Hello Northeast Ohio Counties!

Hopefully, everyone had a great Memorial Day yesterday! The warm weather was certainly welcomed as there are still crops to be planted in NE Ohio.

Check out today's articles and flyers for upcoming programming!

Stay safe and have a great week!

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Soybeans growing strong in NE Ohio
Case highlights the risk of misclassifying employees as independent contractors

By: Peggy Kirk Hall
Source: https://farmoffice.osu.edu/blog/wed-05252022-918am/case-highlights-risk-misclassifying-employees-independent-contractors

Farms and other businesses can benefit by using independent contractors to fill labor needs while not having the same financial and legal responsibilities the business has for its employees. But state and federal laws allow those advantages only if the worker is truly an independent contractor. When a worker classified as “independent contractor” functions as an employee in the eyes of the law, a business can be liable for failing to meet its employer obligations for the worker. That is exactly what happened in a recent case before the Ohio Supreme Court.

The company. The case involved Ugicom (the company), paid by Time Warner Cable under a subcontract to provide workers to install underground cable. Workers used the company’s website to select and document installation jobs and the company paid the workers at rates it determined. The installers were required to wear badges and vests identifying the company and to pass drug tests and background checks, all coordinated by Time Warner. The company required installers to sign a one-year independent contractor agreement containing a “non-compete clause” that prohibited them from providing installation services for competitors. The contract also required installers to respond to service requests within two hours. Installers had to provide their own hand tools, transportation, cell phones, and laptops, but used cable obtained from Time Warner. They could work any day or time consented to by customers. The company paid the installers by the job and did not withhold taxes or provide any benefits.

The Bureau of Workers Compensation (BWC) audit. The BWC audited the company to decide whether it had paid the correct amount of workers' compensation premiums for all of its employees. The BWC examined the company’s treatment of workers it had hired to install cable as independent contractors. Concluding that the company exercised “too much control” over the installers, the BWC determined that the installers were actually employees for workers' compensation purposes and the company owed $346,817 in unpaid premiums for the employees. The company unsuccessfully appealed the decision to the agency and the Tenth District Court of Appeals and the case ended up before the Ohio Supreme Court.

The Ohio Supreme Court review. For purposes of the workers’ compensation program, Ohio law provides that the controlling determination in whether a worker is an independent contractor or an employee is “who had the right to control the
manner or means of doing the work.” There is not a bright-line test for making such a determination, however. Instead, the Ohio Supreme Court explained, the BWC must consider a set of factors related to who controls the manner or means of the work. Those factors include:

1. Whether the work is part of the regular business of the employer
2. Whether the workers are engaged in an independent business
3. The method of payment
4. The length of employment
5. Agreements or contracts in place
6. Whether the parties believed they were creating an employment relationship
7. Who provides tools for the job
8. The skill required for the job
9. The details and quality of the work

The Ohio Supreme Court’s role was to determine whether the BWC relied upon “some evidence” when reviewing each of the factors to reach its conclusion that the company controlled the manner or means of the installers’ work. The Court concluded that most, although not all, of the BWC’s conclusions were supported by at least some evidence and upheld the BWC’s decision. The factors and evidence that received the most attention from the Court included:

- **Independence from the company.** The installers’ public image when working identified them as being with the company; they all wore the same badges and vests, and some had signs on their vehicles with the company’s name.

- **Method of payment.** The company controlled the rate of payment, which was nonnegotiable and did not include a bid process as is typical for independent contractors. The “take-it-or-leave-it” approach indicated control over the installers.

- **Length of employment.** The installers had an ongoing relationship with the company and did not advertise their services to the community at large.

- **Agreements and contracts.** The company’s non-compete clause restricted the installers’ freedom to work and indicated a measure of control over the workers.

- **Skill requirements.** The BWC concluded that the minimal skill required to install the cable was not high or unique, and the company offered no facts to show that the installers required specialized skills.

**Disagreement on the court.** Two of the Supreme Court Justices, Kennedy and DeWine, dissented from the majority opinion. Their primary point of disagreement was that there was no evidence supporting the BWC decision. The evidence instead suggested that the company controlled only how the installers were paid, and the installers controlled the manner and means of doing their work. The
dissent criticized the BWC for jumping to a quick conclusion that the company’s true motives were “to evade the obligations associated with having employees.”

