Labor Posters for the AGRICULTURAL WORKPLACE 2020

WE ARE YOUR DOL

NEW YORK STATE OF OPPORTUNITY. Department of Labor

Division of Immigrant Policies and Affairs

2020 Checklist of Required Notifications for Agricultural Employers

All required posters must be posted where they are clearly visible to all workers

Disclaimer: This may not be a complete list for every business. Employers should contact the NYS and US Departments of Labor for a complete list of required notifications. For more information, visit: https://www.labor.ny.gov/workerprotection/laborstandards/employer/posters.shtm

New York State Requirements

Criminal Convictions Records Poster - NYS Corrections Law Article 23-A – Relates to the employment of people with a criminal conviction**:**
https://www.labor.ny.gov/formsdocs/wp/correction-law-article-23a.pdf

Discrimination Poster (English/Spanish) - NYS Human Rights Law (Executive Law, Article 15) - Prohibits Discrimination based on race, creed, age, color, disability, national origin, sex, or marital status: https://dhr.ny.gov/sites/default/files/doc/poster.pdf

Farm Minimum Wage Poster (English/Spanish) – Provides current minimum wage information for farm workers: https://www.labor.ny.gov/formsdocs/wp/LS110.pdf

Minimum Wage Standards for Farm Workers (Article 19-A):
https://www.labor.ny.gov/formsdocs/wp/ls440.pdf

Minimum Wage Order for Farm Workers (Part 190):
https://www.labor.ny.gov/formsdocs/wp/CR190.pdf

Schedule of Hours for Minors ages 14-17 years old (if applicable): Created by employer

Safety & Health *Right to Know* Poster:
https://www.health.ny.gov/environmental/workplace/right_to_know/docs/rtk.pdf

Unemployment Insurance *Notice to Employees* Poster IA 133:
To request the notice (IA133): https://www.labor.ny.gov/formsdocs/ui/IA132.pdf
For more information on registering for UI, visit: https://labor.ny.gov/formsdocs/ui/P820.pdf

Notice of Workers' Compensation Coverage: Regardless of annual payroll, employers are required to post the mandatory workers' compensation notice of compliance poster in both English and Spanish. Employers get these posters from their insurance carrier, or, if self-insured, from the Workers' Compensation Board by emailing Certificates@wcb.ny.gov.

Notice of Compliance for Disability Benefits and Paid Family Leave (PFL): Visit https://paidfamilyleave.ny.gov/ for information on PFL employee eligibility and opt-out waivers that employers must give to those who qualify. All employers are prohibited from discriminating against employees who request DB or PFL claim forms.

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Notice of Fringe Benefits and Hours Policy (if applicable) – Every employer shall notify its employees in writing or by publicly posting the employer's policy on sick leave, vacation, personal leave, holidays, and hours. See guidelines: https://www.labor.ny.gov/formsdocs/wp/LS606.pdf

Pay Notice and Acknowledgment for Farmworkers (General) – Post form LS309 (English/Spanish) or the Work Agreement created by the employer. Post a general version for each job title, with the lowest pay rate, and omit employee name. The online template for the LS309 is available here: https://www.labor.ny.gov/formsdocs/wp/ls309.pdf (English) and https://paidfamilyleave.ny.gov/ (Spanish).

No Smoking – Employers must post "No Smoking" signs or the international "No Smoking" symbol in all workplaces.

Notification on the Rights of Nursing Mothers to Express Breast Milk in the Work Place - Employers shall provide written notification to employees returning to work following the birth of a child of their right to take unpaid leave to express breast milk. Notice may be provided individually to affected employees, or to all employees in an employee handbook, or by posting in a central location. See guidelines: https://www.labor.ny.gov/formsdocs/wp/LS702.pdf

Employers with Migrant Workers

Grower/Processor Registration – Every grower or processor who, without using a farm labor contractor, brings in five of or more out-of-state *non-H-2A migrant farm or food processing workers* to NYS, must obtain a certificate of registration. For more information, visit: https://www.labor.ny.gov/formsdocs/wp/LS114.pdf

Commissary Permit (where applicable)

Commissary Price List (where applicable)

Migrant Labor Camp Permit (issued by Health Department): Required for migrant farmworker housing facilities occupied by five or more persons, one or more of whom are employed to perform farm activities. For more information, visit: https://www.health.ny.gov/regulations/nycrr/title_10/part_15/

Federal Requirements

Visit the U.S. Department of Labor website: http://www.dol.gov/elaws/posters.htm

NEW YORK CORRECTION LAW
ARTICLE 23-A

LICENSURE AND EMPLOYMENT OF PERSONS PREVIOUSLY CONVICTED OF ONE OR MORE CRIMINAL OFFENSES

Section 750. Definitions.

751. Applicability.

752. Unfair discrimination against persons previously convicted of one or more criminal offenses prohibited.

753. Factors to be considered concerning a previous criminal conviction; presumption.

754. Written statement upon denial of license or employment.

755. Enforcement.

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§**750. Definitions**. For the purposes of this article, the following terms shall have the following meanings:

(1) "Public agency" means the state or any local subdivision thereof, or any state or local department, agency, board or commission.

(2) "Private employer" means any person, company, corporation, labor organization or association which employs ten or more persons.

(3) "Direct relationship" means that the nature of criminal conduct for which the person was convicted has a direct bearing on his fitness or ability to perform one or more of the duties or responsibilities necessarily related to the license, opportunity, or job in question.

(4) "License" means any certificate, license, permit or grant of permission required by the laws of this state, its political subdivisions or instrumentalities as a condition for the lawful practice of any occupation, employment, trade, vocation, business, or profession. Provided, however, that "license" shall not, for the purposes of this article, include any license or permit to own, possess, carry, or fire any explosive, pistol, handgun, rifle, shotgun, or other firearm.

(5) "Employment" means any occupation, vocation or employment, or any form of vocational or educational training. Provided, however, that "employment" shall not, for the purposes of this article, include membership in any law enforcement agency.

§**751. Applicability.** The provisions of this article shall apply to any application by any person for a license or employment at any public or private employer, who has previously been convicted of one or more criminal offenses in this state or in any other jurisdiction, and to any license or employment held by any person whose conviction of one or more criminal offenses in this state or in any other jurisdiction preceded such employment or granting of a license, except where a mandatory forfeiture, disability or bar to employment is imposed by law, and has not been removed by an executive pardon, certificate of relief from disabilities or certificate of good conduct. Nothing in this article shall be construed to affect any right an employer may have with respect to an intentional misrepresentation in connection with an application for employment made by a prospective employee or previously made by a current employee.

§752. Unfair discrimination against persons previously convicted of one or more criminal offenses prohibited. No application for any license or employment, and no employment or license held by an individual, to which the provisions of this article are applicable, shall be denied or acted upon adversely by reason of the individual's having been previously convicted of one or more criminal offenses, or by reason of a finding of lack of "good moral character" when such finding is based upon the fact that the individual has previously been convicted of one or more criminal offenses, unless:

(1) There is a direct relationship between one or more of the previous criminal offenses and the specific license or employment sought or held by the individual; or

(2) the issuance or continuation of the license or the granting or continuation of the employment would involve an unreasonable risk to property or to the safety or welfare of specific individuals or the general public.

§753. Factors to be considered concerning a previous criminal conviction; presumption. 1. In making a determination pursuant to section seven hundred fifty-two of this chapter, the public agency or private employer shall consider the following factors:

(a) The public policy of this state, as expressed in this act, to encourage the licensure and employment of persons previously convicted of one or more criminal offenses.

(b) The specific duties and responsibilities necessarily related to the license or employment sought or held by the person.

(c) The bearing, if any, the criminal offense or offenses for which the person was previously convicted will have on his fitness or ability to perform one or more such duties or responsibilities.

(d) The time which has elapsed since the occurrence of the criminal offense or offenses.

(e) The age of the person at the time of occurrence of the criminal offense or offenses.

(f) The seriousness of the offense or offenses.

(g) Any information produced by the person, or produced on his behalf, in regard to his rehabilitation and good conduct.

(h) The legitimate interest of the public agency or private employer in protecting property, and the safety and welfare of specific individuals or the general public.

2. In making a determination pursuant to section seven hundred fifty-two of this chapter, the public agency or private employer shall also give consideration to a certificate of relief from disabilities or a certificate of good conduct issued to the applicant, which certificate shall create a presumption of rehabilitation in regard to the offense or offenses specified therein.

§754. Written statement upon denial of license or employment. At the request of any person previously convicted of one or more criminal offenses who has been denied a license or employment, a public agency or private employer shall provide, within thirty days of a request, a written statement setting forth the reasons for such denial.

§755. Enforcement. 1. In relation to actions by public agencies, the provisions of this article shall be enforceable by a proceeding brought pursuant to article seventy-eight of the civil practice law and rules.

2. In relation to actions by private employers, the provisions of this article shall be enforceable by the division of human rights pursuant to the powers and procedures set forth in article fifteen of the executive law, and, concurrently, by the New York city commission on human rights.

