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Revised 1995

MINNESOTA EXTENSION SERVICE
UNIVERSITY OF MINNESOTA

Farm Labor Laws and Regulations for Minnesota

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In our highly legalistic economy, it is important that employers know and follow the laws and regulations as they relate to farm labor. Failure to do so could cost you money, your reputation, and, in some cases, even your farm.

The purpose of this publication is to provide farm employers and others with a brief summary of and update of current (1995) laws and regulations related to farm labor in Minnesota. For further information contact the agencies listed at the end of each section. These agencies have been instrumental in the development of this summary.

The following topics are covered in this publication:

MINNESOTA EXTENSION SERVICE
UNIVERSITY OF MINNESOTA
ST. PAUL, MN 55108

DISCLAIMER: This publication is intended as a general guide only and does not carry the force of legal opinion. Contact your attorney or the agencies noted herein for further information and/or a legal opinion.

I. Employment Relationships; Form I-9

When a farmer hires a person to perform work for him/her, a legal relationship is established. The relationship may be that of employer-employee, independent contractor, or principal-agent. *Special concerns may arise with the hiring of a crew leader.*

A. The Employer-Employee Relationship

1. Most farm employer-employee agreements are oral and many do not specify the length of time or term the employee will work for the employer.
2. Valid and invalid agreements
   a. If a wage contract specifies an indefinite term of employment or a term that will end within one year from the date the contract is made, the contract is valid whether it is in writing or is oral.
   b. If the agreed upon term of employment is one year or more, the agreement *must be in writing* and signed by both parties in order to be enforceable (Statute of Frauds).
3. "Hired at Will"
   Courts tend to hold that an employee hired for an indefinite period of time is *hired at will*. In most cases, this means the employee may quit or be discharged at any time without incurring any liability or acquiring any rights.
4. Desirability of a written agreement; key provisions
   a. Many employer-employee disputes would be avoided if a simple written agreement were developed. Such an agreement should state the length of time (term) a worker is employed and the amount of advance notice that must be given in case of quitting or severing employment.
   b. The agreement should also state the rate of pay and overtime pay provisions. If a worker is employed at no specified wage, the average rate of pay in the community for the kind of work done or the appropriate minimum wage specified by law (see pages 5 and 6)—whichever is highest—would prevail.
   c. It is also recommended that the agreement address the duties of the employee, anticipated hours, and the issue of overtime pay. (See page 6 regarding salaried employees.)
5. Liability aspects of hired employees.
   a. "Vicarious" liability
   When a farm employee causes property damage or personal injury to others, the farm employer may be held liable for the negligence of the worker. Generally, the law holds that the employer is responsible for the negligent acts of his/her employees if the employee is acting within the scope of his/her employment when the negligent act occurs.
   b. Employer liability for injuries to employees.
      (1) Under common law, the employer is liable for injuries to an employee if (1) the employer was negligent and the employee was not more negligent and (2) if the employee did not knowingly assume the risk of the situation that caused the injury.
      (2) If the employee is not covered by workers compensation insurance, the process of common law prevails. Under common law, a complex set of findings is used to determine (1) who was negligent and to what extent, and (2) to what extent the employee assumed or was aware of the risks of the job. The principle of comparative negligence, which involves determining the extent to which the employer and employee were negligent, is often adopted in such cases.
      (3) If the employer is qualified for or is required to carry workers compensation insurance (see pages 11 and 12), it protects the employer as well as simplifying the process by which the worker receives reimbursement for the injury incurred.

c. Employers need to carry adequate liability and health insurance to cover the liabilities discussed above. This may include workers compensation insurance even if it is not required by law.

B. The Independent Contractor Route: A Gray Area.

1. Most agricultural labor laws apply to employer-employee relationships. For example, for each employee, the employer must withhold income and social security taxes, file quarterly reports, and make regular deposits of the withholdings.
2. By contracting with an *independent contractor*, the employer avoids paying the employer's portion of social security payments, as well as unemployment and workers compensation insurance payments. The employer also avoids inclusion of workers in pension and health insurance plans where required by law.
3. The following are some characteristics that must be present if a worker is to be considered an independent contractor:
   - Works his/her own schedule; does work in his/her own way.
   - Uses own methods and receives no training from the purchaser (farmer).
   - Provides own tools, machinery, etc., to perform services.
   - Is able to assign one of his/her employees to do the job.
   - Hires, supervises, and pays workers as a result of the contract.
   - Is hired to do one or more jobs. No continuous relationship exists.
   - Is free to do work when and for whom he/she chooses.
   - Works for several persons or firms during the same time period.
   - Cannot be fired and cannot quit; he/she must complete the work to receive payment.
4. The distinction between independent contractor and employer-employee status—gray to begin with—is sometimes blatantly ignored. The IRS, however, is tracking down employers who have abused the tax system, including social security deductions, by treating employees as independent contractors. Employers should keep in mind that the employer is the responsible party. If the employer makes the wrong choice, he/she may have a substantial tax bill to pay if a supposed independent contractor is determined to be an employee.

