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Whether it is for automated field data collection, instant job cost analysis, or other vital business functions, arborists are finding the computer increasingly valuable as an information management tool. Top photo courtesy of the Carpenter-Costin Company, Swampscott, Massachusetts.

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TREE CARE INDUSTRY - NOVEMBER 1990
“Service is our business; quality performance is our goal.”

So read the plaques in front of every desk in our office. I only wish that everyone read it every day and performed accordingly. It doesn't happen any more frequently here than it does in your business, but we work at it.

I'm certain that every owner/manager in the tree care industry firmly believes in that credo and strives to live up to it. Some just strive harder than others.

Customers often measure quality performance by how well the crew cleaned up after the pruning job was finished. That's their only basis for comparison. They don't know the difference between good and bad tree work. A competitor may think the same pruning job was terrible, presuming he is qualified to pass judgment.

I often hear criticism about "the competition." The bigger the company, the more they are criticized. Even the licensed and the certified are criticized. The problem is that management is not doing the work, the field crew is.

Quality service and quality performance in the field are the result of good information transfer, supervision and commitment from management.

It isn't easy, regardless of the size of your company, to train every employee to do everything properly. Even the employee who's been with you for years will make an occasional mistake. While arborists are not educators, there are many training programs available that can help to do the training job for you. Besides, there is no substitute for training by example.

Every supervisor can't be on every job every minute. When the supervisor is present, however, he should offer constructive criticism and good direction to contribute to the training process.

Commitment on the part of management is a major factor. Management must do more than just pay lip service to quality performance. The more you back up the commitment with interest and action, the more likely that level of quality will be reached.

It's so easy for any of us to preach. It's much more difficult to execute. Let's not give up the pursuit of quality service and quality performance.
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Model PC-11
The principal reason small businesses buy computers is to help with accounting functions. Arborists use computers to perform a variety of tasks, such as accounting, integrated pest management, sales analysis, word processing... the list goes on. The right computer with the right software can be a life-saver.

The trouble is that all businesses are different. There is no one program that can be all things to all businesses. Either the business must adapt to the software, or the software must be customized to the business. Both can be expensive. Know the system's limitations from the start.

The software

At a recent NAA Annual Meeting, attendees were asked about the computer software they used in their businesses. Of those who had computerized, 44% used custom-made software developed for commercial tree service applications, 25% used off-the-shelf software, and 31% used a combination.

Shopping for off-the-shelf software without expert guidance can be confusing. A seemingly endless array of software packages is available, each with different capabilities and limitations. The would-be computer owner should plan to do a lot of shopping before making a purchase. It may even be advisable to hire a software consultant. Above all, avoid purchasing the hardware—the PC, monitor, etc.—before you have decided upon the software.

"Keep it simple," stresses Judy Collins, vice president of Collins Tree Service in Hooksett, New Hampshire. The firm operates in south central New Hampshire and has about 900 clients. Collins began shopping for a system a year before the company made its purchase. She emphasized that software is the first decision to make when buying a computer. Collins purchased a customized, packaged software program from Arbor Computer Systems, Inc., which produces the information the company needs and nothing more. The software keeps track of receivables, creates mail merge documents, performs sales analysis, handles automatic changes on billing and produces customer lists. The program can also be used to schedule and route work and to do inventories.

The Arbor Computer software that Collins Tree Service uses has three screens per client record showing hours worked, people on crew, special problems/instructions and materials needed. Company salesmen record pertinent information on a printed order form that matches the screen. Collins then enters the data into the computer from the written form.

Collins praises the program, noting that the tedious filing and sorting that used to take most of the winter is now done automatically as the data is input. The mail merge function allows Collins to send personalized, professional letters to clients, and the computer's memory capability enables her to have instant access to several years' information.

Collins Tree Service's general ledger and payroll are purposely not computerized. Instead, the company uses a simple manual system that Collins is comfortable with and which allows her to get away from the computer.

In contrast, Tim Holkenborg of Holkenborg Nurseries in Sandusky, Ohio, experienced problems with the initial purchase and later, as the system and the company grew. Largely responsible for his problem was the fact that in 1983, when the company...
made its purchase, not many software packages for arborists were available and the company was forced to program in-house. Although Holkenborg had a computer science major on staff to purchase, program and start up the system, that individual left the company after the purchase but before any programming had been done. That left Holkenborg with a sizable investment sitting on the shelf. Based on his experiences, Holkenborg advises company owners to do research, ask a lot of questions and prioritize their needs before purchasing a computer. He also advises using existing software packages.

The hardware

It cannot be emphasized enough that the decision on what software to purchase should drive the hardware purchase, and not the other way around. Holkenborg says that most of his company’s problems with the computer system stemmed from a fundamental mistake that many computer purchasers make—purchasing the computer hardware before determining what software is needed.