NEW YORK STATE | Division of Human Rights

1-888-392-3644
WWW.DHR.NY.GOV

THIS ESTABLISHMENT IS SUBJECT TO THE NEW YORK STATE HUMAN RIGHTS LAW (EXECUTIVE LAW, ARTICLE 15)

DISCRIMINATION BASED UPON AGE, RACE, CREED, COLOR, NATIONAL ORIGIN, SEXUAL ORIENTATION, MILITARY STATUS, SEX, PREGNANCY, GENDER IDENTITY OR EXPRESSION, DISABILITY OR MARITAL STATUS IS PROHIBITED BY THE NEW YORK STATE HUMAN RIGHTS LAW. SEXUAL HARASSMENT OR HARASSMENT BASED UPON ANY OF THESE PROTECTED CLASSES ALSO IS PROHIBITED.

ALL EMPLOYERS (until February 8, 2020, only employers with 4 or more employees are covered), EMPLOYMENT AGENCIES, LABOR ORGANIZATIONS AND APPRENTICESHIP TRAINING PROGRAMS

Also prohibited: discrimination in employment on the basis of Sabbath observance or religious practices; hairstyles associated with race (also applies to all areas listed below); prior arrest or conviction record; predisposing genetic characteristics; familial status; pregnancy-related conditions; domestic violence victim status.

Reasonable accommodations for persons with disabilities and pregnancy-related conditions including lactation may be required. A reasonable accommodation is an adjustment to a job or work environment that enables a person with a disability to perform the essential functions of a job in a reasonable manner.

Also covered: domestic workers are protected from harassment and retaliation; interns and nonemployees working in the workplace (for example temp or contract workers) are protected from all discrimination described above.

RENTAL, LEASE OR SALE OF HOUSING, LAND AND COMMERCIAL SPACE, INCLUDING ACTIVITIES OF REAL ESTATE BROKERS AND SALES PEOPLE

Also prohibited: discrimination on the basis of lawful source of income (for example housing vouchers, disability benefits, child support); familial status (families with children or being pregnant); prior arrest or sealed conviction; commercial boycotts or blockbusting

Reasonable accommodations and modifications for persons with disabilities may also be required.

Does not apply to:

(1) rental of an apartment in an owner-occupied two-family house

(2) restrictions of all rooms in a housing accommodation to individuals of the same sex

(3) rental of a room by the occupant of a house or apartment

(4) sale, rental, or lease of accommodations of housing exclusively to persons 55 years of age or older, and the spouse of such persons

ALL CREDIT TRANSACTIONS INCLUDING FINANCING FOR PURCHASE, MAINTENANCE AND REPAIR OF HOUSING

PLACES OF PUBLIC ACCOMMODATION SUCH AS RESTAURANTS, HOTELS, HOSPITALS AND MEDICAL OFFICES, CLUBS, PARKS AND GOVERNMENT OFFICES

Exception:

Age is not a covered classification relative to public accommodations. Reasonable accommodations for persons with disabilities may also be required.

EDUCATION INSTITUTIONS

All public schools and private nonprofit schools, at all education levels, excluding those run by religious organizations.

ADVERTISING AND APPLICATIONS RELATING TO EMPLOYMENT, REAL ESTATE, PLACES OF PUBLIC ACCOMMODATION AND CREDIT TRANSACTIONS MAY NOT EXPRESS ANY DISCRIMINATION

If you wish to file a formal complaint with the Division of Human Rights, you must do so within one year after the discrimination occurred. The Division's services are provided free of charge.

If you wish to file a complaint in State Court, you may do so within three years of the discrimination. You may not file both with the Division and the State Court.

Retaliation for filing a complaint or opposing discriminatory practices is prohibited. You may file a complaint with the Division if you have been retaliated against.

FOR FURTHER INFORMATION, WRITE OR CALL THE DIVISION'S NEAREST OFFICE. HEADQUARTERS:
ONE FORDHAM PLAZA, 4TH FLOOR, BRONX, NY 10458

ESTE ESTABLECIMIENTO ESTÁ SUJETO A LA LEY DE DERECHOS HUMANOS DEL ESTADO DE NUEVA YORK (LEY EJECUTIVA, SECCIÓN 15)

LA LEY DE DERECHOS HUMANOS DEL ESTADO DE NUEVA YORK PROHÍBE LA DISCRIMINACIÓN POR EDAD, RAZA, CREDO, COLOR, ORIGEN NACIONAL, ORIENTACIÓN SEXUAL, ESTATUS MILITAR, SEXO, EMBARAZO, IDENTIDAD O EXPRESIÓN DE GÉNERO, DISCAPACIDAD O ESTADO CIVIL. TAMBIÉN ESTÁ PROHIBIDO EL ACOSO SEXUAL O EL ACOSO POR CUALQUIERA DE ESTAS CLASES PROTEGIDAS.

TODOS LOS EMPLEADORES (hasta el 8 de febrero de 2020, solo los empleadores de cuatro o más personas), AGENCIAS DE EMPLEO, ORGANIZACIONES DE TRABAJO Y PROGRAMAS DE CAPACITACIÓN DE APRENDICES

Asimismo, está prohibida la discriminación en el empleo sobre la base de la observancia del Shabat o prácticas religiosas; peinados asociados con la raza (también se aplica a las áreas enumeradas a continuación) arresto previo o antecedentes penales; las características genéticas predisponentes; el estado civil; las condiciones relacionadas con el embarazo.

Es posible que sea necesario hacer acomodos razonables para personas con discapacidades y condiciones relacionadas con el embarazo incluyendo lactación. Un arreglo razonable es una adaptación a un trabajo o entorno laboral que permita que una persona con discapacidad realice las tareas esenciales de un trabajo de manera razonable.

También están cubiertos: trabajadores domésticos están protegidos en casos acoso y represalias; internos y no empleados cuales trabajan en el lugar de trabajo (por ejemplo trabajadores temporarios o contratantes) están protegidos de toda discriminación descrita arriba.

ALQUILER, ARRENDAMIENTO O VENTA DE VIVIENDA, TERRENO O ESPACIO COMERCIAL INCLUYENDO ACTIVIDADES DE AGENTE DE BIENES RAÍCES Y VENDEDORES

También esta prohibido: la discriminación a base de fuente de ingreso legal (por ejemplo vales, beneficios de discapacidad, manutención de niños); estado familiar (familias con niños o en estado de embarazo); arresto previo o condena sellada; boicot comercial o acoso inmobiliario.

También es posible que sea necesario realizar modificaciones y arreglos razonables para personas con discapacidades.

Excepciones:

(1) alquiler de un apartamento en una casa para dos familias ocupada por el dueño

(2) restricciones de todas las habitaciones en una vivienda para individuos del mismo sexo

(3) alquiler de una habitación por parte del ocupante de una casa o apartamento

(4) venta, alquiler o arrendamiento de alojamiento en una casa exclusivamente a personas mayores de 55 años y al cónyuge de dichas personas

También se prohíbe: discriminación en vivienda sobre la base del estado civil (por ejemplo, familias con hijos).

TODAS TRANSACCIONES CREDITICIAS INCLUYENDO FINANCIAMENTO PARA LA COMPRA, MANTENIMIENTO Y REPARACION DE VIVIENDAS

LUGARES DE ALOJAMIENTO PÚBLICO, COMO RESTAURANTES, HOTELES, HOSPITALES Y CONSULTORIOS MÉDICOS, CLUBS, PARQUES Y OFFICINAS DEL GOBIERNO.

Excepción:

La edad no es una clasificación cubierta respecto a los alojamientos públicos. Es posible que sea necesario realizar arreglos razonables para personas con discapacidades.

INSTITUCIONES EDUCATIVAS

Todas las escuelas publicas y escuelas privadas sin ánimo de lucro, en todos los niveles, excluyendo escuelas dirigidas por organizaciones religiosas.

PUBLICIDAD Y SOLICITUDES RELACIONADAS CON EL EMPLEO, LOS INMUEBLES, LOS LUGARES DE ALOJAMIENTO PÚBLICO Y LAS TRANSACCIONES CREDITICIAS NO DEBEN EXPRESAR NINGUN ACTO DISCRIMINATORIO

Si desea presentar una demanda formal ante la División de Derechos Humanos, debe hacerlo dentro de un año desde que ocurra la discriminación. Los servicios de la División se ofrecen sin cargo.

Si desea presentar una demanda ante el Tribunal Estatal, puede hacerlo dentro de los tres años desde que ocurriera la discriminación. No puede presentar una demanda ante la División y ante el Tribunal Estatal.

Se prohíben las represalias por presentar una demanda u oponerse a prácticas discriminatorias. Puede presentar una demanda ante la División si sufrió represalias.