   The employer should also be aware that if a worker is injured on the job and it is proven that the worker was in fact an employee, the uninsured employer could be subject to payment of 150% of all benefits paid out to the injured employee. Increased workers compensation insurance rates may also occur.
5. Rarely have migrant farm workers been considered independent contractors. They are almost always considered employees. This is true even when a crew leader is used. Do not be misled by the determining elements above in B3 when it comes to migrant farm workers as opposed to workers hired from the local area. Because migrants are by definition itinerant, they are not "in business for themselves," have no investment in equipment, and are not considered highly skilled. The "test" works somewhat differently than these elements may at first suggest.

C. Agency: The Principal-Agent Relationship

1. A farmer may create a principal-agent relationship with another party, whereby the agent is authorized to represent the farmer in business dealings with third parties.
2. In this situation, the farmer is contractually liable for actions of the agent that are performed within the scope of the agent's authority.
3. Normally, the agent has the duty to use reasonable care, obey the written or

inferred aspects of the contract, and be loyal to the farmer (principal) he/she is working for.

D. The Use of Crew Leaders

1. The use of crew leaders (also known as "farm labor contractors") is thoroughly regulated by Federal statute. (See Section VIII regarding the Migrant and Seasonal Agricultural Workers Protection Act.)
2. Hiring a crew leader will not relinquish the agricultural employer from his/her responsibilities. In fact, the agricultural employer and the crew leader may be considered "joint employers," giving rise to joint liability for the improper acts of the crew leader.

E. Immigration Reform and Control Act of 1986 - Form I-9

1. This Act requires that the employer do the following:
   a. Have new employees fill out their portion of Form I-9 upon being hired. To do so, the employee must be a US citizen or nationalized in the US, a permanent resident, or an authorized alien. *Employees hired prior to November 7, 1986, and still working for the same employer, do not need to complete this form.*
   b. Check documents establishing the employee's identity and eligibility.
   c. Properly complete the employer's section of Form I-9.
   d. Retain the Form I-9 for at least three years. If an employer employs an employee for more than three years, the employer must retain the form until one year after the employee leaves.
   e. If requested, the employer must present the Form I-9 for inspection by the Immigration Service or the Department of Labor.
   f. Employers will be required to file periodic reports with the Immigration and Naturalization Service (INS). The forms can be obtained from the county ASCS and county extension offices.
2. The INS makes available a "Handbook for Employers" explaining the requirements of use of the Form I-9.

For Further Information:
US Immigration and Naturalization Service
2716 East 82nd St. (Visits only)
Bloomington, MN 55425
Phone: (612) 854-7754 (Information line, forms, and handbook)
(612) 335-2255 (Employer Relations)

II. Human Rights Provisions: A Brief Look

The hiring, managing, and dismissal of employees exposes the employer to the possibility of lawsuit if these activities are not carried out appropriately. Various human rights provisions prohibit the employer from discriminating on the basis of race, religion, national origin, creed, color, sex, disability, age, veteran status, marital status, or sexual orientation.

A. Human Rights Concerns

1. Throughout the hiring process, the employer must be sure that any job descriptions and job advertisements, as well as interviewing and hiring activities, are done in a fair, nondiscriminatory manner.
2. When managing employees, the employer must be sure that he/she supervises them and pays them fairly and without discrimination. Also, any form of sexual harassment must not be tolerated.
3. When dismissing an employee for reasons other than blatant violation of work rules, the employer should use a process of progressive discipline. These steps should be carefully documented, otherwise the employer could be sued for unlawful discharge.

B. Be on the Safe Side:

1. This is a very complex area and one that the employer needs to keep abreast of and

seek competent advice on as situations arise.

2. When in doubt, the employer should check with his/her attorney and/or the Minnesota Department of Human Rights at (612) 296-5663.

