

# Basics of Farm Employment



## value-added & alternative agriculture

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### OVERVIEW

Many value-added and alternative agriculture enterprises depend upon family members for their labor needs. However, even these small enterprises may be subject to applicable labor and employment law. Additionally, enterprises that employ non-family members and pay them a wage are also subject to applicable wage, tax withholding and labor laws.

Producers who employ laborers must stay current with the ever-changing laws. This fact sheet is designed to give producers an overview of employment topics that need to be considered when using paid labor on the farm. Producers are encouraged to consult the resources listed at the end of this fact sheet to get more detailed information regarding legal employment practices. It is strongly recommended that producers establish a relationship with a knowledgeable bookkeeper or accountant who can assist producers in complying with all applicable regulations.

### FEDERAL VS. STATE REGULATIONS

Producers need to comply with both the federal and state laws and regulations that apply to their operation.

Federal laws govern:

- The determination of whether or not a worker is a contractor or employee
- Eligibility for employment under federal immigration laws
- Eligibility for Social Security, Medicare and federal income tax withholding
- Appropriate OSHA regulations with regard to handling of pesticides and other potentially harmful substances

State laws govern:

- Hiring and work hours of workers under the age of 16 and those between the ages of 16 and 18
- Equipment operating restrictions for child labor
- Eligibility for coverage under NC unemployment insurance laws
- Eligibility for state income tax withholding
- Coverage under NC workers' compensation laws
- Applicable state regulations governing employee handling of harmful substances
- Relationships between producers and the North Carolina Growers Association (the union representing migrant farm workers)
- Migrant farm worker housing, where applicable

### NON-DISCRIMINATION IN HIRING

Agricultural employers must comply with the Civil Rights Act of 1964, which prohibits discrimination in hiring protected classes of individuals. Protected classes include: race, color, religion, gender, workers over the age of 40, disability and national origin.

Employers may define a job by the demands that it makes on the employee. For example, an employer may specify that an applicant must be capable of lifting a certain amount of weight. Or, employers may indicate in the job description that employees will be requested to work weekend and/or evening or night hours.

### NEW HIRE REPORTING

Producers who hire employees must provide timely reporting to the appropriate federal and state agencies. New employees must complete a W-4 form to comply with federal reporting requirements, and an NC-4 must be provided to the state of North Carolina. New employees must also complete an I-9 form to show eligibility for employment.

## **MINIMUM WAGE AND OVERTIME**

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The current state minimum wage is \$5.15. Workers paid on a piece rate system must earn the equivalent of \$5.15 an hour. Agricultural producers are exempt from this requirement if they employ fewer than 500 person-days of agricultural labor in any quarter of the previous year. Person-days are defined as any day in which one employee is employed for one hour or more. Travel time to the farm (or job site) is computed as part of the hours worked.

Agricultural workers are exempt from overtime regulations. This applies to all agricultural producers, with the exception of Christmas tree producers, which fall under the category of forestry. (Christmas tree producers must comply with the United States Department of Labor's Fair Pay Overtime Initiative.) If a farm worker works in both the field and at a roadside stand, then the agricultural exemption does not apply, and the employer must compute applicable overtime for the employee.

## **POSTER REQUIREMENTS**

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Some agricultural operations are required to post appropriate government posters outlining employee rights in

conspicuous places. The posters are available at no charge, and may be ordered through the web site listed in the Resources section of this fact sheet. Producers should consult the appropriate agencies to determine whether or not the business is required to post information.

## **FIELD SANITATION**

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Agricultural producers who employ 11 or more workers on any given day, or who provide housing for one or more workers, must provide field sanitation. This includes:

- One field toilet for every 20 workers, or portion thereof
- Hand-washing facilities
- Suitable cool, potable drinking water with individual cups

## **HOUSING STANDARDS**

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Producers who provide housing for one or more migrant or seasonal workers must comply with certain housing standards. The producer must register the housing and notify the North Carolina Department of Labor 45 days before the workers arrive.

## **RESOURCES**

A more detailed explanation of hiring requirements in North Carolina may be found at: [http://ipm.ncsu.edu/Production\\_Guides/Flue-Cured/flue\\_cured.pdf](http://ipm.ncsu.edu/Production_Guides/Flue-Cured/flue_cured.pdf) and go to Chpt 2

Information regarding discrimination in employment is found at: [www.eeoc.gov](http://www.eeoc.gov)

Information on Social Security withholding is available at: [www.ssa.gov](http://www.ssa.gov)

Federal tax information, including the distinction between a contractor and an employee, can be found at: [www.irs.gov](http://www.irs.gov)

State tax information can be found at: [www.dor.state.nc.us](http://www.dor.state.nc.us)

State labor laws are available at: [www.nclabor.com](http://www.nclabor.com)

Federal labor laws can be found at: [www.dol.gov](http://www.dol.gov)

Posters can be ordered at: <http://www.dol.gov/osbp/sbrefa/poster/matrix.htm>

*The Value-Added and Alternative Agriculture Start-up Tool Kit*