In addition to the big computer names like Apple and IBM, there are many good look-alikes or “clones” on the market. Some are as good or better than their big name counterparts. Some are more expensive. It pays to deal with a consultant or a dealer who sells a variety of makes to get quality hardware at an affordable price.

Key criteria for purchasing hardware include its expandability and compatibility. Can a hard drive be added to handle increasing information storage needs? How much RAM (memory) can be added to run more complex programs? Is it compatible with other computers the company may already own? These are some of the questions the arborist should answer before making a purchase.

Service and support

A typical personal computer user, Collins is the first to admit she doesn’t know how her computer works, though she found the learning curve with her software to be minimal. Still, her experiences illustrate why good service and support are essential. Once, for example, all but four files of the company’s system were accidentally erased. Luckily, Peter Hannan, president of Arbor Computer Systems, was able to retrieve all the files from the damaged disk. Another time, a trimming crew (not from Collins!) shorted out the company’s power and the system “crashed.” This, too, was rectified with Hannan’s help. Besides providing this type of unlimited support, Arbor Computer Systems offers an 18-month warranty on its package. Hannan, an arborist for 25 years, reports a high level of satisfaction among his computer clients.

Expandability

Even if you buy a pre-packaged program, you face two potential problems. The first occurs when the business environment changes, such as when you need to update tax tables for payroll. A second potential problem arises when your business structure changes, such as when you add or subtract profit centers.

To prepare for these eventualities, computer purchasers should leave themselves an upgrade path when they purchase hardware or software. Holkenborg Nurseries eventually had its system up and running, but it was inadequate to handle the company’s growth and changing needs. The software needed to be updated because it operated on an outmoded database language. Also, the program had an inadequate backup system that forced the user to back up the entire program every time it was used—a time-consuming process. In addition, the computer’s RAM was inadequate to run new software and permanent hard disk storage memory was at 97% capacity, causing lockups in the midst of the busy season. In short, the system that was supposed to save time ended up costing time.

Holkenborg eventually bought a new computer, one with four times the RAM and five times the storage memory. He also purchased a processing unit that worked faster, slicing the time it took to change customer screens from five minutes to a minute-and-a-half. The final addition was a magnetic tape backup system that allowed staff to do other things while the system backed itself up.

Judy Collins shopped around for a year before making a decision on which computer system to buy.
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The cost versus benefit of purchasing a computer should be assessed like the purchase of a chipper or bucket truck.

ware for general office work, proposals, and word processing, and AccPac for financial statements and other accounting purposes. AccPac is the general heading for a series of comprehensive accounting packages offered by Computer Associates. Four packages are available, each serving various levels of need. Computer Associates purchased each package from other vendors, but spent the time to make them compatible so that someone purchasing the base package can follow a smooth upgrade path.

McFarland does not use computers for sales purposes. “We plan to get a package in the near future. Because we had problems with the accounts receivables software, we are reluctant to have a program written for sales purposes,” Houser says. She advises first-time computer purchasers to “get something that is already a commercial package.”

Other considerations

The cost versus benefit of purchasing a computer system should be assessed just like the purchase of a chipper or bucket truck. Hannan claims that his Arbor Computer Systems package can save a company 600-700% in administrative time. But he points out that only about 10% of all tree companies need his system or have the expertise to run it productively. For this reason, many computer companies that ventured into the tree service market have since backed out.

David McIntyre, president of Ceres Tree Service, in Roseville, Minnesota, introduced computers to his business in 1982. Although he had previous programming experience with scientific applications and uses computers extensively in his business, he feels that computers aren’t necessary for a business to stay modern and competitive. In fact, he notes that the “real” cost of a personal computer involves more than the cost of the hardware and software. National studies have shown that as much as 72% of the cost of owning a computer is tied up in training and support. While McIntyre’s after-purchase costs came nowhere near these, they were nevertheless greater than anticipated.

None of your business...

Is now the time to buy a computer? Perhaps. For the firm that is outgrowing its manual accounting system or having trouble controlling costs, generating sales, and scheduling work efficiently, a computer may be the answer. Still, the decision to purchase should be made prudently. The intelligent business owner will talk to others who have purchased computers, research the vendors thoroughly, and analyze his company’s current and future needs before he buys.
Pleased with ad response

We are presently running a one-sixth of a page advertisement in your Tree Care Industry magazine.

I just wanted to let you know that we are extremely pleased with the response we have been receiving, and in such a very short time since our ad began running. You are definitely hitting the right people.

Please keep up the good work.
Russell W. Tupper, president
American Hydraulics, Inc.
Hartwell, Ga.