III. Wage Rates; Payments; Records; Statements

A. Minimum Wage Rates/Overtime Provisions

1. **Definitions**. These definitions are a summary of a detailed list of legal definitions that apply to minimum wage, overtime, and child labor in Minnesota.

a. **Agriculture**: The *Federal definition* includes farming in all its branches and includes (among other things) the cultivation and tillage of the soil; dairying; the production, cultivation, growing, and harvesting of any agricultural or horticultural commodities; the raising of livestock, bees, fur-bearing animals, or poultry; the handling, planting, drying, packing, packaging, processing, freezing, or grading prior to delivery for storage of any agricultural or horticultural commodity in its unmanufactured state.

The *Minnesota Statute definition* does not include greenhouse work, housekeeping, construction, outside services hired by the farmer, or services performed for others such as boarding or training of animals or grain storage and processing. This means that businesses are covered by the normal provisions of the Minnesota minimum wage law.

b. **Specified Persons**: Employers with more than two employees are required to inform, in writing, the two persons allowed by the exemption 3a(1) (noted below) that they are the specified persons (a Minnesota provision).

c. **Salary**: A predetermined weekly wage which does not vary with the quantity or quality of work, even if work is available for only part of a week due to weather or other problems not under employee control.

d. **Federally Covered Agricultural Employers**: Those who used more than 500 man days of labor in any calendar quarter of the preceding calendar year. (See also MISPA requirements in Section VIII.)

e. **Large Employers**: Businesses grossing $362,500 or more during the previous four quarters (a Minnesota definition).

f. **Small Employers**: Businesses grossing less than $362,500 during the previous four quarters (a Minnesota definition).

2. **Federal Regulations: Minimum Wage Rates**

a. These regulations apply to employers of workers who grow crops or raise livestock that will leave the state directly or indirectly through a buyer who will ship them across state lines, or who will process them or use them as ingredients of other goods which will move in interstate commerce. Generally, a substantial part of almost all crops are shipped out of state either in the same form or after being processed.

b. Federally covered agricultural employers who use more than 500 man days of agricultural labor in any calendar quarter of the preceding calendar year are required to pay the Federal Minimum Wage under the Federal Fair Labor Standards Act. *Note: Migrant and seasonal farm workers may still have wage protection if covered under the Federal Migrant and Seasonal Agricultural Workers Protection Act.* (See Section VIII).

c. The federal minimum wage is $4.25 per hour for those situations in which the employer is determined to be a federally covered agricultural employer (see definition 2b above).

d. Under Federal law, farm employers are exempt from payment of overtime. However, take special note of Minnesota

regulations, which require overtime pay in most situations.

Note: Minnesota state law supersedes the Federal provisions in any case where state law provides more money or more protection to employees.

3. Minnesota Regulations: Minimum Wage Rates; Overtime Pay

a. The following exemptions from payment of minimum wage apply:

(1) Two or fewer specified farm workers who are paid a salary. These workers must be informed in writing of their exempt status.

(2) Any farm worker who is paid a salary greater than the individual would receive if he/she worked 48 hours at the state minimum wage plus 17 hours at 1-1/2 times the minimum wage per week. That is, the employee must receive a salary of at least $294.00 per week from small employers and $312.38 per week from large employers. (See definitions at 1e and 1f above.)

(3) Generally, individual farm workers under age 18 who are employed in agriculture on a farm are exempt from a minimum wage. However, hand field workers under age 18 are not exempt if the worker's parents or physical custodians are also hand field workers.

(4) **The above exemptions do not apply to federally covered agricultural employers.**

b. Minimum wage rates for covered employers - Minnesota 1995:

	Large Employer	Small Employer
1) Workers 18 and over	$4.25	$4.00
2) Workers under 18 (minors)	$4.25	$4.00

(Many minors are exempt (see a(3) above)

c. Exemptions from payment of overtime:

(1) Persons described in 3a(1) and (2) above (salaried workers).

(2) Minors under age 18, except those employed as corn detasselers or field hand workers working with a parent or guardian.

(3) Workers employed as sugar beet hand laborers on a piece-rate basis, provided that the regular rate of pay exceeds the applicable minimum wage rate by at least 40 cents per hour.

d. Workers not included in the above exemptions (see 3c above) must be paid at least 1-1/2 times the worker's regular rate of pay for hours worked in excess of 48 hours per week.

B. Time of Payment, Records and Wage Statements

1. Payment of wages must be made at least once every 30 days.
   Note: Agricultural employers subject to the Federal Migrant and Seasonal Agricultural Workers Protection Act are required to pay wages every two weeks (or semi-monthly).
2. Time of payment upon separation:
   a. A discharged employee's wages are due and payable upon demand.
   b. If a worker quits voluntarily, wages are due within five days of quitting.
   c. *Special Note: The penalties for late payment of wages after separation are severeÑup to 15 times the average daily wage of each impacted employee.*
3. Records must include the worker's last known address, social security number, and other identifying information. Records must also include the beginning and ending hours worked each day, with a.m. and p.m. designations, hours worked each day with weekly totals, and wages earned.
4. See Table 1 for Summary of Provisions.