**What does this mean for farm employers?** Farms often rely on independent contractors for seasonal and intermittent help with work like baling hay, running equipment, and doing books. Are these workers true independent contractors or are they employees? That is a fact dependent question, but we can imagine many scenarios where the farm has a majority of the control over the mode and manner of such work. Farms are subject to Ohio’s workers’ compensation law, so a farm could be audited by the BWC just as the company in this case was and could see similar results for misclassifying employees as independent contractors.

**Implications for all businesses.** The case carries several implications that raise needs for businesses that use independent contractors:

1. **Recognize that state and federal tests can differ.** Many are familiar with the [IRS test](https://www.irs.gov/employees/contractors) for independent contractors but note that the Ohio Supreme Court applied its unique Ohio test for determining independent contractors in regard to BWC premiums. State and federal laws differ. It’s important to apply the appropriate test for the situation.

2. **Review the manner and means factors for each independent contractor.** For each worker claimed as an independent contractor, review the nine factors listed above to ensure that the business isn’t exerting the most control over the manner and means of the work. Where possible, adjust practices that give the business unnecessary control over how and when the work is performed. Consider these:
   - Use employees to do the regular work of the business and independent contractors for high-skill or unique tasks.
   - Ensure that the business isn’t controlling the public image of the workers. The workers should not be branded or identifiable with the business through clothing, name badges, hats, vehicles, etc.
   - Require independent contractors to submit bids or proposals on the amount and method of payment for their work.
   - Avoid using the same independent contractor for an extended period of time and ensure that the worker’s services are available to other businesses.
   - Don’t restrict the worker’s freedom to work for others, especially via a contract or agreement.

3. **Maintain records and evidence of the work situation.** The BWC need only have “some evidence” that the nine factors indicate a high level of control over the mode or manner of work, but the business may offer facts and evidence to the contrary. Good recordkeeping is imperative. A business

Northeast Ohio Agriculture

Ashtabula, Portage and Trumbull Counties
that can’t provide stronger facts and evidence in favor of the business, like the company in this case, might be at risk of an employee classification by the BWC.

While there are benefits of using independent contractors to meet labor needs, farms must recognize the associated risk of misclassification. For workers’ compensation purposes, farms can avoid those risks by ensuring that it is the independent contractor, not the farm, who controls the "manner or means" of doing the work. Read the Ohio Supreme Court’s opinion in *State ex rel. Ugicom Enterprises v. Morrison* here.

**It’s not too late to make a Grazing Management Plan**

By: Richard Purdin, OSU ANR/CD Educator, Adams County

Source: [https://u.osu.edu/beef/2022/05/25/its-not-too-late-to-make-a-grazing-management-plan/](https://u.osu.edu/beef/2022/05/25/its-not-too-late-to-make-a-grazing-management-plan/)

May has arrived, and spring has truly sprung! With the weather trending warmer as I write this on May 2nd and there being no shortage of precipitation, pasture and hay fields across the state are waking up and growing. In some areas forages have been off to the races longer than others and beginning to mature and enter the reproductive stages of growth.

As I’ve walked my pastures in the rolling hills of Adams County, I’ve taken note of the many different grass species and even legumes in the pastures beginning to bolt and shoot a seed head. This is not uncommon for many of our cool season forages such as Kentucky bluegrass, orchard grass, perennial ryegrass, and tall fescue.

What is concerning is not the date at which the forage is maturing but the height at which it is maturing! According to my records the first week of May, 2021 presented daytime highs around 75°F and nighttime lows of 50°F and a forage height of 33 inches and beginning the boot stage of growth. On the flip side forage height in my pastures this year are around 24 inches in height and beginning early boot stage of growth. Five inches of growth might not seem like much but in dry matter yield this could be a difference of 1,000 pounds of dry matter yield per acre!

As an Extension educator I always like to ask mind stimulating questions. I sometimes ask them to myself and on occasion I even answer said question. The questions I have are 1. Why is forage height much shorter this growing season, 2. How can I manage shorter forage heights/lower yields, 3. What should I be doing now to stay ahead of forage maturing and quality degradation, and finally, what should my stocking density be.
As I mentioned earlier, I occasionally answer my own questions and the answer is to review my grazing management plan. Now I am going to ask if you have a grazing management plan for your farm? If your answer is no, it is still not too late to make one.