Well received

I’ve just finished the latest issue of Tree Care Industry and decided I should let you know how well it has been received here. The articles are germane to our day-to-day work, both on the practicing and consulting levels. The advertising is not only relevant, as it must be, but is evidently screened responsibly to see that it represents practical, honest arborists’ equipment. The merchandising program is clearly careful not to sell the kind of maintenance tools that don’t have the well-being of trees in mind. And the photography is very good.

One of the few areas of care that will be left open to us, in the current climate of pesticide panic, is fertilizing. It is very timely for you to cover the subject as well as you have, and I hope you continue to keep us current on the subject. Perhaps we can inspire some of the manufacturers to provide some attractive material for mailing on the benefits of fertilizing as a replacement for all the products we can’t use anymore on insects and disease. This issue along with all the others will go into our reference library for permanent availability.

William L. Crow III, president
Lowden Tree and Landscape
Needham, Mass.

Congratulations

Congratulations on the founding of Tree Care Industry. It is great.
Gary H. Maier, president
Maier Tree Care,
Des Moines, Iowa

Great job

What a great job the NAA staff has done in producing TCI. But then, that isn’t surprising. It is just one more example of the quality leadership and management of NAA.
Alan R. Brook
Arbor Consultants,
San Antonio, Texas

Letters should be addressed to:
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measures of vitality for critical trees. The complete report provides a synopsis of how effective the treatment has been over a period of time.

Besides furnishing reports, the computer allows the company to keep a significant amount of data on record without using a lot of storage space. For instance, the initial plant inventory/analysis contains an identification number that corresponds to a number on a map, an abbreviated identification of plant species, the full name of the plant, a plant vitality rating, visual symptoms, names of pests on the plant, treatments applied at the time of inspection and recommendation for future treatment. Clients receive reports that list only those plants that have problems. That’s all the client needs to know. A contractor version contains more detailed information on tree vitality.

Field specialists perform about six inspections a year, which include spot spraying, but do little or no selling. A seventh visit is done strictly for fertilization of key plants. A copy of the sixth inspection report goes to the sales staff for follow-up sales. The last report emphasizes pruning and fertilization.

Key to effectiveness

The key to the software’s effectiveness is the clarity with which plant symptoms and problems are characterized. The company refined the data used in the program over a 6-year period with the help of pathologists and pest specialists on staff. A company in another part of the country would have to employ similar expertise to adapt the computer software for local plants and their pests. Changing the data stored in the software is a simple process, however. Built-in report formats are available for a variety of applications and allow the program to be flexible. One report even routes inspection visits. The company maintains only frequently used report formats, but others can be easily added.

While the software can do billing, the firm found it helpful to keep all billing on its existing bookkeeping system.

The software doesn’t generate property maps, but the company was already using graphics software for other applications. Similar packages are available for IBM-compatible systems.

Just recently, Carpenter-Costin and Environmental Consultants, Inc. formed a partnership and began selling the software. It is called Green Guardian and costs under $3500. The software comes with a user’s manual, and telephone support is available.
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The company also sells the hand-held unit it uses. Marsan estimates that a client base of 25-30 clients would probably justify the cost of the software. Some companies may come up with a higher figure, depending on how they determine costs.

Another example

Hendricksen, The Care of Trees in Wheeling, Illinois, operates a successful IPM program without a computer. The company operates throughout the sprawling suburbs of Chicago and maintains five offices. Although the company practiced certain IPM techniques like target spraying for many years, it formally introduced its IPM inspection and treatment service in 1989. The program currently has 25 clients, most of whom are commercial accounts. According to Rex Bastian, Hendricksen’s IPM coordinator, clients buy the service because they want the best service available and the assurance of prompt and proper treatment.

Like Carpenter-Costin, Hendricksen’s service offers a flat rate for a specific number of inspection/treatment visits, between five and eight visits per year for the typical low-risk site. The sales representative determines the rate after he has inventoried the plants and analyzed the risk factors for the site. The technicians are company employees, usually with college degrees and spray experience, who go through special training. They work on IPM part-time, usually routing inspection visits with regular spraying and fertilization.

Bastian looked into the possibility of using computers when he started the service and he began writing a program. He later abandoned the task when he realized that linking the company’s five satellite offices wasn’t economically feasible.

Most of the company’s clients do not put much value in having regular computer-generated reports and property maps, so technicians prepare written inspection reports. Each technician also works with Bastian to produce a more detailed report at the end of the year. Reports are prepared on triplicate forms so the client, the technician and Bastian have copies. Tree care recommendations outside the scope of the IPM program are referred to the regular sales representative.