Summary of Minnesota Wage and Payment Provisions and Their Location in the Statutes

Location in Minnesota Statutes →	Minimum Wage 177.24	Overtime (48 hrs) 177.25	Minimum Age 181A	Wage[1] Payment 181.101	Last Pay Discharged	Last Pay Quit
177.23(7) AGRICULTURAL WORKER[2]						
(1) Two or fewer employees/salaried	Exempt	Exempt	N/A	30 days	24 hrs	5 days
(2) Minimum Salary (73.5 x MW)	Exempt	Exempt	N/A	30 days	24 hrs	5 days
(3) Adult paid other than salary	Covered	Covered	N/A	30 days	24 hrs	5 days
(4) Under age 18	Exempt	Exempt	12	30 days	24 hrs	5 days
(a) Corn Detasseling	Exempt	Covered	12	30 days	24 hrs	5 days
(b) Hand field worker w/parent	Covered	Covered	12	30 days	24 hrs	5 days
177.25(1) SUGAR BEET HAND LABOR Piece rate basis equal to or greater than the minimum wage plus $.40/hr.	Covered	Exempt	12	30 days	24 hrs	5 days

1 See exception at B1 above.

2 Employers who are processors hiring 30 or more out-of-state migrant farm workers with the assistance of a recruiter need to see additional requirements set forth at Minnesota Statute 181.85.

For Further Information:

Dept. of Labor and Industry
Division of Labor Standards
443 Lafayette Road
St. Paul, MN 55155

Phone: (612) 296-2282

US Department of Labor
Wage/Hour Division
Bridge Place, Room #106
220 South 2nd Street
Minneapolis, MN 55401-2104
Phone: (612) 370-3380

IV. Unemployment Insurance

Purpose: It is designed to provide a source of income for workers while unwillfully unemployed.

A. Unemployment Insurance - Federal Unemployment Tax Act (FUTA)

1. Farm employees are covered if:
   a. Payroll of $20,000 or more is paid to farm workers in a calendar quarter during the current or preceding year, or
   b. *Ten or more* farm workers are employed for some part of at least one day during each of 20 different calendar weeks in either the current or preceding calendar year.
   c. These rules do not apply to employer's spouse, parents, or children under age 21.
2. The tax is imposed upon the employer; it cannot be deducted from the employee's wages.
3. The tax rate is 6.2% on the first $7,000 of cash wages paid to each employee. A credit of 5.4% is allowed to cover your state unemployment insurance.
4. Making deposits:
   a. Use Form 940 to determine amount available for deposit.
   b. If deposit amount is more than $100, it must be deposited during the first month after the quarter ends.
   c. If deposit amount is less than $100, add it to the amount for deposit for the next quarter.
5. Use Form 940 to file annual return.

B. Unemployment Insurance - Minnesota

1. Farm employers are covered if:
   a. They paid total wages of $20,000 in any calendar quarter, or
   b. They had *four or more* employees in some part of a day in 20 different weeks,

in either the current or preceding year.

c. The following exclusions apply only if employer is not subject to the Federal Unemployment Tax Act:

- Services of family farm corporate officers,
- Agricultural services performed by persons age 16 and under, and
- Services rendered by a shareholder of a family farm corporation. (Farmers who meet the federal requirements are also covered under Minnesota law and must report all wages and salaries paid to all officers, shareholders, and other employees.)

2. Any employing unit that does not meet the worker or wage requirements may voluntarily elect to become a covered employer.
3. Both cash and non-cash wages are taxable.
4. For 1995, the tax applies to the first $15,300 in wages paid to each worker.
5. Tax must be paid by the employer only.
6. Tax rate varies according to:
   a. Solvency position of Unemployment Compensation Fund
   b. Employer's experience rating:
      - Minimum rate 0.4% for 1995
      - Maximum rate 9.1% for 1995
      - For new businesses: 2.0% is standard rate
   c. These rates include a 0.1% tax paid to fund the Dislocated Worker Program.
7. A Quarterly Tax Report is due and the tax is payable within one month after the end of each quarter.
8. Careful records must be kept—days and hours worked, cash wages and non-cash wages paid. *Keep these records for at least eight years.*

