

Employment Standards Review 2006 Comments from Manitoba Pork Council

1a. Hourly Employees

Employees working in hog barns are either paid hourly or by salary. Paying by the hour allows the employer to accommodate variability in hours of work. A farm employee may only work twenty-five hours a week during the slow part of a cycle, however, when hogs must be loaded and shipped for instance, hours of work increase. Generally speaking, employers and employees prefer flexible working arrangements with hourly pay.

In modern confined livestock operations, hours worked rarely average more than forty hours a week. This may be due to automatic feeding and watering systems with manure applied by a custom applicator.

Hours are variable depending on types of operations:

- Sow barns – Work is consistent; hours are also consistent - between 34 to 42 hours each week.
- Nursery barns – Work is variable depending on where pigs are in the growing cycle. Nursery pigs are in the barn for six to eight weeks requiring only four to six hours of work per day for the first four to five weeks. Work time increases to eight to ten hours a day in weeks six and seven as animals are heavy enough to be shipped and the barn must be thoroughly cleaned. On average, employees spend 35 to 38 hours a week working in the nursery barns.
- Feeder barns – The work cycle is 16 to 20 weeks long. Only four to six hours per day are spent in the barn for the first ten weeks. At week 11, hogs are scaled and the workload increases dramatically from seven to nine hours a day during weeks 11 to 20.

Recommendations:

On a long-term average, hourly wage employees rarely work beyond 40 hours a week. Many of them have a secondary job such as driving a school bus, repairing vehicles or cattle farming and therefore enjoy the cyclical time spent at the hog operation. In the case of a nursery or finisher barn, employees enjoy more family time. Work hour variances do not work as well in large integrated barns as work hours are consistently at or below 40 hours a week.

Note: Many family farms are incorporated for income tax purposes. Integrated barns are pig operations that are closely aligned to contractual arrangements or wholly owned by feed mills and/or pork slaughter and processing companies.

1b. Salaried employees

Generally, salaried hog barn employees are paid for a 40 to 45 hour workweek. Swine management companies have a difficult time finding workers who want to work for a set salary as they often have a second job that earns them additional income.

Recommendation:

The code should not contain specific provisions for salaried employees.

1c: Incentive-based workers

Incentive-based pay is not common in the swine industry. This type of pay system should not require workers to earn less than minimum wage if worked out as an hourly base pay.

Recommendation:

Incentive-based pay is easily abused. The code should contain specific provisions that force employers to calculate and ensure that the wage of an incentive-based worker does not fall below minimum wage. Employers should pay equal to or better than minimum wage.

1d: Managers

Managers should be exempt from overtime pay and the code should reflect management criteria in the event that compensation for overtime is sought.

A suitable definition of a manager is important. Criteria may be: power to hire, discipline, terminate, determine wages, promote without direct involvement from Human Resources (HR) and ownership. If a manager has financial ownership in the farm, he is a true manager and has ultimate power. Management companies often have HR departments that strip away many of the duties of independent managers. In this case the “manager” should not be titled as such.

2. Exclusions from the Code: Agricultural Workers

Agriculture has changed. Cropping acres per farm family have increased and so have the sizes of family hog farms. Modern livestock facilities are managed by a combination of independent farm families and management companies. Sizes are often similar, as many progressive farm families have built large-scale farms equal in size to the larger integrated operations. The difference lies in how they manage payroll. Independent farms do their own payroll and corporate farms prepare payroll collectively in order to pool employees on a benefit package.

Salaried employees working on large integrated farms have greater flexibility than those on family farms. For instance, employees on family-owned farms rarely get away on vacation. Management company employees have defined vacation allowances within the guidelines of labor law. They have pension plans, bereavement and sick day policies. They are paid for 40 to 45 hours per week but generally work in the area of 32 to 38 hours per week. The higher number of employees allows for staff to cover for workers who have appointments or family obligations.

Farming operations do not allow staff to be away on statutory holidays. Animals need to be fed and cared for every day of the week. Government-mandated holidays can create animal welfare problems.

Hutterite Brethren Colonies is another large pork producer in Manitoba. There are over one hundred colonies in all part of the province. Hutterite Colonies do not pay wages to any of their barn workers. The current regulations pertaining to this type arrangement is good.

Recommendation:

All types of swine livestock operations should continue to be exempt from the code. The current code adequately accommodates both employer and employee. No distinction should be made between the types of agricultural workers. Hutterite Brethren Colonies should continue to be exempt from the code.

3. Promoting Compliance

Appropriate enforcement tools such as fines are needed to promote compliance with regulations. On large confined hog operations, compliance is relatively easy as management companies all have an HR manager. Promoting compliance on independent farms where an employee's time is often shared with cropping is not recommended.

4. Termination Notice

Manitoba hog producers have no problems with the termination process. Employers and employees respect current law. Contractual law recognizes that it is very difficult to force an individual to work productively. No change is needed for providing termination notice.

Recommendation:

The termination process is often worked out between the manager and the employee. Employees all leave on different terms. Forcing employees to work after notice of termination is unproductive and could be detrimental to care of animals.

The employer should be required to commit two weeks pay after resignation. They may choose to keep the employee on the farm or dismiss them immediately.

5. Statutory Holiday Pay for Part-Time Workers

Employers are not currently required to pay statutory holiday pay. This should continue.

Recommendation:

Large confined hog operations rarely hire part-time employees therefore changing the eligibility requirement is not needed.

6. Wage Deductions

The code should be specific about permissible wage deductions. Authorization from workers should be a requirement.

Recommendation:

There should be specific wage deduction criteria and employers should obtain authorization for other deductions not listed.

7. Employment of Children

Family farms often employ family members under the age of 16 and larger hog operations that are independently owned also bring in family to work under the age of 16. Integrated operations under management companies do not permit people to work in the barn under the age of 16.

Recommendation:

Children under the age of 16 who work in family-owned operations must be closely supervised and trained to observe basic farm safety procedures. Swine operations that are part of management companies have a strict health and safety program that excludes children under 16.

8. Unpaid Leave and Work-Life Balance

Providing pay in cases of bereavement, family responsibility and illness is already offered by many swine management companies. In the case of independent or family farms, these additional benefits would be financially onerous.

Recommendation:

The code should not provide for more unpaid leave. The option to provide more unpaid leave should come from the employer or negotiated with the farm manager. Few problems exist regarding additional unpaid leave.

If there are any questions regarding these comments or recommendations, please feel free to contact me:

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