At least conceptually, the IPM programs of Carpenter-Costin and Hendricksen are similar and both programs are successful. Both have efficient information management systems scaled to meet the company’s needs, but they have taken different approaches.

Do you need a computer? Compare your company, program and clients with these two examples before making a decision.
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Endangered Species
EPA Proposes New Program To Protect Endangered Wildlife

The Environmental Protection Agency is proposing a new program using a species-based approach to protect endangered wildlife. Under the proposal, species will be ranked according to status, recovery potential, potential for exposure to pesticides, apparent risk from pesticides and other factors.

The proposal targets January 1991 as the date for implementing enforceable measures to protect listed species from pesticides. At that time, EPA will issue Pesticide Registration Notices to the registrants of affected pesticide products to modify the labels on their products. If necessary, notices will be issued annually to notify pesticide registrants of additional products affected by the program or products that have been removed from the program. Label changes will be necessary only if reasonable and prudent actions are changed for all uses of a product.

When changes in pesticide use are considered necessary, the product registrant will be required to change the product label. The labels on affected products will require users to comply with limitations in the county in which they intend to use the pesticide. If there are no county limitations, users will be instructed to follow directions on the label. Any use limitation will be included in county bulletins, which will be updated not more than once annually.

Under the Endangered Species Act, EPA is required to ensure that registered pesticide use is not likely to jeopardize endangered species or adversely modify critical habitats. This is EPA’s third approach to implementing the act. The previous two approaches were dropped after they were determined to be inequitable in practice.

According to the latest plan, the first area of focus will be on the listed species with the greatest need of protection. EPA will gather data on their habitats and locations and determine the pesticides to which the species may be exposed. After the species and associated pesticides have been identified, they will be screened to determine if use of the pesticide may affect the species. The agency will determine the lowest rate of application of the pesticide that could affect a species or its habitat.

EPA will then consult with the Fish and Wildlife Service for the specific pesticide rates, methods and uses that may affect listed species. The FWS will respond with a biological opinion indicating if the species is in jeopardy from the pesticide use. If a species is determined to be in jeopardy, FWS and/or EPA will develop habitat maps that will become part of the labeling/bulletin instructions.

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Watch The Pennies
—And See The Dollars

There is an old adage that says, “If you watch the pennies, the dollars will take care of themselves.” In today’s business environment watching pennies, or better said, paying attention to costs, has never been more critical.

With constant cost increases (recent gas prices are an example), continual fine-tuning of your charges (i.e. rates for equipment, personnel, etc.) is essential. If you wait until the end of a quarter or, worse yet, an entire year, you are inviting disaster. Each cost increase—whether it be gasoline, insurance, employee wages or replacing equipment—has to be analyzed and its impact included in your job prices.

Too often arborists ignore the need to monitor costs because they are “too busy” with operations, day-to-day problems and other pressures. By the time they find out that their costs are higher than they had expected, it is late in the game and they must scramble to catch up.

Your cost of doing business can be determined by analyzing your financial statements (balance sheet and income statement) on a regular basis. If these statements are not frequently available or do not clearly give you the necessary information, you will have to make informed estimates and/or educated guesses based upon your identifiable costs, information collected from associates and other assumptions. One way or another, it is imperative that your rates keep pace with your costs.

Identifying deviations

Even if you monitor your costs closely on your financial statements, you need to be able to identify exactly where the deviations are. Computers can simplify the process by providing information immediately. If you know enough about computers, you may be able to track costs with off-the-shelf spreadsheet software. A better way is to purchase a software package designed to do cost analysis.

You must determine what information is going to be analyzed. The computer does not make that decision for you. Your goal is to have the computer track actual costs compared to your projections. Rates for equipment, labor, sales expenses and office expenses should be included. Production labor is a major cost of doing business. When there is a deviation, find out why. This is called management by exception.

You may also want to monitor individual profit centers, jobs or crews. This can also be readily accomplished with a computer. In order to enter information, you will need to establish rates. Payroll information should be entered in your system so that it tells you your labor costs for each job department or profit center (i.e., pruning, fertilization, IPM, etc.).

Other pertinent information may include records of hours billed and income generated for each production employee. This enables the employer to monitor who is producing and can be useful in determining wage increases. Data on overtime pay, holidays, and vacations is also necessary. Information is needed on costs for and income produced by equipment, materials and other job-related items.

It all sounds complicated, but it doesn’t have to be if you take it one step at a time.

Once you have the program in place, how will you use the information generated by it to make decisions? You will see differences in costs and in production that will enable you to draw instant conclusions and make adjustments. You may change your rates or make changes in scheduling and crew assignments.