For Further Information:
Minnesota Dept. of Jobs and Training
Tax Division
390 North Robert St.
St. Paul, MN 55101
Phone: (612) 296-6141

V. Income and Social Security Taxes

A. Income Tax Withholding - Federal

1. Withholding of Federal income taxes for farm employees is mandatory (since January 1, 1990) and for all employees subject to social security tax. (See Section C-1 below).
2. Employer needs an employer identification number - use Form SS-4.
3. Employee must give employer a completed Form W-4 so that employer can begin withholding income taxes.
4. Both cash and non-cash wages are subject to withholding.
5. Circular E, Employer's Tax Guide, contains tax tables.
6. **Payroll deposit rules for income and social security taxes withheld were changed, beginning January 1, 1993:**
   a. Employers who accumulate less than $500 during a calendar quarter or year may skip deposits entirely and send the full payment with their quarterly or annual report.
   b. In the month an employer accumulates $500 in combined federal income and social security tax withholdings and employer matching funds, he/she must make the required deposit by the 15th of the next month.
   c. Taxpayers who have total Form 941 or 943 payroll deposits of $50,000 or less for the "lookback period" must make their 1995 deposits on a monthly basis (15th of the month following the payroll).
   d. Those taxpayers who have Form 941 payroll deposits of more than $50,000 during the "lookback period" must make their deposits on a semi-weekly basis. If their pay day is on a Wednesday, Thursday, or Friday, their deposit day is the following Wednesday. If their pay day is on any other day of the week, their deposit day is the following Friday.

e. All new employers will be monthly depositors.

f. *Agricultural employers* will follow the same rules as other employers except their "lookback period" for determining their semi-weekly or monthly status will be the calendar year 1993.

g. Use Form 8109 when making deposits.

7. By January 31 of the next year or at end of employment, employer must provide employee with Form W-2. Employer must also file Form 943 with IRS.

For Further Information:
US Internal Revenue Service
316 North Robert Street
St. Paul, MN 55101
Phone: (612) 644-7515 or
1-800-829-1040
For Forms: 1-800-829-3676

B. Income Tax Withholding - Minnesota

1. Employer must apply for a Minnesota tax identification number - Form MBA.
2. Minnesota income tax withholding is not required of farm operators at this time (January 1995), but may be changed by the State Legislature in 1995 to make it coincide with the federal requirement.
3. Employees who are residents of Wisconsin, North Dakota, or Michigan and work in Minnesota are not required to have Minnesota income tax withheld from their wages; however, they must submit an MWR—the reciprocity form.
4. Use Federal Form W-4 for indicating withholding allowances.
5. Request a copy of Minnesota Income Tax Withholding Tables from Department of Revenue.
6. Deposit and filing requirements
   a. Filing Requirements (using MW-1): Every employer (except those notified by the Department of Revenue that they qualify for annual filing) is required to file a quarterly return Form MW-1 for each of the quarters, even if the employer had no withholding during the quarter.
   b. Depositing Requirements: New Minnesota deposit schedules are in effect for taxes withheld after December 31, 1993. Generally, how often one is required to deposit Minnesota withholding tax is determined by how often one is required to make deposits of federal employment tax withholding (see Section VA6 above). There are three exceptions allowing an employer to deposit Minnesota tax on a different schedule than required for federal employment taxes. Exceptions include situations in which (1) less than $500 of Minnesota tax was withheld during the previous quarter, (2) Minnesota did not adapt the federal "one-day rule" for federal liabilities over $100,000, and (3) the employer is eligible for annual filing.
7. By January 31 of the year following or within 30 days of a worker's termination, a Form W-2 must be provided to the worker. A Form MW-3, Minnesota Annual Reconciliation of Income Tax Withheld, must be sent to the Department of Revenue along with a copy of the Form W-2.

For Further Information:
Minnesota Department of Revenue
Tax Payers Information Division
Mail Station 5555
St. Paul, MN 55146-5555
Phone: (612) 296-6181 or
1-800-657-3777 Ask for
"Business Tax Assistance"

C. Social Security Tax (FICA)

1. Employers must withhold and match social security taxes for agricultural workers if:
   a. They paid any individual employee $150 or more in cash wages during the year, or
   b. They paid an accumulated total cash wages of $2,500 or more during the

year to all employees. The $2,500 threshold includes wages paid to employer's spouse and adult children. (Children under age 18 are exempt from social security tax.).