PARA OBTENER MÁS INFORMACIÓN, ESCRIBA O LLAME A LA OFICINA MÁS CERCANA DE LA DIVISIÓN. OFICINA CENTRAL:
ONE FORDHAM PLAZA. 4TH FLOOR, BRONX, NY 10458

WE ARE YOUR DOL

NEW YORK STATE OF OPPORTUNITY. Department of Labor

Attention Farm Workers

Minimum Wage hourly rates effective 12/31/2019 – 12/30/2020

New York City

All Employers

Minimum Wage

$15.00

Overtime after 60 hours $22.50*

Long Island and Westchester County

Minimum Wage $13.00

Overtime after 60 hours $19.50*

Remainder of New York State

Minimum Wage $11.80

Overtime after 60 hours $17.70*

If you have questions, need more information or want to file a complaint, please visit www.labor.ny.gov/minimumwage or call **(888) 469-7365**.

Credits and Allowances that may reduce your pay below the minimum wage rates shown above:

- **Meals and lodging** – Your employer may claim a limited amount of your wages for meals and lodging that they provide to you, as long as they do not charge you anything else. The rates and requirements are in wage orders and summaries, which are available online.

  Exception: Employers may not claim any of your wages for lodging if you are a migrant seasonal worker.

Extra Pay you may be owed in addition to the minimum wage rates shown above:

- * **Overtime – Takes effect 1/1/2020.** You must be paid 1 1/2 times your regular rate of pay (no less than the overtime amounts shown above) for hours worked over 60 in a calendar week and/or for any hours worked on your day of rest.
- **Uniform maintenance** – If you clean your own uniform, you may be entitled to additional weekly pay. The weekly rates are available online.
- **Federal Law** – If you are an employee covered under the federal Fair Labor Standards Act, you must be paid according to state law and also according to higher federal requirements, if they apply.

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Atención trabajadores agrícolas

Tarifas por hora para el salario mínimo con vigencia del 31 de diciembre de 2019 al 30 de diciembre de 2020

New York Ciudad

Todos los empleadores

Salario mínimo

$15.00

Horas extras después de las 60 horas $22.50*

Condados de Long Island y Westchester

Salario mínimo $13.00

Horas extras después de las 60 horas $19.50*

Recordatorio del Estado de New York

Salario mínimo $11.80

Horas extras después de las 60 horas $17.70*

Si tiene preguntas, necesita más información o desea presentar una queja, visite www.labor.ny.gov/minimumwage o llame al: **(888) 469-7365**.

Créditos y asignaciones que pueden reducir su salario por debajo de los salarios mínimos que se muestran arriba:

- **Comidas y alojamiento:** su empleador puede reclamar una cantidad limitada de su salario por las comidas y el alojamiento que le proporcionan, siempre que no le cobren nada más. Las tarifas y los requisitos están en las ordenanzas y resúmenes sobre el salario, que están disponibles en línea.

  Excepción: los empleadores no pueden reclamar ninguno de sus salarios por alojamiento si usted es un trabajador migratorio estacional.

Pago adicional que se le puede adeudar además de las tasas de salario mínimo que se muestran arriba:

- * **Horas extras: entra en vigencia el 1 de enero de 2020.** Se le debe pagar 1 1/2 veces su tarifa de pago regular (no menos que las cantidades de horas extras que se muestran arriba) por las horas trabajadas que superen las 60 horas en una semana calendario y/o por las horas trabajadas en su día de descanso.
- **Mantenimiento de uniformes:** si limpia su propio uniforme, puede tener derecho a un pago semanal adicional. Las tarifas semanales se encuentran disponibles en línea.
- **Ley federal:** si es un empleado amparado por la Ley federal de normas laborales justas, se le debe pagar de acuerdo con la ley estatal y también de acuerdo con los requisitos federales más altos, si corresponde.

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Atansyon Travayè Jaden yo

Pousantaj salè minimòm èdtan efektif 12/31/2019 – 12/30/2020

Vil New York

Tout Anplwayè yo

Salè Minimòm

$15.00

Lè siplemantè apre 60 èdtan $22.50*

Long Island ak Konte Westchester

Salè Minimòm $13.00

Lè siplemantè apre 60 èdtan $19.50*

Rès nan Eta New York

Salè Minimòm $11.80

Lè siplemantè apre 60 èdtan $17.70*

Si ou gen kesyon, ou bezwen pils enfòmasyon oswa ou vle depoze yon plent, tanpri vizite www.labor.ny.gov/minimumwage oswa rele: **(888) 469-7365**.

Kredi ak Alokasyon ki kapab redwi peman w anba pousantaj salè minimòm nan endike anwo a:

- **Manje ak lojman** – Travay ou ka reklame yon kantite lajan limite nan salè w pou manje ak lojman ke yo ba ou, depi yo pa chaje w pou okenn lòt bagay ankò. Pousantaj ak egzijans yo endike nan lòd salè ak rezime yo, sa ki disponib anliy.

  Eksepsyon: Travay yo ka pa reklame okenn nan salè pou lojman si ou se yon travayè migran sezonye.

Peman anplis ou ka dwe anplis de pousantaj salè minimòm ki endike anwo a:

- ∗ **Lè anplis – ap efektif 1/1/2020.** Ou dwe peye 1 1/2 pousantaj lè regilye peman (pa mwens pase kantite tan siplemantè ki endike anwo a) pou èdtan travay ki plis pase 60 nan yon semèn kalandriye ak/oswa pou nenpòt èdtan ki te travay nan jou repo w.
- **Antretyen inifòm** – Si ou lave inifòm ou, ou ka gen dwa a yon salè siplemantè chak semèn. Pousantaj chak semèn la disponib anliy.
- **Lwa Federal** – Si ou se yon anplwaye ki kouvri daprè Lwa Estanda Federal sou Travay Ekitab, ou dwe touche daprè lwa eta ak egalman daprè egzijans federal ki pi elve, si yo aplike.

NEW YORK STATE OF OPPORTUNITY. | Department of Labor

Minimum Wage Standards for Farm Workers

Article 19-A
of the New York State Labor Law

As Amended
Effective April 1, 2005

LS 440 (11/19)

Article 19-A

Minimum Wage Standards and Protective Labor Practices for Farm Workers

Sections

670. Statement of public policy; findings.
671. Definitions.
672. Application of article.
673. Minimum wage.
673-a. Farm workers; mandatory work agreements.
674. Regulations.
674-a. Farm laborers wage board.
675. (Deleted)
676. Appeals from regulations.
677. Appeals from compliance orders.
678. Commissioner's powers of investigation.
679. Records of employers.
680. Penalties.
681. Civil action.
682. Referrals by employment agencies.
683. Savings clause.

§ 670. Statement of public policy; findings.

The legislature of the state of New York declares that it is the public policy of the state and the purpose of this act that minimum wage standards shall apply to farm workers, so as to eliminate as rapidly as practicable the employment of farm workers at wages insufficient to provide adequate maintenance and protection of health, without substantially curtailing opportunities for employment or earning power.

The legislature hereby finds that the establishment of minimum wage standards for farm laborers involves distinct and unusual problems; that the agricultural labor force is made up of regular all-year workers as well as short-term seasonal workers; that although some workers are paid on an hourly basis, many are paid on a piecework, weekly, monthly, or other basis; and that the agricultural industry is particularly affected by weather and market conditions and by perishability of products.

Accordingly, the legislature further declares that it is the purpose of this act to provide a flexible approach with full consideration of the unusual problems involved.

§ 671. Definitions.

As used in this article:

1. "Farm" includes stock, dairy, poultry, furbearing animal, fruit and truck farms, plantations, orchards, nurseries, greenhouses, or other similar structures, used primarily for the raising of agricultural or horticultural commodities.

2. "Employee" includes any individual employed or permitted to work by an employer on a farm but shall not include: (a) domestic service in the home of the employer; (b) the parent, spouse, child or other member of the employer's immediate family; (c) a minor under seventeen years of age employed as a hand harvest worker on the same farm as his parent or guardian and who is paid on a piece-rate basis at the same piece rate as employees seventeen years of age or over; (d) an individual employed or permitted to work for a federal, state, or a municipal government or political subdivision thereof; or (e) an individual to whom the provisions of article nineteen of this chapter are applicable.

3. "Employer" includes any individual, partnership, association, corporation, cooperative, business trust, legal representative, or any organized group of persons acting as an employer of an individual employed or permitted to work on a farm. If a farm labor contractor recruits or supplies farm workers for work on a farm, such farm workers shall, for the purposes of this article, be deemed to be employees of the owner, lessee or operator of such farm.

4. "Farm labor contractor" includes: a. Any person who, for a fee, recruits, transports, supplies, or hires farm or food processing workers to work for, or under the direction, supervision, or control of, a third person; or b. Any person who recruits, transports, supplies, or hires farm or food processing workers and who, for a fee, directs, supervises or controls all or any part of the work of such workers. "Fee" includes any money or other valuable consideration paid or promised to be paid to a farm labor contractor for the performance of any of the services enumerated in this definition. The term "farm labor contractor" shall not include an employment agency licensed in accordance with the provisions of article eleven of the general business law.

5. "Wage" includes allowances in the amount determined in accordance with the provisions of this article for meals, lodging, and other items, service and facilities when furnished by the employer to his employees.