A grazing management plan (GMP) is a critical tool that every livestock/pasture manager should have. Providing steps to better management of forages and natural resources not only makes the pasture healthier but in turn makes livestock heathier which will equate to greater returns to the farm operation. Let’s discuss the steps and considerations when creating a grazing management plan for your farm.

1. **Who can help?** Before constructing a GMP first find help. I have learned that sometimes it is best to get a fresh set of eyes on the farm, as a producer myself I understand that when things get busy we often overlook things that others might take notice of. For example I might walk past a patch of yellow buttercup growing in pasture every day and not think a thing about it but someone new might take notice of it and inform me of the potential toxicity to livestock. Help can be found at your OSU Extension office, local Natural Resources Conservation Service (NRCS), Soil and Water Conservation District, and don’t forget about your fellow farmer that has experience in grazing management practices.

2. **Set goals for the operation.** The process of developing a grazing management plan can be a great time to take a deep look at your current operation and set goals for the future. Goals can include, improving farm sustainability, sustain or improve forage quality or diversity, improve soil health, reduce labor, build infrastructure, and even diversify or expand marketing opportunities.

3. **Take a closer look at the current operation.** Know what is working and what is not. Remember this is the time to get technical assistance involved in the planning process. Producers can often get comfortable with what they are doing even though it may not be leading to the best results. Obtain good maps of the farm and label existing pastures, hayfields, fence, watering facilities, and environmentally sensitive areas including streams and woodlands. This is also a good time to take pictures of your operation including the pastures, livestock, and infrastructure.

4. **Start walking.** Take time to walk the pasture and evaluate the different types of grasses, legumes, and forbs. Take note if the plants look healthy or are they struggling to grow. As you walk your pasture you can begin to score the condition of the pasture. Pasture condition scoring gives a score between 1 and 5 with the 1 needing much improvement and 5 being exceptional condition. Scoring the pasture should be done throughout the whole growing season and after each change in management practice has been implemented.
5. **Take inventory.** Determine the amount of pastureland available for grazing, then inventory the number of animals you have on the farm and include average weight, age, and type of livestock. This is also a good time to take inventory of stored forages available and to get soil and forage quality tests done to place in GMP records.

6. **Create a contingency plan.** Every Grazing management plan should have a plan B, C, or even D! Factors such as weather, market conditions, or personal health can play key roles in how you manage your pastures. This is the time to start thinking about how the operation would adapt or change to different disruptions or challenges.

7. **Write it down.** You have all the critical information, now it’s time to write it down. I recommend using a pencil and paper, not a permanent marker or chisel and stone! What I mean is a GMP is an evolving document and not permanent but made to correct or change as you begin to implement your plan.

8. **Have fun and involve everyone in the operation.** The grazing management plan should be constructed to make life easier not harder. Make it enjoyable, sit down at the kitchen table with the rest of the family or employees and let them sketch out their ideas on a map then take all the ideas and pick and choose through the ideas!

For more information go to:
- [https://forages.osu.edu/pastures-grazing](https://forages.osu.edu/pastures-grazing)
- [https://www.nrcs.usda.gov/wps/portal/nrcs/detail/national/landuse/crops/?cid=nrcs142p2_044356](https://www.nrcs.usda.gov/wps/portal/nrcs/detail/national/landuse/crops/?cid=nrcs142p2_044356)

**Spotted Lanternfly Video – Scouting Tips**

*By: Jim Jasinski, Amy Stone, Thomas Dehaas, Ann Chanon*

**Source:** [https://u.osu.edu/vegnetnews/2022/05/23/spotted-lanternfly-video-scouting-tips/](https://u.osu.edu/vegnetnews/2022/05/23/spotted-lanternfly-video-scouting-tips/)

While it has generally been a cooler than average spring this year, a few hot days have pushed accumulated degree days past the point where Spotted Lanternfly (SLF) have begun emerging from their overwintering egg masses from known populations in Cleveland. Given the northern emergence location of this pest, it is nearly certain emergence has begun all over the state.
To help scout for early SLF stages, Amy Stone of Ohio State University Extension is featured in a video describing how to locate and identify SLF egg masses and nymphs, both black and red stages (https://youtu.be/jhcURU2yCGE).