2. For 1995, employers must withhold 7.65% of the each employee's cash wages and match it with another 7.65%. This tax applies to the first $61,200 of each employee's wages in 1995. In addition, for individual agricultural workers who have earnings over $61,200, a 2.9% medicare tax must be paid (1.45% withheld from employee and 1.45% paid by the employer).
3. Deposits must be made according to the new schedule deposit rules noted in Section VA6 above. Social security and income taxes are combined when determining the $500 threshold for making deposits. Deposits include both employee's and employer's share of taxes due. By February 28 of the year following, a copy of Forms W-2 and W-3 must be filed with the Social Security Administration and Form 943 must be filed with the IRS by January 31.
4. Virtually all agricultural workers are FICA covered "employees" and not "independent contractors." This is especially true of migrant farm workers.

For Further Information:

US Internal Revenue Service
316 North Robert Street
St. Paul, MN 55101
Phone: 1-612-644-7515
1-800-829-1040
Forms: 1-800-829-3676

D. Records for Income Tax and Social Security

1. Employee's name, current address, and social security number.
2. Amount paid in cash and non-cash wages.
3. Amount of various taxes withheld.

VI. Worker Safety Provisions; Workers Compensation Insurance

A. Occupational Safety and Health Act (OSHA)

1. Purpose: To assure safe and healthful working conditions for all employees. Minnesota has a separate code in addition to federal regulations.
2. Coverage - all employees except:
   a. Self-employed persons.
   b. Farms that are not incorporated and employ *only* immediate members of the farm employer's family. *Special Note: Family members who are officers of a farm corporation are considered employees and thus are covered by OSHA.*
3. Inspections
   a. Farms with 10 or more employees at one time during the year and farms with labor camps are subject to inspections.
   b. Any farm must be open to inspection in cases in which a worker fatality, serious accident, or catastrophe has occurred, or an employee complaint has been filed.
4. What employers must do:
   a. Maintain a safe and healthy work environment for employees.
   b. Display an OSHA poster.
   c. Comply with standards relating to the following:
   - Slow-moving vehicle signs
   - Anhydrous ammonia equipment
   - Pulpwood logging
   - Labor camps, migrant camps
   - Roll-over protection on tractors, etc.
   - Machinery guarding
   - Field sanitation facilities
   - Employees Right-to-Know (see Section VIB below)
   - Comply with applicable federal industry and construction regulations

   d. Employers who had *11 or more full- or part-time* employees at any one time

during the previous calendar year are required to keep a log of injuries and illnesses of employees. Form OSHA 200 must be used for recording these events.

e. Employers with *10 or fewer* workers are required to maintain the OSHA 200 log only if they are notified in advance by the Bureau of Labor Statistics that they have been selected to participate in a statistical survey.

f. All employers are required to report, within 48 hours, any on-the-job fatality or accident involving multiple hospitalizations.

B. Minnesota Employee Right-to-Know Act

1. Purpose: To ensure that employees are aware of the dangers associated with hazardous substances, harmful physical agents, or infectious agents that they may be exposed to in their work place.
   a. Employers must evaluate their work place regarding the presence of these substances.
   b. Written information must be accessible to employees; labeling requirements must be observed.
   c. Employees have a conditional right to refuse to work under imminently dangerous conditions.
2. Training and Information Requirements:
   a. Farms with more than 10 employees, or that operate a temporary labor camp and employ any of its residents, *must provide training* as defined in the Farming Operations Training Plan.
      (1) Training must be provided at no cost to the employees before employees begin work in an area where exposure to pesticides or other hazardous substances may occur, and must be repeated annually.
      (2) Training must cover: proper conditions of exposure, re-entry times following spraying or dusting, methods of preventing overexposure, first aid and emergency procedures to be followed in case of accidental exposure, symptoms of overexposure and what to do if they appear, and information on how to obtain medical treatment if necessary.
      (3) Containers of pesticides and other hazardous substances must be labeled with at least the name of the substance and the appropriate hazard warnings. In addition, written information, such as the label or a material safety data sheet for the sub-stance, must be available for employees' information.
   b. Farms with 10 or fewer employees need only furnish, upon request, information from labels of containers containing hazardous substances to which employees are exposed.

C. Environmental Protection Agency Worker Protection Standard for Agricultural Pesticides

1. The EPA Worker Protection Standard covers pesticides used on farms, forests, nurseries, and greenhouses, setting standards to reduce risks of injuries and illnesses. The EPA has distributed copies of the standards, including a two-page quick reference guide, to state and county extension offices, and the Minnesota Department of Agriculture.

