

Oregon Workers' Compensation

Although you may already be familiar with workers' compensation laws related to agriculture, your new enterprise may involve different activities with different workers' compensation rates and risks. The Department of Consumer & Business Services (DCBS) offers the following information to explain the workers' compensation system and rate making.

Under Oregon law, each employer provides workers' compensation coverage by qualifying:

(a) as a carrier-insured employer, or (b) as a self-insured employer (posts surety deposit with DCBS director). Commonly, agricultural employers comply with the law by becoming a carrier-insured employer. Employers may elect to offer private health and/or dental plans for their employees, however private health insurance does not replace the obligation to carry workers' compensation insurance. For a list of insurers contact the Small Business Ombudsman for Workers' Compensation at (503) 378-4209.

Workers' compensation coverage provides all medical expenses as well as disability and vocational benefits to workers who become occupationally injured or diseased with temporary or permanent disability. Payments are made to dependents if the worker dies as a result of occupational injury or disease. Workers' compensation insurance is designed to compensate workers injured on the job, at the same time protecting the employer from other liabilities. In most cases, when an employer has workers' compensation insurance, an injured worker must look for indemnification from the insurer solely. The worker has no right to proceed against the employer unless the injury was caused by a deliberate act of the employer to inflict damage to the worker.

Premium Rates - Workers' compensation premium rates may vary by insurer. All rates however are applied to incremental amounts of \$100 of annual payroll. The following four factors influence the premium rate for each employer:

- 1) **Type of operation:** Farm operations (dairy, orchard, ranch/cattle, etc.) are categorized into National Council on Compensation Insurance (NCCI) Classification codes based on the major activities of the employees and type of production. In turn, the statewide risk (accidents) associated with each NCCI class code determines the base rate, i.e. the higher the accident(s) costs in each class code, the higher the premium rate. The 2003 base rate for some farm operations follow: dairy operation - \$4.65 per \$100 of annual payroll; cattle operation/ranch - \$12.61; nursery operations - \$2.09; and berry picking by hand - \$0.57. You should check with your insurer for rates applicable to recreational enterprises operated on your farm.
- 2) **Experience Modification Factor (EMF):** The EMF reflects the accident rate of the individual farm operation. EMF is determined by the frequency and severity of accidents at the individual farm, averaged over a moving three-year period. In other words, once an accident occurs it remains a factor in determining the farm's premium rates for three years. Farm operators can significantly reduce premiums over time by implementing a wellmanaged worker safety program, thereby reducing the number of on-the-job accidents.
- 3) **Expense Loading Factor (ELF):** Each insurance carrier determines its individual costs of operational expenses; taxes and losses; and adds a percentage rate to the base rate to reflect these costs. Expense loading factors range from 0.960 to 1.580. Farm operators may compare ELF rate for various carriers to determine which is the most competitive.
- 4) **Premium Assessment:** DCBS assesses the same flat rate to all insurance carriers, which is reflected in the premiums of employers. The premium assessment rate for 2003 is 8.0%, which adds 8.0% to the total premium cost.

Oregon Insurance Plan - If you can't find an insurer willing to write your policy, you can obtain insurance through the Oregon Insurance Plan. The National Council on Compensation Insurance (NCCI) administers the insurance plan. NCCI requires a special application and a deposit prior to processing. Upon NCCI approval of your application, it assigns you to one of several insurance companies. For further information contact NCCI at (800) 622-4123 and ask for Oregon coverage.

Payroll Exemptions — Payroll not subject to workers' compensation premium includes vacation pay, bonuses the employee is unaware of in advance of payment, tips and gratuities, overtime in excess of straight time hourly rate, profit sharing pay when the payment is made under a written agreement, the value of special rewards for invention or discovery, group health plan contributions, and bonus payments which are part of a written plan to reward workers for safe working practices. Holiday pay, sick pay and bonuses, which are anticipated by the employee, and those, unrelated to safety bonuses, should be identified on payroll reports, but are not subject to premium. For more information contact your insurer.

Permits/Licenses — The Workers' Compensation Division will issue a Notice of Compliance upon receipt of a "Guaranty Contract" by an insurer. This notice must be posted in an accessible location. A new notice is required should the carrier change.

Reporting Injuries — Injuries should be reported using *Worker's and Employer's Report of Occupational Injury or Disease* (Form 801), which is available from the insurer. To assure prompt and accurate filing of reports, instruct employees to report all accidents immediately. Verify all facts concerning an accident before completing the form. The Form 801 must be filed with your insurer within 5 days after knowledge of an injury. If an injured worker required only first aid and did not lose time from work, a report is not filed.

Record Keeping — A record of the date, nature, and treatment of every injury, including minor ones requiring only first aid, should be kept. These records may be useful in case the worker later seeks medical treatment. Form 801 must be completed for all cases involving time loss from work or treatment by a physician.

Compensable Injury — A compensable injury is an accidental injury or disease occurring in the course of employment that requires medical services or results in disability or death. The following points are particularly important for all employers:

- Your insurer determines compensability.
- A previous injury or physical condition, if aggravated by current employment, could result in a compensable claim.
- The absence of witnesses does not prevent an injury from being compensable.
- If a worker does not follow company rules, the claim could still be compensable.

As employer, you are considered to have knowledge of an accident when any one of the following occurs:

1. You or your authorized representative, such as a farm manager or supervisor, sees an accident and knows that a worker was injured as a result of that accident.
2. The worker or someone on the worker's behalf advises you or your representative, orally or in writing, that an on-the-job injury has occurred.
3. The worker notifies you that he or she intends to file a claim for a condition previously not considered work-related.
4. Your insurer receives a *Worker's and Physician's Report for Workers' Compensation Claims* (Form 827) completed by the doctor and signed by the worker.
5. The worker or their representative tells your insurer, orally or in writing, that an on-the-job injury has occurred.

Additional Information — For more information about workers' compensation insurance coverage contact:

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