In general, the early nymphs are smaller and mostly black with white spots, almost spider or tick like, while the last nymph stage is the largest and mostly red with black and white spots.

Spotted Lanternfly has been detected primarily in the northern and eastern parts of the state but can be easily transported to any corner of the state so we hope the general public and growers remain vigilant in looking for this new pest. If a suspected SLF stage is found, please report to ODA (https://agri.ohio.gov/wps/portal/gov/oda/divisions/plant-health/invasive-pests/slf) or any OSU Extension educator. Take pictures, collect stages and carefully note location as someone will be sent back to confirm detection.
Climate change on course to hit U.S. Corn Belt especially hard, study finds


Climate change will make the U.S. Corn Belt unsuitable for cultivating corn by 2100 without major technological advances in agricultural practices, an Emory University study finds.

Environmental Research Letters published the research, which adds to the evidence that significant agricultural adaptation will be necessary and inevitable in the Central and Eastern United States. It is critical that this adaptation includes diversification beyond the major commodity crops that now make up the bulk of U.S. agriculture, says Emily Burchfield, author of the study and assistant professor in Emory's Department of Environmental Sciences.

"Climate change is happening, and it will continue to shift U.S. cultivation geographies strongly north," Burchfield says. "It's not enough to simply depend on technological innovations to save the day. Now is the time to envision big shifts in what and how we grow our food to create more sustainable and resilient forms of agriculture."

Burchfield's research combines spatial-temporal social and environmental data to understand the future of food security in the United States, including the consequences of a changing climate.
More than two-thirds of the land in the U.S. mainland is currently devoted to growing food, fuel or fiber. And about 80 percent of these agricultural lands are cultivated with just five commodity crops: Corn, soy, wheat, hay and alfalfa.

Previous research based on biophysical data has established that climate change will adversely affect the yields of these crops. For the current paper, Burchfield wanted to investigate the potential impacts of climate change on cultivation geographies. She focused on the six major U.S. crops that cover 80 percent of cultivated land in the United States: Alfalfa, corn, cotton, hay, soy and wheat. She drew from historical land-use data classifying where these crops are grown and publicly available data from the U.S. Department of Agriculture, the U.S. Geographical Survey, the WorldClim Project, the Harmonized World Soil Database and other public sources.

Using these data, she built models to predict where each crop has been grown during the 20 years spanning 2008 to 2019. She first ran models using only climate and soil data. These models accurately predicted -- by between 85 and 95 percent -- of where these major crops are currently cultivated.

Burchfield ran a second set of models that incorporated indicators of human interventions -- such as input use and crop insurance -- that alter biophysical conditions to support cultivation. These models performed even better and highlighted the ways in which agricultural interventions expand and amplify the cultivation geographies supported only by climate and soil.

Burchfield then used these historical models to project biophysically driven shifts in cultivation to 2100 under low-, moderate- and high-emission scenarios. The results suggest that even under moderate-emission scenarios, the cultivation geographies of corn, soy, alfalfa and wheat will all shift strongly north, with the Corn Belt of the upper Midwest becoming unsuitable to the cultivation of corn by 2100. More severe emissions scenarios exacerbate these changes.

"These projections may be pessimistic because they don't account for all of the ways that technology may help farmers adapt and rise to the challenge," Burchfield concedes. She notes that heavy investment is already going into studying the genetic modification of corn and soy plants to help them adapt to climate change. "But relying on technology alone is a really risky way to approach the problem," Burchfield adds. "If we continue to push against biophysical realities, we will eventually reach ecological collapse."

She stresses the need for U.S. agricultural systems to diversify beyond the major commodity crops, most of which are processed into animal feed. "One of the basic laws of ecology is that more diverse ecosystems are more resilient," Burchfield says. "A landscape covered with a single plant is a fragile, brittle landscape.
And there is also growing evidence that more diverse agricultural landscapes are more productive."