You will be able to perform an ongoing analysis of each profit center. Sales and payroll plus equipment data will show which departments are most profitable, which are marginal and which operate at a loss.
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Benefits of cost analysis

Instant cost analysis will enable you to identify your most and least productive employees and to act accordingly. Equipment hours and earnings can be used for setting rates and making equipment purchase decisions. The data is also essential for workers compensation and liability insurance audits as well as payroll and other tax returns.

The main benefit of instant cost analysis is to give you access to up-to-date financial information immediately rather than quarterly or worse, yearly. Every time you pay out money, that cost is distributed to the proper account and everything is updated. It lets you target certain job departments rather than searching through a sea of paperwork, and gives you the flexibility to add departments as well.

Establishing a productive instant cost analysis program can take more than a year. As those who work with computers have sometimes found, the more you learn the less you know but the more proficient you become.

If you have the computer capability, you may want to consider using an instant cost analysis software package. Several off-the-shelf programs are available. The Accountable Arborist was created by the president of a tree service firm for arborists and is available from Lobo Management, South Egremont, Massachusetts. Xetex Business Systems, Elverson, Pennsylvania, is another. Many exhibit at trade shows. In all cases, ask the vendor for the names and phone numbers of tree service firms that are using these programs. Call or visit them and see for yourself.

Every little expense makes a difference if left unchecked. If you keep an eye on the dollars going out, the hundreds will come into your pockets.
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To see a VO-50 on your work site, call or write today for more information and the name of your nearest VERSALIFT distributor.
Performance Plans

By Jim Perrone and Larry Ambrose

One of the best ways to make sure that people get off to a good start after joining the company is to spell out what you expect of the individual. Spelling out expectations allows you to take charge of the developmental process at the very beginning of a person's work history with the company.

Establishing a well thought-out, practical performance plan with an employee gives the manager an opportunity to play an active role in making sure that his people are successful. The performance plan is really a road map for success and confidence, a guideline for the employee to follow to achieve what the organization needs. A good performance plan considers three categories of employee performance: major job responsibilities, specific job activities and success behaviors.

**Major responsibilities**
Define specific outcomes and ongoing normal duties expected of the position. Include major results the person should be achieving. A major responsibility for a crew chief, for example, could be safe operations. Another could be satisfied customers, and a third could be cost effective crew operation. These responsibilities should represent what needs to be done as an output of good performance.

**Specific job activities**
Spell out the critical actions key to the employee's success in carrying out the major responsibilities. Activities under each responsibility will support the fulfillment of that responsibility. For example, a job activity under safe operations might be weekly tailgate meetings.

**Success behaviors**
Success behavior is the quality of conduct or practice expected of the employee—how the person should behave to be a valuable asset. If a major job responsibility is satisfied clients, then a success behavior would be making contact with the client upon arriving at the job site.

**Accountability**
Once the performance plan has been defined, you can establish accountability—the review process. The employee should be reviewed periodically on all three elements of the performance plan. There should be ongoing review and coaching throughout the year and formal performance reviews at least once each six months. Here are some things to be careful about in developing a performance plan.

1. Make sure that there are not too many responsibilities, activities or success behaviors. Too much is difficult to monitor and coach. Highlight the critical skills that should be mastered.

2. Make sure that people know they are truly accountable for their responsibilities, activities and success behaviors. Accountability means that you will be talking to them about it.

3. Don’t lose sight of the fact that you are concerned with results—not merely that the person stays busy.

4. Realize that performance expectations change as conditions in the workplace change. Therefore, a performance plan should not be laid out in concrete; it should be a dynamic, expanding activity.

As you negotiate the employee’s performance, it is essential to send a positive message that the performance plan exists to support his/her success.

Remember that planning enables you to turn your dreams into realities. If you have a desire to be surrounded by productive, effective and satisfied employees, you’ve got to make that happen. It’s not automatic.

Jim Perrone and Larry Ambrose are the principals of Perrone-Ambrose Associates, a Chicago-based management and training consulting firm with a wide range of experience in the green industry.
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New Developments

By Steven R. Semler

Ordinarily, a unionized employer is required by the National Labor Relations Act to bargain with its union before making changes in wages or benefits. Changes made without bargaining, even if they increase wages or benefits, are unlawful “unilateral change” violations. Generally, changes made by an employer are permissible only if the union agreed to the changes; waived its right to bargain the issue; or there was an impasse in good faith bargaining. The NLRB has now added another exception: When the union adamantly insists in bargaining on expanding the scope of the bargaining unit it represents, the employer is freed from its bargaining obligation for as long as the union holds its position. Thus, the employer is permitted to implement changes without bargaining. Presumably, this principle would apply when a union insisted on any other such “permissive” subject of bargaining.