6. "Hours worked" means the time that a farm worker is permitted to work in the fields or at his assigned place of work, and shall include time spent on a single farm in going from one field to another, or in waiting for baskets, pick-up, or for similar purposes; provided, however, that time not worked because of weather conditions shall not be considered as hours worked.

7. "Work agreement" means a job service recruitment or placement order; a farm labor contract or migrant labor registration; an agricultural employment contract executed by the employer or its representative with the Commonwealth of Puerto Rico or with the representatives of a foreign government; an agreement voluntarily entered into by the employer and the worker; or any comparable agreement.

§ 672. Application of article.

This article shall apply to every employer during any part of the twelve consecutive months beginning February first, nineteen hundred seventy and February first of each subsequent year, preceded by a calendar year in which the cash remuneration paid to all employees aggregated twelve hundred dollars or more, provided, however, that one hundred eighty days after this act shall take effect this article shall apply to every employer if in the previous calendar year the cash remuneration paid to all employees aggregated two thousand dollars or more and on July first, nineteen hundred eighty-four this article shall apply to every employer if in the previous calendar year the cash remuneration paid to all employees aggregated three thousand dollars or more.

§ 673. Minimum wage.

1. Statutory. Every employer shall pay to each of its employees for each hour worked a wage of not less than the wage established pursuant to subdivision one of section six hundred fifty-two of this chapter, or such other wage as may be established in accordance with the provisions of this article.

2. Existing wage order. The minimum wage order in effect on the effective date of this act shall remain in full force and effect, except as modified in accordance with the provisions of this article.

§ 673-a. Farm workers; mandatory work agreements.

Notwithstanding the provisions of any general, special or local law, rule or regulation to the contrary, for the purpose of notifying each employee, in writing, of the conditions of employment every employer shall utilize the farm work agreement prescribed by the commissioner.

§ 674. Regulations.

1. The commissioner may promulgate such regulations to safeguard minimum wage standards. Such regulations may include, but are not limited to, the defining of the circumstances or conditions for the acceptance of non-hourly rates and piece rates as equivalent to the minimum hourly rates established by this article. Such regulations also may include, but are not limited to, waiting time and call-in pay rates; wage provisions governing guaranteed earnings during specified periods of work; allowances for meals, lodging, and other items, services and facilities when furnished by the employer; or by physical or mental deficiency or injury, under special certificates issued by the commissioner, at such wages lower than the minimum wage established by this article and for such period as shall be prescribed in such regulations.

2. Such regulations may vary with localities if in the judgment of the commissioner conditions make such variation appropriate.

3. Such regulations shall be promulgated by the commissioner after a public hearing held after due notice. A notice of the public hearing and a notice of the promulgation of any such regulation shall be published in the state bulletin. The notice of the promulgation of any such regulation shall be published at least twenty days before the effective date of the regulation.

§ 674-a. Farm laborers wage board.

1. Wage board. The commissioner shall hereby convene a farm laborers wage board. The wage board shall be comprised of three members: one representative of the farm bureau, one representative of the New York State AFL-CIO and one member appointed by the commissioner, who shall be selected from the general public and designated as chairperson. The wage board shall hold its first hearing no later than March first, two thousand twenty. The members of the board shall not receive a salary or other compensation, but shall be paid actual and necessary traveling expenses while engaged in the performance of their duties.

2. Organization. Two-thirds of the members of the board shall constitute a quorum. The chairperson may from time to time formulate rules governing the manner in which the wage board shall function and perform its duties under this article.

3. Powers. The wage board shall have power to conduct public hearings. The board may also consult with agricultural employers and farm laborers and their respective representatives, in the occupation or occupations involved, and with such other persons, including the commissioner and the commissioner of agriculture and markets, as it shall determine. The board shall also have power to administer oaths and to require by subpoena the attendance and testimony of witnesses, and the production of all books, records, and other evidence relative to any matters under inquiry. Such subpoenas shall be signed and issued by the chairperson of the board and shall be served and have the same effect as if issued out of the supreme court. The board shall have power to cause depositions of witnesses residing within or without the state to be taken in the manner prescribed for like depositions in civil actions in the supreme court. The board shall not be bound by common law or statutory rules of procedure or evidence.

4. Public hearings. Within forty-five days of the appointment of the wage board, the board shall conduct public hearings. The wage board shall only meet within the state and must hold at least three hearings at which the public will be afforded an opportunity to provide comments. At least one Spanish language interpreter shall be present at each public hearing to interpret oral testimony delivered in Spanish. Where a witness reveals the need for an interpreter in a language other than Spanish, to the extent practicable, an interpreter in that language shall be provided. Any materials advertising such hearings shall be bilingual in English and Spanish. Any written materials disbursed at the hearing or subsequent to the hearing, including written testimony and hearing transcripts, shall be available in English, Spanish, and, to the extent practicable, any other language upon request.

5. Report. The wage board shall make a report to the governor and the legislature, including its recommendations as to overtime work for farm laborers. The report and recommendations of the board shall be submitted only after a vote of not less than a majority of all its members in support of such report and recommendations. Such report shall be submitted no later than December thirty-first, two thousand twenty. The overtime rates recommended by the wage board shall not be in excess of sixty hours, and the wage board shall specifically consider the extent to which overtime hours can be lowered below such amount set in law, and may provide for a series of successively lower overtime work thresholds and phase-in dates as part of its determinations.

6. The wage board shall consider existing overtime rates in similarly situated industries in New York state. Nothing contained in the wage board's report or recommendations shall diminish or limit any rights, protections, benefits or entitlements currently available to any farm laborer.

7. The commissioner shall comply with section six hundred fifty-six of this chapter upon receipt of the wage board's recommendations. The commissioner may reconvene the same wage board or appoint a new wage board in compliance with section six hundred fifty-nine of this chapter.

* NB Effective January 1, 2020

(§ 675 deleted)

§ 676. Appeals from regulations.

1. Finality. Any regulation issued by the commissioner pursuant to this article shall, unless appealed from as provided in this section, be final. The findings of the commissioner as to the facts shall be conclusive.

2. Review by board of standards and appeals. Any person in interest, including a labor organization or employer association, who is aggrieved by such regulation may obtain review before the board of standards and appeals by filing with said board, within forty-five days after the date of the publication of the notice of such regulation, a written petition requesting that the regulation be modified or set aside. A copy of such petition shall be served promptly upon the commissioner. On such appeal, the commissioner shall certify and file with the board of standards and appeals a transcript of the entire record, including the testimony and evidence upon which such regulation was made. The board of standards and appeals, upon the record certified and filed by the commissioner, shall, after oral argument, determine whether the regulation appealed from is contrary to law. Within forty-five days after the expiration of the time for the filing of a petition, the board of standards and appeals shall issue an order confirming, amending or setting aside the regulation appealed from. The appellate jurisdiction of the board of standards and appeals shall be exclusive and its order final except that the same shall be subject to an appeal taken directly to the appellate division of the supreme court, third judicial department, within sixty days after its order is issued. The commissioner shall be considered an aggrieved party entitled to take an appeal from an order of the board of standards and appeals.

3. Security. The taking of an appeal by an employer to the board of standards and appeals shall not operate as a stay of a minimum wage regulation issued under this article unless and until, and only so long as, the employer shall have provided security determined by the board of standards and appeals in accordance with this section. The security shall be sufficient to guarantee to the employees affected the payment of the difference between the wage they receive and the minimum wage they would be entitled to receive under the terms of the minimum wage regulation (such difference being hereinafter referred to as "underpayments") in the event that such regulation is affirmed by the board of standards and appeals. The security shall be either:

a. A bond filed with the board of standards and appeals issued by a fidelity or surety company authorized to do business in this state. The bond shall be sufficient to cover the amount of underpayments due at the time the bond is filed with the board of standards and appeals and the amount of underpayments that can reasonably be expected to accrue within the following sixty days; or

b. An escrow account established by the employer in behalf of employees and, deposited in a bank or trust company in this state, of which the employer has notified the board of standards and appeals in writing that he has established such account. The account shall be sufficient to cover the amount of underpayments due at the time of notification to the board of standards and appeals and shall be kept current by the employer depositing therein the amount of underpayments accruing each and every pay period. Such deposits shall be made no later than the day on which the wages for each pay period are payable. As an alternative thereto, an employer may deposit the amount of underpayments due at the time the deposit is made and the amount of underpayments that can reasonably be expected to accrue within the following sixty days, as determined by the board of standards and appeals. The employer shall keep accurate records showing the total amount of each deposit, the period covered, and the name and address of each employee and the amount deposited to his account. The employees escrow account shall be deemed to be a trust fund for the benefit of the employees affected, and no bank or trust company shall release funds in such account without the written approval of the board of standards and appeals.

4. Maintenance of security. The commissioner, at the request and on behalf of the board of standards and appeals, shall have the right to inspect the books and records of every employer who appeals or who provides a security in accordance with subdivision eight of this section. In the event that the board of standards and appeals finds that the security provided by an employer is insufficient to cover the amount of underpayments, it shall notify the employer to increase the amount of the security. If the employer fails to increase the security of the amount requested within seven days after such notice, the stay shall be terminated. If the board of standards and appeals finds that the amount of the security is excessive, it shall decrease the amount of security required.