U.S. agricultural systems incentivize "monoculture farming" of a handful of commodity crops, largely through crop insurance and government subsidies. These systems take an enormous toll on the environment, Burchfield says, while also supporting a meat-heavy U.S. diet that is not conducive to human health.

"We need to switch from incentivizing intensive cultivation of five or six crops to supporting farmers’ ability to experiment and adopt the crops that work best in their particular landscape," she says. "It's important to begin thinking about how to transition out of our current damaging monoculture paradigm toward systems that are environmentally sustainable, economically viable for farmers and climate-smart."

Burchfield plans to expand the modeling in the current paper by integrating interviews with agricultural policy experts, agricultural extension agents and farmers. "I'd especially like to better understand what a diverse range of farmers in different parts of the country envision for their operations over the long term, and any obstacles that they feel are preventing them from getting there," she says.

**Upcoming Extension Programs**

The following programs have been scheduled for NE Ohio farmers. Check back each week as more programs are added to the calendar

**Backyard Poultry – Portage Soil and Water**
June 2nd, 2022, 6-7:30 PM

**Small Grains Field Night – Trumbull County**
June 9th, 2022, 5-8PM

**Cheese Making Basics with Demo – Portage County Location TBA**
June 18th, 2022 10AM-12PM – 20 Person Limit
Backyard Poultry

Thursday, June 2nd 2022, 6PM-7:30PM

Are you interested in learning what it takes to raise poultry in your backyard? Please join the Portage County Extension Office in welcoming Dr. Tim McDermott Franklin County ANR Extension Educator and Veterinarian. Our program will include topics such as poultry types, feeding requirements, shelter, biosecurity and more.

Location: Portage Soil and Water Garden Room, 6970 State Rt. 88, Ravenna, OH 44266

Cost: $10

To register: https://go.osu.edu/portagebackyardpoultry or scan the QR code above

Details: Payments can be made by check or cash sent to the Portage County Extension Office, 705 Oakwood St. Suite 103, Ravenna, OH 44266. If you prefer to pay by credit card please contact arnold.1143@osu.edu.

portage.osu.edu
TRUMBULL COUNTY EXTENSION PRESENTS

Small Grains Field Night and Dinner

OSU Extension Trumbull County will be hosting a Small Grains Field Night on June 9, 2022 from 5-8PM at WI Miller and Sons, 3389 Gardner Barclay Road, Farmdale, OH 44417. This free event will include a dinner sponsored by the Trumbull County Holstein Club. Learn from OSU state specialists and local OSU Extension Educators about important information to help you grow a successful small grain crop. Pre-registration is requested by June 7 for an accurate food count.

DATE: June 9, 2022
TIME: 5:00-8:00 p.m.
LOCATION: WI Miller and Sons, 3389 Gardner Barclay Road, Farmdale, OH 44417
COST: FREE
PRE-REGISTRATION REQUESTED: Call 330-638-6783

For more information, visit trumbull.osu.edu or call 330-638-6783

TOPICS INCLUDE:
- Disease Management
- Agronomic Considerations
- Grass Weed Management
- Valuing Straw
- Hessian Fly and Cereal Leaf Beetle Updates
- Q&A

EVENT SPONSOR:
WI Miller and Sons and Trumbull County Holstein Club
Ohio Commercial and Private Pesticide License and Certified Crop Advisor credits will be available
Do you have a home, yard, or garden question? Need expert advice but don’t know where to turn?

Call the Ashtabula County Master Gardener Hotline!

Starting May 2nd until October 31st
Every Monday, 9 AM to Noon and every Thursday, 1 PM to 4 PM

To contact the Hotline, call 440-576-9008

Call during listed hours to speak with a volunteer or call anytime and leave a message. The hotline can be also be reached via email at Ashtabula.1@osu.edu and in person by stopping in at the Ashtabula OSU Extension Office – 39 Wall St. Jefferson, Ohio 44047.