Role of NLRA

The National Labor Relations Act applies to non-union employers whenever employees band together to try to bring about changes in employment terms, even though no union is involved. Recent case in point: On the day a foreman died, an employee, accompanied by two co-workers, demanded the day off. The employer terminated the employee. The NLRB applied its “protected concerted activities” doctrine and found the termination was a violation. The employee was ordered reinstated, with back pay.

Obligation to reservists

The Iraqi invasion of Kuwait requires employers to be aware of their obligations to reservist employees called to active duty. Generally, these requirements are: the employee should be reinstated to the same pay and grade status when he returns, with full credit for intervening pay increases or promotions which would have been given had he not left; jobs must be held open for at least four years; pay or benefits are not accrued during the absence; employees wishing to return to work have up to 90 days from their release from active duty to claim reemployment, and must promptly be returned to work during that period.

Legal “releases”

In an attempt to insulate them-
selves from liability, employers will sometimes have employees who are being terminated sign release agreements. Some employers will offer an inducement for the release, such as severance pay. But, increasingly, the courts are not holding employees to their releases if the employee was not counseled by an attorney with regard to the release. Thus, recently, age and race discrimination claims have been allowed to proceed if employers signed release agreements without the benefit of legal counsel.

Mental distress claims
Terminated employees who sue their employers for "wrongful discharge" frequently toss in a claim for intentional infliction of mental distress, hoping the jury will also award them a big punitive damage award. However, in two recent cases, one in Pennsylvania and one in Hawaii, courts have dismissed those claims on the grounds that they are barred by the limited liability protection of employers provided by the applicable state's workers compensation laws.

Steven R. Semler is a partner in the Washington, D.C., law firm of Semler & Pritzker, which exclusively represents management with respect to labor law matters. Mr. Semler is labor law counsel to NAA and several corporations in the tree care industry.

Readers should not rely upon this article as individual advice for specific situations; that can be provided only by the reader's own counsel.
Keeping Records

Accurate Records Can Save You Time And Money

By Kenneth R. Morefield

Actions by Congress have increased the necessity to review, and in most cases, revise your record-keeping system. This is especially true of many small businesses, even those with only one employee.

Specifically, Congress has expanded the authority of administrative bodies to assess Civil Monetary Penalties (CMP) when employers fail to comply with record-keeping regulations, even if the violation is inadvertent or minor. For example, all new employees are required to complete a Form I-9, which then must be signed by the employer or his representative. An employer’s failure to sign these forms may result in a penalty ranging from $100 to $1000 per violation. These assessments may be appealed to an Administrative Law Judge and then to the courts, but such appeals may be far more costly than the CMP.

Congressional action extends to the Fair Labor Standards Act (FLSA), usually called the Federal Wage and Hour Law, which became effective on October 24, 1938; the Migrant and Seasonal Agricultural Worker Protection Act (MSPA); and the Immigration Reform and Control Act (IRCA). Employers may be subject to one or all three acts.

Immigration controls

The Immigration Reform and Control Act became effective on November 7, 1986. Its purpose is to prevent employment of illegal aliens and it requires that a Form I-9 be completed by every person employed after November 6, 1986. It doesn’t matter if the employee is an American citizen. The purpose of the Form I-9 is to establish identity and eligibility to be lawfully employed in the United States.

Certain documents, such as a U.S. passport, certificate of U.S. citizenship, certificate of naturalization, unexpired foreign passport with attached employment authorization, or alien registration card with photograph may be accepted to accomplish both purposes. These items are identified on the form as List A documents.

If the applicant or employee cannot produce a List A document, he must produce one document from List B and one from List C. The document from List B must bear a photograph to establish identity and the List C document, such as a Social Security card, establishes eligibility.

Under threat of perjury, the applicant or employee must certify that the documents are genuine, and must sign and date the I-9. The employer, or his or her representative, must examine the documents and certify that he or she has examined the documents and that they appear to be genuine. The I-9 must be signed on behalf of the employer by an authorized person. Both signatures must be dated.

The I-9 must be retained for three years, or one year after the employee is terminated, whichever is later. The documents may be photocopied and attached to the I-9. An original Social Security card, not one which has been laminated, must be examined and the number entered on the I-9 even though that card is not used as one of the documents to establish eligibility to work. This might be the case when an applicant produces a passport or alien registration card with a photograph.

Fair labor standards

The Fair Labor Standards Act has been in existence for more than 50 years and has undergone many changes. It essentially sets wage and hours regulations, and covers interstate commerce and companies that sell or do business exceeding $500,000.