5. Review of determination as to security. Notwithstanding any provision in this chapter, any determination of the board of standards and appeals with reference to subdivisions three and four of this section shall be reviewable only by a special proceeding under article seventy-eight of the civil practice law and rules instituted in the supreme court in the third judicial district within ten days after such determination.

6. Security on court review. In the event that an appeal is taken from the order of the board of standards and appeals to the supreme court in the third judicial district pursuant to subdivision two of this section, the court may continue the security in effect or require such security as it deems proper.

7. Waiver of security. Notwithstanding any provision in this section, the board of standards and appeals may, in its discretion, waive the requirement of a security for an employer who the board of standards and appeals finds is of such financial responsibility that payments to employees of any underpayments due or to accrue are assured without the security provided by this section.

8. Stay for other employers. Any employer affected by a minimum wage regulation from which an appeal has been taken by another employer to the board of standards and appeals or to the supreme court in the third judicial district, may obtain a stay of proceedings against him by providing a security in accordance with subdivisions three and four of this section within thirty days after the filing of the appeal by the other employer.

§ 677. Appeals from compliance orders.

Within sixty days after the issuance by the commissioner of an order to comply with any provision of this article or with any minimum wage regulation promulgated thereunder, any person aggrieved may appeal questions of law and fact involved in such order to the board of standards and appeals by filing with said board a written petition in accordance with such rules as the board shall prescribe, provided, however, that no such appeal shall bring under review any minimum wage regulation promulgated under this article.

The provisions of subdivision two of section six hundred seventy-six relating to appeals from determinations of the board and the provisions of subdivisions three through seven of section six hundred seventy-six shall apply to appeals such as herein provided. Unless an appeal such as herein provided is taken within the prescribed time, the findings of fact and conclusions of law contained in such order to comply shall be final and binding and no board or court shall have jurisdiction to review such order, or finding or conclusion contained therein, or to restrain or interfere with its enforcement.

§ 678. Commissioner's powers of investigation.

The commissioner or his authorized representative shall have power: (a) to investigate the wages of persons employed on a farm; (b) to enter the place of business or employment of any employer for the purpose of (1) examining and inspecting any and all books, registers, payrolls and other records that in any way relate to or have a bearing upon the wages paid to, or the hours worked by any employee, (2) ascertaining whether the provisions of this article and the regulations promulgated hereunder are being complied with; and (c) to require from any employer full and correct statements and reports in writing of the records required by this article, at such times as the commissioner may deem necessary.

§ 679. Records of employers.

Every employer shall keep true and accurate records of hours worked by each employee, the wages paid, and such other information as the commissioner deems material and necessary, and shall, on demand, furnish to the commissioner or his duly authorized representative a sworn statement of the same. Every employer shall keep such records open to inspection by the commissioner or his duly authorized representative at any reasonable time. Every employer of an employee shall keep a digest or

summary of this article and regulations, which shall be prepared by the commissioner, posted in a conspicuous place in his establishment and shall also keep posted such additional copies of said digest or summary as the commissioner prescribes.

Employers shall, on request, be furnished with copies of this article and regulations, and of digests or summaries thereof, without charge.

Employers shall permit the commissioner or his duly authorized representative to question any individual employed by such employer in the place of employment and during working hours in respect to the wages paid and the hours worked when records of hours worked are required under this article.

§ 680. Penalties.

1. Discrimination against employee. Any employer or his agent, or the officer or agent of any corporation, who discharges or in any other manner discriminates against any employee because such employee has made a complaint to his employer, or to the commissioner or his authorized representative, that he has not been paid in accordance with the provisions of this article, or because such employee has caused to be instituted a proceeding under or related to this article, or because such employee has testified or is about to testify in an investigation or proceeding under this article, shall be guilty of a misdemeanor and upon conviction be punished by a fine of not less than fifty dollars nor more than five hundred dollars.

2. Payment of less than minimum wage. Any employer or his agent, or the officer or agent of any corporation, who pays or agrees to pay to any employee less than the wage applicable under this article shall be guilty of a misdemeanor and upon conviction be punished by a fine of not less than fifty dollars nor more than five hundred dollars or by imprisonment of not less than ten nor more than ninety days or by both such fine and imprisonment, and each payment to any employee in any week of less than the wage applicable under this article shall constitute a separate offense.

3. Failure to keep records. Any employer or his agent, or the officer or agent of any corporation, who fails to keep the records required under this article or to furnish such records or any information required to be furnished under this article to the commissioner or his authorized representative upon request, or who hinders or delays the commissioner or his authorized representative in the performance of his duties in the enforcement of this article, or refuses to admit the commissioner or his authorized representative to any place of employment, or falsifies any such records or refuses to make such records accessible to the commissioner or his authorized representative, or refuses to furnish a sworn statement of such records or any other information required for the proper enforcement of this article to the commissioner or his authorized representative, shall be guilty of a misdemeanor and upon conviction be punished by a fine of not less than fifty dollars nor more than five hundred dollars, and each day's failure to keep the records required under this article or to furnish such records or information to the commissioner or his authorized representative shall constitute a separate offense.

§ 681. Civil action.

1. By employee. If any employee is paid by his employer less than the wage to which he is entitled under the provisions of this article, he may recover in a civil action the amount of any such underpayments, together with costs and such reasonable attorney's fees as may be allowed by the court, and if such underpayment was willful, an additional amount as liquidated damages equal to twenty-five percent of the total of such underpayment found to be due him and any agreement between him and his employer to work for less than such wage shall be no defense to such action.

2. By commissioner. On behalf of any employee paid less than the wage to which he is entitled under the provisions of this article, the commissioner may bring any legal action necessary to collect such claim, and the employer shall be required to pay the costs and if such underpayment was willful, an additional amount as liquidated damages equal to twenty-five percent of the total of such underpayments found to be due him.

3. Limitation of time. Notwithstanding any other provision of law, an action to recover upon a liability imposed by this article must be commenced within six years.

§ 682. Referrals by employment agencies.

No employment agency shall place or attempt to place any employee in an occupation at less than the wage applicable to such occupation under this article.

The term "employment agency" as used in this section shall mean an employment agency as defined in section one hundred seventy-one of the general business law.

§ 683. Savings clause.

If any portion of this article or the application thereof to any person, employer, occupation or circumstance is held invalid, the remainder of the article and the application of such provision to other persons, employees, occupations, or circumstances shall not be affected thereby.

Part 190

Minimum Wage Order for Farm Workers Including Occupations in Agriculture Particularly Hazardous for the Employment of Children Below the Age of 16

Part 190 of Title 12 of the Official Compilation of Codes, Rules, and Regulations of the state of New York
(Cited as 12 NYCRR 190)

Promulgated by the Commissioner of Labor Pursuant to the Minimum Wage Act
(Article 19-A of the New York State Labor Law)

Statutory authority: Labor Law Section 21(11) and Labor Law Section 674

NEW YORK STATE OF OPPORTUNITY | Department of Labor

As amended
Effective December 31, 2016

PART 190
MINIMUM WAGE ORDER FOR FARM WORKERS

Subpart 190-1	**Coverage**
Subpart 190-2	**Minimum Wage, Piece Rate and Youth Rate**
Subpart 190-3	**Allowances**
Subpart 190-4	**Rehabilitation and Vocational Education Programs**
Subpart 190-5	**Deductions and Expenses**
Subpart 190-6	**Posting and Notification**
Subpart 190-7	**Denial or Revocation of Certificates or Approval**
Subpart 190-8	**Employer Records**
Subpart 190-9	**Occupations in Agriculture Particularly Hazardous for the Employment of Children Below the Age of 16**

SUBPART 190-1
COVERAGE

Sec	
190-1.1	Coverage of order
190-1.2	Basis of wage payment
190-1.3	Definitions

§ 190-1.1 Coverage of order.

This order shall apply to every farm employer if, during the preceding calendar year, the cash remuneration paid to all persons employed on the employer's farms aggregated $3,000 or more.

§ 190-1.2 Basis of wage payment.

Payment of the minimum wage provided by this order shall be required for each week of work or for each regularly established payroll period, whether the wage is paid on a commission, bonus, piece-rate, or other basis. An employee who has been terminated shall receive the full wages due not later than the regular payday for the payroll period in which the termination occurred and, if requested by the employee, such wages shall be forwarded by mail. A written summary of total gross and net earnings for the employment period and a listing of all deductions shall be furnished to the employee, or mailed to the employee's permanent address, not later than the regular payday for the payroll period in which the termination occurred.

§ 190-1.3 Definitions.

Wherever used in this order:

(a) *Employer* means any individual, partnership, association, corporation, cooperative, business trust, legal representative or organized group of persons acting as an employer of an individual engaged or permitted to work on a farm. If a farm labor contractor recruits or supplies farm workers for work on a farm, such farm workers shall be deemed to be employees of the owner, lessee or operator of such farm.

