

Summary of Federal Laws and Regulations Affecting Agricultural Employers, 2000. By Jack L. Runyan. Food and Rural Economics Division, Economic Research Service, U.S. Department of Agriculture. Agricultural Handbook No. 719.

Abstract

About 34 percent of U.S. farms in 1997 used hired labor, and 12 percent used contract labor. Hired labor costs averaged 12 percent of total farm production expenses in 1997, but amounted to as much as 44 percent of production expenses for horticultural specialty crop producers, 40 percent for fruit and tree nut producers, and 32 percent for vegetable and melon producers. Hired farmworkers have accounted for about 31 percent of the farm workforce in the 1990's. Hired labor's importance to U.S. farm production requires agricultural employers to understand Federal laws and regulations governing employment, taxes, wages, and working conditions. This single-source publication summarizes these laws and regulations. This updated version of a 1992 report contains expanded sections on agricultural employers' Federal safety requirements, migrant and seasonal farmworker provisions, and tax requirements for agricultural employers, as well as new sections on employer responsibilities under the Family and Medical Leave Act of 1993 and the Personal Responsibility and Work Opportunity Reconciliation Act of 1996.

Keywords: Agricultural labor, farm labor, farm labor policy, employer-employee relations.

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Preface

This handbook, an update of the Economic Research Service (ERS) report *A Summary of Federal Laws and Regulations Affecting Agricultural Employers*, 1992, (Runyan, 1992b) provides farm employers and employees, extension specialists, and others interested in farm labor issues with basic information about Federal laws and regulations affecting employment relationships in agriculture. Each of the laws and regulations is briefly described, and its application to agricultural employment is explained. I also direct readers to contacts for additional information. Nothing in this report substitutes for professional legal advice. As far as we know, this is the only summary of Federal laws and regulations affecting agricultural employment published by a Federal agency.

This handbook is a byproduct of a broader ERS research and analysis program on agricultural labor. Related ERS reports include:

Runyan, Jack L. "Minority Hired Farmworkers Earn About the Same as Their Nonminority Counterparts," *Rural Conditions and Trends*. Vol. 9, No. 2. USDA, Econ. Res. Serv. February 1999.

Effland, Anne B., and Jack L. Runyan. "Hired Farm Labor in U.S. Agriculture," *Agricultural Outlook*. USDA, Econ. Res. Serv. October 1998.

Runyan, Jack L. *A Profile of Hired Farmworkers, 1996 Annual Averages*. Agricultural Economic Report No. 762. USDA, Econ. Res. Serv. April 1998.

Runyan, Jack L. *Injuries and Fatalities on U.S. Farms*. Agriculture Information Bulletin No. 739. USDA, Econ. Res. Serv. January 1998.

Runyan, Jack L. "Number of Hired Farmworkers Increases, but Their Weekly Earnings Show Little Improvement," *Rural Conditions and Trends*. Vol. 8, No. 2. USDA, Econ. Res. Serv. September 1997.

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Summary

Hired labor costs averaged 12 percent of total U.S. farm production expenses in 1997, but they amounted to as much as 44 percent of production expenses for horticultural specialty producers, 40 percent for fruit and tree nut producers, and 32 percent for vegetable and melon producers. Hired labor is an important part of the U.S. farm production process, and it is increasingly necessary for agricultural employers to know the Federal laws and regulations governing employment, taxes, wages, and working conditions, and to be aware of changes in those laws and regulations. This single-source publication, an updated version of a 1992 report, summarizes these laws and regulations. Among the changes from the 1992 report are expanded sections on occupational and pesticide safety, migrant and seasonal farmworkers, immigration, and tax requirements. New sections include employer responsibilities under the Family and Medical Leave Act of 1993 and the Personal Responsibility and Work Opportunity Reconciliation Act of 1996.

The *Fair Labor Standards Act of 1938*, a Federal law with broad application, contains provisions and standards on minimum wages, maximum hours allowable without overtime pay, child labor, and recordkeeping. Coverage and exemptions for agricultural workers and recent changes in legislation are discussed.

The *Occupational Safety and Health Act of 1970* focuses on assuring safe and healthful working conditions for working adults and contains standards affecting several aspects of the agricultural workplace. Major provisions of the act cover standards for temporary labor camps, field sanitation, hazardous substances, cadmium usage, and logging operations. The cadmium usage and logging operations provisions are the major changes since publication of the 1992 summary.

The *Federal Insecticide, Fungicide, and Rodenticide Act of 1947* sets an overall risk/benefit standard for pesticide registration, requiring that all pesticides perform their intended function when used according to labeling instructions, without posing unreasonable risks to human health or the environment. The Environmental Protection Agency (EPA) requires the certification of all pesticide applicators and their employees who will be applying pesticides. In 1992, EPA issued a new Worker Protection Standard that covers all employers using pesticides or having them applied.

The *Migrant and Seasonal Agricultural Worker Protection Act of 1983* (MSPA) provides migrant and seasonal farmworkers with protections concerning pay, working conditions, and work-related conditions. Since 1992, two rules changing and clarifying MSPA have been published: one changed MSPA regulations regarding disclosure of workers' compensation information and reconsideration of the MSPA-required transportation liability insurance; and the other amended the definition of "employ" under MSPA to include a definition of "independent contractor" and to clarify the definition of "joint employment."

The *Immigration Reform and Control Act of 1986* requires all employers, including farm employers, to verify the eligibility of each employee hired to work in the United States, and prohibits employers from discriminating against any individual because of citizenship status. Since 1992, the Immigration and Naturalization Service has changed the list of documents acceptable for verifying employee identity and eligibility to work in the United States.

Workers' compensation laws provide medical and cash benefits to employees or their dependents who incurred a work-related injury or illness through no fault of their own, and relieves employers of liability from lawsuits involving negligence. These laws are not Federal laws (except those covering Federal employees and certain maritime employees) and coverage for agricultural workers varies among States. These variations are discussed.

The *Family and Medical Leave Act of 1993* (FMLA) was enacted to allow employees to balance their work and family life by taking reasonable unpaid leave for certain family and medical reasons. While an employee is on FMLA leave, an employer is required to maintain group health insurance (arrangements will need to be made for the employee to pay his or her share of the premiums). Upon return from FMLA leave, an employee must be restored to his or her original job, or to an equivalent job. FMLA will have a minimal effect on agricultural employers because it is limited to employers with 50 or more employees in 20 or more workweeks in the current or preceding calendar year.

The *Personal Responsibility and Work Opportunity Reconciliation Act of 1996*, commonly known as the Welfare Reform Act, has many provisions. Agricultural employers, like all employers, are affected by the provision that each State must have a program that timely collects and processes information about the newly hired so that child support can be effectively enforced.

In addition to these acts, four Federal laws--*Equal Pay Act of 1963*, *Civil Rights Act of 1964 (Title VII)*, *Age Discrimination in Employment Act of 1967*, and *Americans with Disabilities Act of 1990*--provide qualified workers equal access to employment opportunities. The responsibilities of agricultural employers under each of these laws are discussed.

This report also explains agricultural employers' responsibilities under the three major Federal employment tax laws: *Federal Insurance Contributions Act of 1935*, (commonly known as Social Security), *Federal Unemployment Tax Act of 1935*, and Federal income tax codes.