/31/15 \$7.25/hour from 8/1/15–7/31/16 \$7.75/hour beginning 8/1/16
<i>90-day Training Wage for Trainees Under 20 Years Old</i>	\$6.50/hour from 8/1/14–7/31/15 \$7.25/hour from 8/1/15–7/31/16 \$7.75/hour beginning 8/1/16
<i>Youth Employees (under 18 years old)</i>	\$6.50/hour from 8/1/14–7/31/15 \$7.25/hour from 8/1/15–7/31/16 \$7.75/hour beginning 8/1/16

After January 1, 2018, Minnesota state minimum wages will be modified by inflation indexing.

Overtime Requirements

Federal laws require employers to pay employees at least 1.5 times the employee’s regular rate of pay for hours worked in excess of 40 hours. Minnesota’s overtime law requires employers to pay employees at least 1.5 times the employee’s regular rate of pay for hours worked in excess of 48 hours.

Exemptions to Federal and State Minimum Wage and Overtime Requirements

Both the federal and state minimum wage and overtime laws provide various exemptions from the minimum wage or overtime requirements. In order to qualify for the exemption employers and employees must meet certain specific requirements. The exemptions specific to the farm industry are described below:

Federal Small Farm Exemption

Small farms are subject to certain limited exemptions from the federal minimum wage and overtime requirements. If an employer does not use more than 500 man-days of agricultural labor, it is exempt from the minimum wage and overtime provisions. Additionally, agricultural employees working in the range production of livestock are also exempted from these same provisions.

Family Farm Exemption

In some circumstances, family farms are exempt from federal minimum wage and overtime provisions. If the employee is a parent, spouse, child, or other member of the immediate family, that employee is exempt if he/she is: (1) a hand harvest laborer paid on the normal piece-rate basis; (2) commutes daily to the farm; or (3) was employed in agriculture for less than 13 weeks the year before.

An employee is also exempt from the federal minimum wage and overtime provisions if the employee is: (1) younger than 16 years; (2) paid piece-rate as a hand-harvest laborer; (3) is employed on the same farm as his/her parent or guardian; and, (4) paid the same rate as employees over the age of 16.

Minnesota State Exemption

Even if farms are exempted from the federal overtime law, they are not necessarily exempt from Minnesota's overtime requirements. However, the state overtime law only applies when an employee has worked more than 48 hours per week.

State overtime wage requirements do not apply to individuals employed in agriculture who are paid a salary greater than if they were paid for 48 hours at the state minimum wage (\$6.50 for employers with annual gross revenue of less than \$500,000, \$8.00 for employers with annual gross revenue of \$500,000 or more) plus 17 hours at 1.5 times the state minimum wage per week. Therefore, individuals working at small employers in 2014 are exempt if their annual salary is more than \$24,843, while individuals working at large employers in 2014 are exempt if their annual salary is more than \$30,576. This exemption does not apply to workers who are paid on an hourly basis. Under this exemption, employees must be paid on a salary basis which means that the employee must be paid a predetermined

payment for each workweek without deduction for quantity or quality of work.

Timing of Wages

In Minnesota, employees must be paid at least once every month, unless the employer has agreed to pay wages more frequently. Migrant workers are required to be paid at least every two weeks, and on termination the migrant worker is to be paid within three days. Additionally, migrant workers must be guaranteed a minimum of 70 hours' pay for work in any two successive weeks.

EMPLOYMENT CONDITIONS

Child Labor Exemption

Children under the age of 12 may work in agriculture outside of school hours if employed by a parent or guardian on a farm owned by that person or if employed with the consent of the child's parent or guardian on certain farms. Children 12 or 13 years old may work in agriculture outside of school hours if such employment is with the consent of a parent or guardian or if the child's parent or guardian is employed on the same farm. Children 14 years of age or older may be employed in agriculture outside of school hours without parental consent.

Postings

Farms are required to display certain posters in the workplace. In addition to the standard state and federal wage, safety, and discrimination posters, farms must also display the [Migrant and Seasonal Agricultural Worker Protection Act notice](#), as well as the [Fair Labor Standards Act for Agricultural Employees](#) notice.

WORKERS' COMPENSATION

Agricultural employers are generally required to provide workers' compensation insurance, but unlike most employers, agricultural

employers are subject to several exemptions. Family farms, as defined in the state statutes, may elect to cover family members who work on the farm or who serve as corporate officers of a family farm as provided in the workers' compensation insurance statutes; however, they are not required to provide workers' compensation insurance to those family members. Additionally, farms paying less than \$8,000 annually for non-family labor are exempted from the workers' compensation insurance requirements.

UNEMPLOYMENT TAXES

An agricultural employer may be subject to both state and federal unemployment tax. A farm is subject to the Federal Unemployment Tax Act tax on cash wages paid to farm employees if its total cash wages in any quarter in the previous calendar year were at least \$20,000, or if on at least one day in each of 20 different calendar weeks it had at least 10 farm employees. The federal unemployment tax rate is 6.2% on the initial \$7,000 in wages paid to each employee.

A farm is required to register for an employer account with Minnesota Unemployment Insurance if the employer pays \$20,000 or more in cash or non-cash wages to employees during a quarter of a calendar year, or if the employer pays at least 4 employees in any part of at least 20 weeks during a calendar year. After registering, the employer must report wages paid to most of its employees, although wages paid to farm workers under the age of 16 and wages paid to an officer or shareholder of a family farm are generally not reportable.

DOCUMENTATION REQUIREMENTS

Agricultural employers must make and keep for three years in or near the employer's premises the following records for all employees:

1. The name, address, and occupation of each employee;
2. Hours worked each day and each work week for each employee; and
3. The pay rate and the amount paid each pay period to the employee.

If an agricultural employer employs migrant workers, it must provide a written statement to the migrant in both Spanish and English which includes the following information:

1. The date the written statement was completed;
2. The name and permanent address of the worker or recruiter;
3. The worker's date of arrival;
4. The crops and operation on which the worker will be employed;
5. The wage rates, terms, and deductions; and
6. Whether housing will be provided

In addition, the agricultural employer must keep the statement for three years.

For more information:
extension.umn.edu/agriculture/business