The FLSA requires that a non-exempt employee be paid a minimum of $3.80 per hour for a 40-hour work week. If an employee works more than 40 hours, that employee must be paid time-and-one-half of his regular rate of pay for time on the job that exceeds the 40-hour limit. Effective April 1, 1991, the minimum wage will become $4.25 per hour.

Employees engaged in agriculture as defined in the act are exempt from the overtime requirements. Such employees are also exempt from the minimum wage requirements if the employer did not use more than 500 man-days of agricultural labor in any calendar quarter during the preceding calendar year. Working one hour or more in agriculture is a man-day.

An employee using the telephone or mail to communicate with a person outside the state is engaged in interstate commerce, and thus, also covered by the FLSA. Other covered activities include producing Christmas trees or other horticultural or forestry products shipped in interstate commerce, or trimming trees so that they will not interfere with electric power lines or telephone lines.

Employees at companies whose dollar volume of sales or business is at least $500,000 also are covered. Even though a business has a dollar volume of less than $500,000, em-
ployees are covered if they are engaged in interstate commerce or in the production of goods for commerce.

Employees engaged in forestry are exempt from overtime if the employer did not use more than eight employees in such activities.

Migrant workers protection

The Migrant and Seasonal Workers Protection Act covers farmers who employ migrant or seasonal agricultural workers. The primary difference between a migrant (not to be confused with immigrant) and a seasonal worker is that the migrant worker does not return to his permanent residence overnight; a seasonal worker does.

The MSPA extends coverage to virtually all field workers employed in the production of perishable agricultural and horticultural commodities, including nursery products. The act requires every agricultural employer who recruits any migrant agricultural worker to disclose written information on the place of employment, wage rates, crops and kinds of activities, period of employment, housing or transportation and other benefits, and costs of each. Seasonal workers are entitled to this information, in writing, upon request.

If the agricultural employer pays a farm labor contractor to recruit, hire, transport or house such workers, the contractor must be registered with the U.S. Department of Labor and must carry his registration on his person while engaging in a farm labor activity. The employer must examine the contractor's registration certificate.

Records you must keep

There are some aspects that employers should be aware of in preparing and maintaining records in order to avoid a Civil Monetary Penalty.

If a person is a covered non-exempt employee, the employer must record the name, address, Social Security number, sex, and date of birth, if under 19; the number of hours worked daily and weekly; basis on which wages are paid; regular rate of pay, if overtime is worked and if the employee is entitled to overtime; straight time wages, overtime wages, date of payment and pay period covered by payment. An age certificate or work permit issued by school authorities is not required but will establish the date of birth.

The FLSA and the MSPA are enforced by the Wage and Hour Division, Employment Standards Administration of the U.S. Department of Labor. This agency also checks the I-9 forms whenever an investigation is made. If there are no I-9 forms or if the forms are not properly filled out, the Division reports its findings to the Immigration and Naturalization Service, which will follow up on the report. The Wage and Hour Division may assess monetary penalties for failure to comply with FLSA and MSPA. Such penalties are not mandatory but will be assessed unless there are valid reasons for non-compliance.

Penalties may also be assessed for oppressive child labor practices, as defined by the FLSA. The minimum age required for non-agricultural employment is 16 except in occupations deemed to be hazardous for employ-ees between the ages of 16 and 18. Minors under the age of 16 may work as agricultural employees, but with restrictions. No minor under 16 may be employed during school hours.

Employers can only protect themselves by being familiar with these acts and complying with the regulations that apply to their operations. Penalties may be expected for non-compliance and failure to keep required records. The keeping of improper records can prove to be very costly. Don’t let it happen to you.

Kenneth R. Morefield is the Wage and Hour consultant for the American Association of Nurserymen.
INDUSTRY ALMANAC

Dec. 12-13
ISA—Illinois Chapter
St. Charles, Ill.
Contact: Mike Reichenbach,
207-782-2361

Dec. 13-14
New England Arborists Exposition
Boxborough, Mass.
Contact: Virginia Wood,
617-332-8683

Jan. 10-11, 1991
ISA—Kentucky Chapter
Louisville, Ken.
Contact: Win Dunwell,
502-365-7541

Jan. 15-17, 1991
ISA—Indiana Chapter
Indianapolis, Ind.
Contact: Nate Matthews,
317-838-1441

Jan. 20-22, 1991
Empire State Tree Conference

New York State Arborists
Association
Syracuse, N.Y.
Contact: Carolyn Steadman,
518-783-1322

ISA—Midwestern Chapter
Oklahoma City, Okla.
Contact: Susan Givens,
518-783-1322

Feb. 12-17, 1991
National Arborist Association, Inc.
Annual Meeting & Management
Conference
Tampa, Fla.
Contact: NAA, 603-673-3311

Feb. 25-26, 1991
ISA—Penn/Del Chapter
Hershey, Penn.
Contact: Elizabeth Wertz,
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Bandit Industries has recently introduced a 17-inch capacity whole tree chipper called the Model 1700 Tree Bandit. The 1700 is equipped with a powerful hydraulic feed system for crushing limbs and tops. The unit is powered by a 250 hp. diesel engine and features a powerful hydraulic knuckleboom loader for feeding material into the chipper. For more information, contact Bandit Industries, Inc., 6750 Millbrook Road, Remus, Mich. 49340 Phone: 517-561-2270 FAX: 517-561-2273.