(b) *Employee* includes any individual engaged or permitted by an employer to work on a farm, except:

(1) the parent, spouse, child or other member of the employer' s immediate family;

(2) a minor under 17 years of age employed as a hand harvest worker on the same farm as the minor's parent or guardian and who is paid on a piece-rate basis at the same piece rate as employees 17 years of age and over;

(3) an individual employed by the Federal, State or municipal government or a political subdivision thereof; and

(4) for that part of the working time covered by the provisions of another minimum wage order promulgated by the commissioner.

(c) *Commissioner* means the Commissioner of Labor of the State of New York.

(d) *Basic minimum hourly wage* means, in:

(1) *New York City* for

(i) *Large employers* of eleven or more employees

$11.00 per hour on and after December 31, 2016;
$13.00 per hour on and after December 31, 2017;
$15.00 per hour on and after December 31, 2018;

(ii) *Small employers* of ten or fewer employees

$10.50 per hour on and after December 31, 2016;
$12.00 per hour on and after December 31, 2017;
$13.50 per hour on and after December 31, 2018;
$15.00 per hour on and after December 31, 2019;

(2) *Remainder of downstate* (Nassau, Suffolk and Westchester counties)

$10.00 per hour on and after December 31, 2016;
$11.00 per hour on and after December 31, 2017;
$12.00 per hour on and after December 31, 2018;
$13.00 per hour on and after December 31, 2019;
$14.00 per hour on and after December 31, 2020;
$15.00 per hour on and after December 31, 2021,

(3) *Remainder of state* (outside of New York City and Nassau, Suffolk and Westchester counties)

$9.70 per hour on and after December 31, 2016;
$10.40 per hour on and after December 31, 2017;
$11.10 per hour on and after December 31, 2018;
$11.80 per hour on and after December 31, 2019;
$12.50 per hour on and after December 31, 2020.

(4) If a higher wage is established by Federal law pursuant to 29 U.S.C. section206 or its successors, such wage shall apply.

(e) *Minimum hourly wage* means the basic minimum hourly wage less allowances and deductions permitted by this order.

(f) *Farm* includes stock, dairy, poultry, fur-bearing animal, fruit and truck farms; plantations; orchards; nurseries; greenhouses and similar structures used primarily for the raising of agricultural or horticultural commodities.

(g) *Employed on a farm* means the services performed by an employee on a farm in the employ of the owner, lessee or operator of a farm in connection with:

(1) cultivating the soil;

(2) raising or harvesting any agricultural or horticultural commodity, including the raising or hatching of poultry, the raising, shearing, feeding, caring for, training, management of livestock, bees, fur-bearing animals and wildlife;

(3) the production or harvesting of maple syrup or maple sugar;

(4) the operation, management, conservation, improvement or maintenance of a farm and its tools and equipment;

(5) the operation or maintenance of ditches, canals, reservoirs or waterways used exclusively for removing, supplying and storing water for farming purposes;

(6) the handling, planting, drying, packing, packaging, processing, freezing, grading, storing or delivering to market or to a carrier for transportation to market, of any agricultural or horticultural commodity raised on the employer's farm.

(h) *Employed on a farm* does not include services performed in connection with commercial canning, freezing, grading or other processing of any agricultural or horticultural commodity not raised on the employer's farm.

(i) *Migrant seasonal employee* means an individual whose employment is not on an all-year basis and who is housed in a farm labor camp as defined in section 212-c(3) of the Labor Law.

(j) *Meal* means the provision of adequate portions of a variety of wholesome, nutritious foods, including at least one of the types of food from each of all four of the following groups:

(1) fruits or vegetables;

(2) cereals, bread, pasta or potatoes;

(3) eggs, meat, fish or poultry; and

(4) milk, tea or coffee;

except that, for the breakfast meal, group (3) may be omitted if two foods from group (2) are provided.

(k) *Lodging* includes room, house or apartment and means living accommodations which meet generally accepted standards for protection against fire, and all structural, sanitation, and similar standards in State and local laws, codes, regulations and ordinances applicable to the premises.

(l) *Work agreement* means a job service recruitment or placement order; a farm labor contract or migrant labor registration; an agricultural employment contract executed by the employer or its representative with the Commonwealth of Puerto Rico or with the representatives of a foreign government; an agreement voluntarily entered into by the employer and the worker; or any comparable agreement.

(m) *Working time* means the hours that an employee is permitted to work or is required to be available for work at the assigned place of work, and shall include time spent in going from one field to another, in waiting for baskets, pickup or breakdown of machinery or equipment where the employer requires the employee to remain at the site of the breakdown during repairs. Time not worked because of weather conditions shall not be considered as hours worked. An employee who lives on the premises of the employer, or in comparable facilities at the work site, shall not be considered to have worked or to have been available for work:

(1) during normal sleeping hours solely because the employee is required to be on call during such hours; or

(2) at any other time when the employee is free to leave the place of employment.

SUBPART 190-2
MINIMUM WAGE, PIECE RATE AND YOUTH RATE

Sec.	
190-2.1	Basic minimum wage rate
190-2.2	Piece rate
190-2.3	Youth rates

§ 190-2.1 Basic minimum wage rate.

The basic minimum wage rate shall be, for each hour worked in

(a) *New York City* for

(1) *Large employers* of eleven or more employees

$11.00 per hour on and after December 31, 2016;
$13.00 per hour on and after December 31, 2017;
$15.00 per hour on and after December 31, 2018;

(2) *Small employers* of ten or fewer employees

$10.50 per hour on and after December 31, 2016;
$12.00 per hour on and after December 31, 2017;
$13.50 per hour on and after December 31, 2018;
$15.00 per hour on and after December 31, 2019;

(b) *Remainder of downstate* (Nassau, Suffolk and Westchester counties)

$10.00 per hour on and after December 31, 2016;
$11.00 per hour on and after December 31, 2017;
$12.00 per hour on and after December 31, 2018;
$13.00 per hour on and after December 31, 2019;
$14.00 per hour on and after December 31, 2020;
$15.00 per hour on and after December 31, 2021,

(c) *Remainder of state* (outside of New York City and Nassau, Suffolk and Westchester counties)

$9.70 per hour on and after December 31, 2016;
$10.40 per hour on and after December 31, 2017;
$11.10 per hour on and after December 31, 2018;
$11.80 per hour on and after December 31, 2019;
$12.50 per hour on and after December 31, 2020.

(d) If a higher wage is established by Federal law pursuant to 29 U.S.C. section206 or its successors, such wage shall apply.

§ 190-2.2 Piece rate.

The piece rate must yield a wage for the payroll period at least equivalent to the basic minimum wage rate or, if the employer had been issued a youth rate certificate by the commissioner, a wage for the payroll period at least equivalent to the youth rate.

§ 190-2.3 Youth rates.

Youths under 18 years of age shall be paid the basic minimum wage rates set forth in section 190-2.1 of this Subpart on and after December 31, 2013. Prior to December 31, 2013, the following rates shall apply to youths under 18 years of age, provided the employer has been issued a youth rate certificate by the commissioner:

(a) *Harvest workers*. Sixteen- and seventeen-year-old youths working in or in connection with the harvesting of fruits and vegetables in their first harvest season for an employer may be paid $2.85 per hour until January 1, 1991; $3.25 per hour on and after January 1, 1991; and $3.60 per hour on and after January 1, 1992. During their second harvest season with the same employer they may be paid $3 per hour until January 1, 1991; $3.40 per hour on and after January 1, 1991; and $3.80 per hour on and after January 1, 1992. During their third season for the same employer they shall be paid the basic minimum wage rate.

(b) *Nonharvest workers*. Sixteen- and seventeen-year-old youths working in nonharvest work may be paid $2.85 per hour during their first 300 hours of employment, until January 1, 1991; $3.25 per hour on and after January 1, 1991; and $3.60 per hour on and after January 1, 1992, $3 per hour during their second 300 hours of employment for the same employer until January 1, 1991; $3.40 per hour on and after January 1, 1991; and $3.80 per hour on and after January 1, 1992 and the basic minimum wage rate thereafter when working for the same employer.

(c) *Youths under 16 years of age*. Youths under 16 years of age may be employed only if each such youth has been issued a farm work permit by the appropriate authorities and may be paid $2.50 per hour until January 1, 1991; $2.85 per hour on and after January 1, 1991; and $3.20 per hour on and after January 1, 1992.

SUBPART 190-3
ALLOWANCES

Sec.
190-3.1 Allowances.

§ 190-3.1 Allowances.

The following amounts may be considered as part of the basic minimum wage rate if the items shown below are provided to the employee:

(a) Meals – *$1.35 per meal until January 1, 1991; $1.50 per meal on and after January 1, 1991; $1.70 per meal on and after January 1, 1992.* No allowance for meals shall be considered as part of the minimum wage if a migrant seasonal employee earns less than $201 in a two-week period until January 1, 1991; $227.00 in a two-week period on and after January 1, 1991; $254.00 in a two-week period on and after January 1, 1992 other than by reason of voluntary absence.