For your home horticultural question call the Master Gardener Hotline today!
Join us for a day of pollinator education and celebration in beautiful Conneaut, Ohio. The 2022 Northeast Ohio Pollinator Summer Symposium is an all-day pollinator focused event that will feature a variety of speakers, tours, and vendors. The morning sessions will cost $10 to attend and feature two speakers, Michele Colopy, Executive Director and co-founder of LEAD for Pollinators, and Debra Knapke, author, public speaker and garden consultant known as “The Garden Sage”. The afternoon session will be free to the public and offer many different activities, learning opportunities, networking, and vendors. So far, the afternoon will include Native Plant Vendors, Nature Organizations, Guided Tours, Guided Hikes, Kids Activities, Tree Planting demos, Native Tree Giveaways, Musical performances from The Nurseryman Band & Pickle Milk, and local Food Trucks, with more to come!

The Northeast Ohio Pollinator Symposium is a combined effort of the Ashtabula Soil and Water Conservation District, Ashtabula County Master Gardeners, Ashtabula County Beekeepers Association, and OSU Extension of Ashtabula County.

*We will have water stations, so bring your reusable water bottle*

For more information or to sign up, visit [www.go.osu.edu/neops](http://www.go.osu.edu/neops)
DATE: Saturday, June 25th, 2022  TIME: 8:00 AM to 4:00 PM  
LOCATION: Gateway Elementary School Auditorium & Outdoor Learning Center, 229 Gateway Avenue, Conneaut, Ohio 44030

**Morning Session ($10 Admission)**

8:00-8:30 – Registration and Check-In  $10 Admission if attending morning presentations.

8:30-10:00 – Michele Colopy, Executive Director and co-founder of LEAD for Pollinators, ‘Understanding the Pollinator Crisis and How You Can Help’
From the four “p’s” impacting honeybee health to deciphering fact from fiction, you will learn how you can take action to support managed and native pollinators vital to a sustainable agricultural and environmental landscape.

10-10:30 – Break

10:30-12:00 – Debra Knapke, author, public speaker and garden consultant known as “The Garden Sage,” ‘Gardening for Pollinators by Season’
Our garden pollinators – bees, butterflies, and more – are threatened on many fronts. We know that they only thrive if they have a constant food source: the right flowers at the right times. Debra will offer strategies to help you give pollinators what they need to survive and flourish.

**Afternoon Session (Free to attend)**

12:00 to 4:00 – Celebration of pollinators at the Outdoor Learning Center

- Native Plant Vendors – Over 10 of Ohio’s best nurseries will be selling quality trees, shrubs, and perennials
- Nature Organizations and Exhibitors promoting their organizations
- Guided Tours of the award-winning Outdoor Learning Center Butterfly & Pollinator Garden
- Guided Hikes led by the area’s finest naturalists
- Kids Activities led by local non-profit service groups
- Tree Planting Demonstration for homeowners
- Native tree giveaway courtesy Ashtabula County Soil & Water
- Musical Groups including The Nurseryman Band & Pickle Milk
- Food Trucks will be available for lunch

*We will have water stations, so bring your reusable water bottle*

To attend the morning session please register on our website (Registration opens April 1st).
If attending the free afternoon session, please RSVP on our website (Not needed if attending morning session).

www.go.osu.edu/neops

**Ashtabula County Beekeepers Association**
Fertilizer Applicator Certification Training

June 22, 2022 9 A.M. – 12 P.M.

Do you apply fertilizer to 50 acres or more for crops that are primarily for sale? If so, you are required by Ohio law to attend a training session or take a test to become certified. OSU Extension Portage County is offering a training session (no test) that will meet all certification requirements. Pre-Registration is required a week in advance. Cost for this training session is $35/person and includes training materials, and handouts. To register online with a credit or debit card please visit https://go.osu.edu/portagefertilizer2022. You can also register by completing the back portion of this flyer and mail with check to the address below. Please make checks payable to OSU Extension.

Location: OSU Extension Portage County, 705 Oakwood St., Suite 103, Ravenna, OH 44266

Cost: $35/person

Contact information: 330-296-6432 or arnold.1143@osu.edu

portage.osu.edu
2022 Fertilizer Applicator Training
Portage County

Name ______________________________________________

Address _____________________________________________

City __________________  State_____  Zip_________________

Phone ____________________Email  ____________________

Number of People Attending: ___________ X $35/person ____________

Please make checks payable to: OSU Extension

OSU Extension Portage County, 705 Oakwood St., Suite 103,
Ravenna, OH 44266

For questions, contact Angie Arnold at 330-296-6432 or by email at
arnold.1143@osu.edu