Hodges Manufacturing Co., Inc. introduces its Model 89 stump router, designed to remove hard-to-reach stumps of any size 12 inches below ground. It features a 23 hp. engine, 15-inch cutter head, self-propelled front-end cutter head advantage, automatic brakes, low maintenance and patented push-down operation. For further information, contact Hodges Manufacturing Co., Inc., P.O. Box 897, Mountain Home, Ark. 72653. 501-492-6116 (in Arkansas) 1-800-525-6312 (outside Arkansas). FAX: 501-492-6801.

The new portable Vermeer 620 Brush Chipper features a standard automatic, hydrostatic feed system. A variable-speed Sundstrand pump and motor control the feed operation to the chipper's 6-inch-by-6-inch in-feed opening. The 1415-pound unit measures 4 feet wide and comes equipped with a 60-inch-long feed table which can be folded up. A 2-cylinder Kohler M20S gas engine rated at 19.25 hp powers the unit. For further information, contact Vermeer Manufacturing Co., New Sharon Road, Pella, Iowa 50219. 515-628-3141.

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TCI
Big Trees—And Small Lots

By Jeff Sullivan

For several years I operated a medium-size tree service in the Santa Cruz Mountain region of northern California. The area is home to the coastal redwood trees, some of the world’s largest, most majestic living things. The largest and oldest of these trees can only be found in the area’s state parks, but many of the second-growth trees also have become quite large.

Many homes in the area are precariously perched on hillsides under towering redwoods and firs. During winter storms, these trees often shed dead branches that plunge through roofs like they were tar paper. With incidents such as these becoming more frequent over the years, we found ourselves specializing in large-scale removals.

On one such occasion I had contracted to remove 25 large eucalyptus trees from a beautiful building site overlooking the Pacific Ocean. With large, expensive homes on all four sides of the small lot, the trees had to be climbed and sectioned down. The stumps were to be cut to ground level (several were five and six feet in diameter), the wood hauled away, and all slash chipped up and hauled away.

Many days and chip truck loads later, I stood looking at the last remaining giant. I had intentionally saved the hardest, largest one for last. The tree was approximately 150 feet tall with long, bushy limbs reaching out in every direction. The neighborhood power pole was tucked under the massive canopy about eight feet from the trunk. The entire tree leaned away from the building site toward the power pole and two large, two-story homes.

I could winch or jack the whole tree over on its axis toward the opposite corner of the lot. Or I could subcontract the chore to someone with lots of skill and insurance coverage.

I wanted the best so I called the most impressive-sounding Yellow Page ad in the phone book. Yes, the fellow assured me, he had a powerful tree jack that he would use and did this sort of thing all the time. Insurance? More than adequate, he promised. At the $250 he bid, why put my insurance (and nerves) to the ultimate test?

I had the electric company remove the guy wires to the power pole and a couple of house drops strung across the “landing zone.” At the appointed time, the man of the hour showed up... empty-handed except for his climbing gear and a good supply of 3/4-inch bull rope.

He said that his tree jack was broken and asked if we could possibly use my winch truck and pull the tree over. He also asked if he could use my big chain saw with the long bar. I naively consented and as we rigged everything up—adding my 200 feet of rope to his—he spilled the beans that he was moving to Maine the next day and this was his last tree job in the area. Still, I pressed on.

After a precision-made face cut, he began the back cut and I engaged the 10,000-pound winch. At his signal, I gave it all she had and the skyscraper pivoted over its axis and crashed to the ground exactly as planned.

“I guess I can tell you now,” he said. “I didn’t really have insurance after all.”

“Editor’s Note: Jeff Sullivan formerly owned and operated Sullivan Tree Service in Santa Cruz, California. He now resides in Bemidji, Minnesota, and is employed with the wood products division of Potlatch Corporation. He also does occasional tree jobs.

Do you have a story for From the Field? TCI will pay $50 for published articles. Submissions become the property of TCI and are subject to editing for grammar, style and length. Entries must be submitted by field workers and must bear the name of the worker and his employer or they will not be considered for publication. Articles and photos must be received by the first day of the month for the following month’s issue. 

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