(b) *Lodging and utilities*. (1) Migrant seasonal employees. No allowance for lodging and utilities shall be considered as part of the minimum wage for a migrant seasonal employee.

(2) All other employees – $15 per week until January 1, 1991; $16.95 per week on and after January 1, 1991; $18.95 per week on and after January 1, 1992 for single occupancy or $10 per week until January 1, 1991; $11.30 per week on and after January 1, 1991; $12.65 per week on and after January 1, 1992 per employee for multiple occupancy. When a house or apartment and utilities are furnished by an employer to an employee, a fair and reasonable amount may be allowed for such facilities, which amount shall not exceed the lesser of either the reasonable value of comparable facilities in the locality, or $2.70 a day until January 1, 1991; $3.00 a day on and after January 1, 1991; $5.00 a day on and after January 1, 1992 for an individual employee and $6.00 a day on and after January 1, 1991; $8.00 a day on and after January 1, 1992 when the employee's family resides with the employee.

(c) Payments in kind acceptable to the employee may be considered as a part of the minimum wage, but shall be valued at not more than the farm market value at the time such payments were provided.

SUBPART 190-4
REHABILITATION AND VOCATIONAL EDUCATION PROGRAMS

Sec.
190-4.1 Rehabilitation and vocational education programs.

§ 190-4.1 Rehabilitation and vocational education programs.

(a) For an individual employed as part of a rehabilitation program approved by the commissioner, the payment of compensation under such program shall be deemed to meet the requirements of this order.

(b) For a trainee enrolled in an organized vocational education training program in agriculture under a recognized educational, nonprofit or governmental agency or authority, including but not limited to programs such as the Farm Cadet, the Agricultural Student Work program of the New York State College of Agriculture at Cornell University and high school agricultural vocational student-work programs, provided such program is approved by the commissioner, the payment of compensation under such program shall be deemed to meet the requirements of this order.

SUBPART 190-5
DEDUCTIONS AND EXPENSES

Sec.
190-5.1 Deductions and expenses.

§ 190-5.1 Deductions and expenses.

(a) Wages shall not be subject to deductions, except for allowances authorized by this order and deductions authorized or required by law, such as withholding and social security taxes. Prohibited deductions include, but are not limited to:

(1) deductions for spoilage or breakage;

(2) deductions for cash shortages or losses; and

(3) fines or penalties for tardiness, misconduct or quitting without notice.

(b) The minimum wage shall not be reduced by expenses incurred by an employee in carrying out duties assigned by an employer.

(c) An employee may give written authorization for deductions from gross pay pursuant to section 193 of the Labor Law.

SUBPART 190-6
POSTING AND NOTIFICATION

Sec.
190-6.1 Posting and notification.

§ 190-6.1 Posting and notification.

(a) Every employer shall post, in a conspicuous place on the farm, a notice, issued by the commissioner, summarizing article 19-A of the Labor Law and this order, and shall post a copy of any generally applicable work agreement.

(b) In addition, every employer shall notify each employee, in writing, of the conditions of employment (work agreement) at the time of commitment to hire. Such conditions shall include but shall not be limited to:

(1) the full name, address and telephone number of the employer;

(2) the location and type of work;

(3) housing arrangements, including cost, number of rooms, cooking facilities;

(4) allowances if any, for meals and lodging to be deducted from wages;

(5) benefits to be provided by the employer;

(6) wages to be paid and time of payment;

(7) period of employment;

(8) all other planned payroll deductions;

(9) noneconomic terms and conditions of employment; and

(10) overtime provisions.

SUBPART 190-7
DENIAL OR REVOCATION OF CERTIFICATES OR APPROVAL

Sec.
190-7.1 Denial or revocation of certificates or approval.

§ 190-7.1 Denial or revocation of certificates or approval.

If the commissioner denies a certificate or approval authorized in this order, the aggrieved person shall be granted a hearing provided a request therefor is made within 30 days of such denial. A certificate or approval may be suspended or revoked by the commissioner after a hearing, for misrepresentation of facts, for violation of article 19-A of the Labor Law or of any provision of this order or for other good cause shown.

SUBPART 190-8
EMPLOYER RECORDS

Sec.
190-8.1 Statement to employee
190-8.2 Employer records

§ 190-8.1 Statement to employee.

For each payroll period every employer shall furnish to each employee a statement showing the following:

(a) full name and address of the employer;

(b) name of the employee;

(c) hours worked by the employee;

(d) when wages are based on piece rate, the size or weight of the piece-rate unit and the number of units produced during the pay period;

(e) rates paid;

(f) gross wages;

(g) allowances and deductions; and

(h) net wages.

§ 190-8.2 Employer records.

(a) Every employer shall establish, maintain and preserve for not less than three years, the following payroll records which shall show for each employee:

(1) name and address;

(2) social security number;

(3) total hours worked daily and weekly;

(4) when a piece-rate method of payment is used, the number of units produced daily and weekly;

(5) gross wages;

(6) deductions from gross wages;

(7) allowances claimed as part of the minimum wage;

(8) any cash advanced;

(9) date of birth of individuals employed at the youth rate; and, for minors under 17 years of age, the name and address of the minor's parent or guardian; and, for minors under 16 years of age, the number of the farm work permit issued to such employee;

(10) the wage rate; and

(11) copy of applicable employee work agreement.

(b) Every employer shall make such records or sworn certified copies thereof available upon request of the commissioner at the place of employment.

SUBPART 190-9
OCCUPATIONS IN AGRICULTURE PARTICULARLY HAZARDOUS FOR THE EMPLOYMENT OF CHILDREN BELOW THE AGE OF 16

Sec.
190-9.1 Definitions
190-9.2 Occupations involved in agriculture
190-9.3 Exemptions

§ 190-9.1 Definitions.

As used in this Part:

(a) *Agriculture* includes farming in all its branches including the cultivation and tillage of soil, dairying, the production, cultivation, growing, and harvesting of any agricultural or horticultural commodities, the raising of livestock, bees, fur-bearing animals, or poultry, and any practices (including any forestry or lumbering operations) performed by a farmer or on a farm as an incident to or in conjunction with such farming operations, including preparation for market, delivery to storage or to market or to carriers for transportation to market.

(b) *Employer* includes any person acting directly or indirectly in the interest of an employer, as defined in Labor Law, section 2, subd. 6, in relation to an employee, as defined in Labor Law, section 2, subd. 5, but shall not include the United States or any State or political subdivision thereof.

(c) *Employ* includes to suffer or permit to work.

(d) *Minor* means any person who has not attained the age of 16 years.

§ 190-9.2 Occupations involved in agriculture.

The following agricultural occupations are dangerous or injurious to the health of minors below the age of 16 and are therefore prohibited:

(a) Operating a tractor of over 20 power-take-off (PTO) horsepower, or connecting or disconnecting an implement or any of its parts to or from such a tractor.

(b) Operating or assisting to operate (including starting, stopping, adjusting, feeding, or any other activity involving physical contact associated with the operation) any of the following machines:

(1) corn picker, cotton picker, grain combine, hay mower, forage harvester, hay baler, potato digger, or mobile pea viner;

(2) feed grinder, crop dryer, forage blower, auger conveyor, or the unloading mechanism of a nongravity-type self unloading wagon or trailer; or

(3) power post-hole digger, power post driver, or nonwalking type rotary tiller.

(c) Operating or assisting to operate (including starting, stopping, adjusting, feeding, or any other activity involving physical contact associated with the operation) any of the following machines:

(1) trencher or earthmoving equipment;

(2) fork lift;

(3) potato combine; or

(4) power-driven circular, band, or chain saw.

(d) Working on a farm in a yard, pen, or stall occupied by a:

(1) bull, boar, or stud horse maintained for breeding purposes; or

(2) sow with suckling pigs, or cow with newborn calf (with umbilical cord present).

(e) Felling, bucking, skidding, loading, or unloading timber with butt diameter of more than six inches.

(f) Working from a ladder or scaffold (painting, repairing, or building structures, pruning trees, picking fruit, etc.) at a height of over 20 feet.

(g) Driving a bus, truck, or automobile when transporting passengers, or riding on a tractor as a passenger or helper.

(h) Working inside:

(1) a fruit, forage, or grain storage designed to retain an oxygen deficient or toxic atmosphere;

(2) an upright silo within 2 weeks after silage has been added or when a top unloading device is in operating position;

(3) manure pit; or

(4) horizontal silo while operating a tractor for packing purposes.

(i) Handling or applying (including cleaning or decontaminating equipment, disposal or return of empty containers, or serving as a flagperson for aircraft applying) agricultural chemicals classified under the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 135 *et seq.*) as Category I of toxicity, identified by the word "poison" and the "skull and crossbones" on the label; or Category II of toxicity, identified by the word "warning" on the label.

(j) Handling or using a blasting agent, including but not limited to, dynamite, black powder, sensitized ammonium nitrate, blasting caps, and primer cord.

(k) Transporting, transferring, or applying anhydrous ammonia.

§ 190-9.3 Exemptions.