D. The Minnesota Workers Compensation Law

1. Provides compensation to employees who have a work-related injury or disease. Compensation benefits may include partial wage replacement, loss of use or function compensation, payment of medical and rehabilitation costs, and death benefits.
2. All farm employers must carry workers compensation insurance unless the amount of cash wages they paid and/or should have paid in the previous calendar year are:

a. Less than $8,000, or
b. *Less than $23,000 if they have a farm liability policy covering farm labor injuries that provides $300,000 of liability and $5,000 of medical coverage* (a new provision).

3. How premiums are calculated:
   a. Multiply "class" rate by payroll. Class rate determined by experience of all employers in that class.
   b. You may become experience-rated.

For Further Information:
Minnesota Dept. of Labor and Industry
Occupational Health and Safety Division
443 Lafayette Road
St. Paul, MN 55155
Phone: (612) 296-2116

Minnesota Department of Agriculture
Pesticide Enforcement Section
90 West Plato Boulevard
St. Paul, MN 55107
Phone: (612) 296-5137

Minnesota Dept. of Labor and Industry
Assistance & Compliance Section
443 Lafayette Road
St. Paul, MN 55155
Phone: (612) 296-2432
1-800-657-9747 (Ask for Workers Compensation hot line)

VII. Youth Employment Provisions

A. All Employers in Minnesota are Covered Under the Child Labor Act

1. A minor is an individual who has not attained the age of 18.
2. Proof of age: Employer must require proof of age (birth certificate, driver's license, age certificate from school) and maintain it as part of payroll records.
3. Minimum age: Children 12 and 13 years of age may be employed in non-hazardous agricultural occupations if they have WRITTEN permission from their parents or guardians.
4. Hours of work:
   a. Minors under age 16:
      - May not work during school hours on school days without an employment certificate issued by the appropriate school official.
      - Nor may they work before 7:00 a.m. or after 9:00 p.m.
      - Further, an employer is not allowed to employ them for more than 40 hours a week, or more than eight hours during any 24-hour period.
   b. High school students 16 and 17 years old, may not work after 11:00 p.m. on evenings before school days or before 5:00 a.m. on school days. With written permission from a parent or guardian, these hours may be extended to 11:30 p.m. and 4:30 a.m., respectively.
5. *SPECIAL NOTE: No provision in federal statutes is made for the release of children from school to work in agriculture unless the children are employed by their parents or guardian. Federal law provides that from Labor Day through June 1, minors may not work past 7:00 p.m.*

B. Prohibited Occupations

1. No minor under the age of 16 may be employed:
   a. To operate or assist in the operation of machinery such as farm-type tractors and other self-propelled vehicles, except for equipment permitted by a certificate of training under either the 4-H Federal Extension Service or Vo-Ag training programs (14- and 15-year-olds).
   b. In any agricultural operation declared by the US Secretary of Labor to be particularly hazardous for employment of children under age 16.
   c. Secure a copy of Fair Labor Standards Act Child Labor Bulletin 102 from the US Department of Labor. It includes a list of hazardous occupations and certification procedures.
2. Exceptions to the above are:
   a. A minor employed by a business that is

solely owned and daily supervised by one or both parents.

b. A minor participating in a state-approved apprenticeship program.

c. A minor employed at tasks away from or outside of the area of hazardous operation, equipment, or materials.

C. Wages

1. Minors (under age 18) working on farms that employed more than 500 man days of labor in any calendar quarter of the preceding calendar year must be paid at least $4.25 per hour[1]. Field hand workers working with parents or guardians must not be paid less than the state minimum wage even if a federal subminimum applies, and must be paid overtime after 48 hours of work per week. Corn detasselers must be paid at least $4.25 per hour and overtime above 48 hours in a given week.
2. Minors working on farms that employed less than 500 man days in any calendar quarter of the preceding calendar year do not have to be paid a minimum wage or overtime, unless C3, below, applies.
3. Minors, working as field hand workers with their parents or guardians, must be paid at least $4.00 per hour by small employers, $4.25 per hour by large employers, and overtime for hours worked above 48 hours per week. (See page 5 for "small" and "large" employee definitions.) Corn detasselers must also be paid overtime for hours worked over 48 hours in a week.

For Further Information:
Dept. of Labor and Industry
Division of Labor Standards
443 Lafayette Road
St. Paul, MN 55155
Phone: (612) 296-2282

US Department of Labor
Wage/Hour Division
Bridge Place, Room #106
220 South 2nd Street
Minneapolis, MN 55401-2104
Phone: (612) 370-3380

VIII. Migrant Workers Provisions Under Federal Law

A. Provisions of the Federal Migrant and Seasonal Agricultural Workers Protection Act

1. Definitions

a. Agricultural Employment: Includes farming in all its branches and includes (among other things) the cultivation and tillage of the soil; dairying; the production, cultivation, growing, and harvesting of any agricultural or horticultural commodities; the raising of livestock, bees, fur-bearing animals, or poultry; the handling, planting, drying, packing, packaging, processing, freezing, or grading prior to delivery for storage of any agricultural or horticultural commodity in its unmanufactured state.

b. Migrant Worker (Federal Definition): An individual employed in agricultural employment of a seasonal or other temporary nature who is required to be absent overnight from his/her permanent place of residence.

c. Employer (Federal Definition): Any person who owns or operates a farm, ranch, processing establishment, cannery, gin, packaging shed, or nursery, or who recruits, solicits, hires, employs, furnishes, or transports any migrant or seasonal agricultural worker.

d. Possible Exemptions: The agricultural employer who falls under the minimum 500 man day exemption and the agricultural employer who recruits migrants only for his own immediate family business may be exempt. Caution is advised as factors may overrule the exemption, such as using a farm labor contractor.

2. Agricultural employers must utilize the services of registered farm labor contractors (recruiters) only. An agricultural

[1] In some cases, subminimum rates may apply. For additional information, contact Federal Department of Labor, Wage and Hour Division, (612) 370-3380.

employer who uses services of a farm labor contractor (crew leader or recruiter) must determine the proper registration of the contractor or be subject to penalties.

3. At the time a worker is recruited, the employer must provide the migrant worker with a written employment statement (in English or other language common to the migrant worker) which contains the following:
   - Date and place statement was completed
   - Name and address of migrant
   - Date and place worker is to report, hours of employment, and minimum period of employment
   - Crops and operations worker will perform
   - Wage rate, payment terms, deductions to be made
   - Whether transportation, housing, or any other benefit is to be provided to the migrant worker and the cost (if any) that will be charged to the migrant worker.
4. Payment Terms
   a. The employer shall pay wages due the migrant worker at least every two weeks, except on termination, whereupon the worker must be paid within three days.
   b. The employer shall provide an itemized written statement of the information required for record-keeping (below) to each worker for every pay period.
5. Record Keeping
   a. With respect to each worker, the employer shall make and keep records which include the following information:
      - Basis on which were wages paid.
      - Number of piecework units earned, if paid this way.
      - Number of hours worked.
      - Total pay period earnings.
      - Specific sums withheld and the purpose of each.
      - Net pay.
   b. The records should be kept for a period of at least three years.

B. Housing of Migrant Workers

1. Each person that owns or controls real property used for migrant agricultural workers shall be responsible for ensuring that the facility complies with applicable federal and state safety and health standards.
2. No facility or real property may be occupied by any migrant agricultural worker unless either a state or local health authority, or other appropriate agency, has certified that the facility meets applicable safety and health standards. No person who owns or controls any such facility shall permit it to be occupied by any migrant agricultural worker unless a copy of the certification of occupancy is posted at the site.

   Note: These provisions do not apply to any person who in the ordinary course of that person's business regularly provides housing on a commercial basis to the general public and who provides housing to migrant agricultural workers on the same or comparable terms and conditions as is provided to the general public.

C. Occupational Safety and Health Standards that Apply to Migrant Farm Labor:

1. Establishments employing more than 10 employees on any given day in hand labor operations in the field must provide drinking water, (suitably cool, in sufficient amounts, dispensed in single-use drinking cups or by fountains, and located readily accessible to employees), and toilets and hand-washing facilities (one toilet/ hand-washing facility for every 20 employees, located within a quarter-mile walk or at the closest point of access by vehicle) (Not required for field workers who do field work for three hours or less each day at the place of employment.)
2. Minnesota's field sanitation standards are identical to US OSHA and apply only to farm establishments that employ more than

10 employees on any given day in hand labor operations in the field.

3. Employers who provide housing to seasonal or migrant farm workers must comply with the Temporary Labor Camp standard (29 CFP 1910.142), which includes minimum requirements for housing conditions, size, and sanitation.

D. Other Laws/Regulations Pertaining to Migrant Workers Discussed in this Publication include:

- Migrant farm workers as independent contractors (IB5) - page 3.
- Use of crew leaders (ID1 and ID2) - page 4.
- The Form I-9 (IE) - page 4.
- Wage Rates and Overtime (IIIA3a(3)) - page 6.

For Further Information:

Minnesota Dept. of Labor and Industry
Occupational Safety and Health Division
443 Lafayette Road
St. Paul, MN 55155
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