The prohibited occupations listed in section 190-9.2 of this Subpart shall not apply to:

(a) Student-learners. Employment of any minor below the age of 16 as a vocational agriculture student-learner in any of the occupations described in section 190-9.2(a)-(f) of this Subpart when each of the following requirements are met:

(1) the student-learner is enrolled in a vocational education training program in agriculture under a recognized State or local educational authority, or in a substantially similar program conducted by a private school;

(2) such student-learner is employed under a written agreement which provides that:

(i) the work of the student-learner is incidental to his/her training;

(ii) such work shall be intermittent, for short periods of time, and under the direct and close supervision of a qualified and experienced person;

(iii) safety instruction shall be given by the school and correlated by the employer with on-the-job training; and

(iv) a schedule of organized and progressive work processes to be performed on the job have been prepared;

(3) such written agreement contains the name of the student-learner, and is signed by the employer and a person authorized to represent the educational authority or school; and

(4) copies of each such agreement are kept on file by both the educational authority or school and by the employer.

(b) *Federal extension service.* Employment of a minor under 16 years of age in those occupations in which he/she has successfully completed one or more training programs described in paragraph (1), (2), or (3) of this subdivision, provided he/she has been instructed by the employer on safe and proper operation of the specific equipment to be used; is continuously and closely supervised by the employer where feasible; or, where not feasible, in work such as cultivating, his/her safety is checked by the employer at least at midmorning, noon, and midafternoon.

(1) 4-H tractor operation program. The minor below the age of 16 is qualified to be employed in an occupation described in section 190-9.2(a) of this Subpart provided:

(i) he/she is a 4-H member;

(ii) he/she is 14 years of age, or older;

(iii) he/she is familiar with the normal working hazards in agriculture;

(iv) he/she has completed a tractor safety training program administered by the Cornell Cooperative Extension Service;

(v) he/she has passed a written examination on tractor safety administered by the Cornell Cooperative Extension Service, and has demonstrated ability to operate a tractor safely with a two-wheeled trailed implement on a course similar to one of the 4-H Tractor Operator's Contest Courses; and

(vi) his/her employer has on file a copy of a certificate listing the employee's name, address and birth date, signed by the leader who conducted the training program and by an Extension Agent of the Cornell Cooperative Extension Service stating that the child has completed all the requirements specified in subparagraphs (i) through (v) of this paragraph.

(2) 4-H machine operation program. The minor below the age of 16 is qualified to be employed in an occupation described in section 190-9.2(b) of this Subpart provided:

(i) he/she satisfies all requirements specified in subparagraphs (i)-(iv) of this paragraph;

(ii) he/she has completed an additional training program on farm machinery safety, administered by the Cornell Cooperative Extension Service;

(iii) he/she has passed a written and practical examination on safe machinery operation; and

(iv) his/her employer has on file a copy of a certificate listing the employee's name, address and birth date, signed by the leader who conducted the training program and an Extension Agent of the Cornell Cooperative Extension Service, stating that the child has completed all of the requirements specified in subparagraphs (ii)-(iii) of this paragraph.

(3) Tractor and machine operation program. The minor below the age of 16 years is qualified to be employed in an occupation described in section 190-9.2(a) and (b) of this Subpart provided:

(i) he/she is 14 years of age, or older;

(ii) he/she has completed a four-hour orientation course familiarizing him/her with the normal working hazards in agriculture;

(iii) he/she has completed a training program on safe operation of tractors and farm machinery, which covers all material specified in subparagraphs (1)(iv) and (2)(ii) of this subdivision;

(iv) he/she has passed a written examination on tractor and farm machinery safety, administered by the Cornell Cooperative Extension Service and has demonstrated ability to operate a tractor with a two-wheeled trailed implement; and

(v) his/her employer has on file a copy of a certificate listing the employee's name, address and birth date, signed by the leader who conducted the training program and an Extension Agent of the Cornell Cooperative Extension Service stating that all the requirements of subparagraphs (2)(i) through (iv) of this subdivision have been met.

(c) *Vocational agriculture training.* Employment of a vocational agriculture student under 16 years of age in those occupations in which he/she has successfully completed one or more training programs described in paragraph (1) or (2) of this subdivision and who has been instructed by the employer in the safe and proper operation of the specific equipment to be used, who is continuously and closely supervised by the employer where feasible or, where not feasible, in work such as cultivating, whose safety is checked by the employer at least at midmorning, noon, and midafternoon, and who also satisfies whichever of the following program requirements are pertinent:

(1) Tractor operation program. The minor below the age of 16 years is qualified to be employed in an occupation described in section 190-9.2(a) of this Subpart provided:

(i) he/she is 14 years of age, or older;

(ii) he/she is familiar with the normal working hazards in agriculture;

(iii) he/she has completed a training program in Safe Tractor Operation, administered by the Cornell Cooperative Extension Service;

(iv) he/she has passed both a written and a practical test on tractor safety administered by the Cornell Cooperative Extension Service including a demonstration of ability to operate safely a tractor with a two-wheeled trailed implement; and

(v) his/her employer has on file a copy of a certificate listing the employee's name, address and birth date, signed by the vocational agriculture teacher who conducted the program, stating that the student has completed all requirements specified in subparagraphs (i) through (iv) of this paragraph.

(2) Machinery operation program. The minor below the age of 16 years is qualified to be employed in an occupation described in section 190-9.2(b) of this Subpart provided he/she has completed the Tractor Operation Program described in paragraph (1) of this subdivision and:

(i) he/she has completed an additional training program in safe farm machinery operation administered by the Cornell Cooperative Extension Service;

(ii) he/she has passed both a written and a practical test on safe farm machinery operation administered by the Cornell Cooperative Extension Service; and

(iii) his/her employer has on file a copy of a certificate listing the employee's name, address and birth date, signed by the vocational agriculture teacher who conducted the program, stating that the student has completed all requirements specified in subparagraphs (i) and (ii) of this paragraph.

(d) Employment of a child below the age of 16 by his/her parent or a person standing in the place of his/her parent on a farm owned or operated by such parent or person.

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WAGE ORDER SUMMARY

Farm Workers

BASIC MINIMUM HOURLY RATE (per hour)

...as of	12/31/16	12/31/17	12/31/18	12/31/19	12/31/20	12/31/21
BASIC MINIMUM HOURLY RATE						
NYC - Large Employers (of 11 or more)	$11.00	$13.00	$15.00	$15.00	$15.00	$15.00
NYC - Small Employers (10 or less)	$10.50	$12.00	$13.50	$15.00	$15.00	$15.00
Long Island & Westchester	$10.00	$11.00	$12.00	$13.00	$14.00	$15.00
Remainder of New York State	$9.70	$10.40	$11.10	$11.80	$12.50	TBD

MEAL ALLOWANCE* (per meal)

ALL EMPLOYEES	
NYC - Large Employers (of 11 or more)	$1.70
NYC - Small Employers (10 or less)	$1.70
Long Island & Westchester	$1.70
Remainder of New York State	$1.70

*****No allowance for meals shall be considered as part of the minimum wage if a migrant seasonal employee earns less than $254.00 in a two week period.

LODGING AND UTILITIES ALLOWANCES**

SINGLE OCCUPANCY (per week)	
NYC - Large Employers (of 11 or more)	$18.95
NYC - Small Employers (10 or less)	$18.95
Long Island & Westchester	$18.95
Remainder of New York State	$18.95
MULTIPLE OCCUPANCY (per week)	
NYC - Large Employers (of 11 or more)	$12.65
NYC - Small Employers (10 or less)	$12.65
Long Island & Westchester	$12.65
Remainder of New York State	$12.65
EMPLOYER-FURNISHED HOUSE/APT INDIVIDUAL (per day)	
NYC - Large Employers (of 11 or more)	$5.00
NYC - Small Employers (10 or less)	$5.00
Long Island & Westchester	$5.00
Remainder of New York State	$5.00
EMPLOYER-FURNISHED HOUSE/APT FAMILY (per day)	
NYC - Large Employers (of 11 or more)	$8.00
NYC - Small Employers (10 or less)	$8.00
Long Island & Westchester	$8.00
Remainder of New York State	$8.00

******The lodging and utilities allowance is for all employees except migrant seasonal. No allowance for lodging and utilities shall be considered as part of the minimum wage for a migrant seasonal employee.

NOTES

TBD. To be determined administratively prior to the dates indicated.

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RESUMEN DE LAS DISPOSICIONES SALARIALES

Trabajadores agrícolas

SALARIO MÍNIMO BÁSICO POR HORA

...a partir de	12/31/16	12/31/17	12/31/18	12/31/19	12/31/20	12/31/21
SALARIO MÍNIMO BÁSICO POR HORA						
NYC: Grandes empleadores (11 o más empleados)	$11.00	$13.00	$15.00	$15.00	$15.00	$15.00
NYC: Pequeños empleadores (10 o menos empleados)	$10.50	$12.00	$13.50	$15.00	$15.00	$15.00
Long Island y Westchester	$10.00	$11.00	$12.00	$13.00	$14.00	$15.00
Resto del estado de Nueva York	$9.70	$10.40	$11.10	$11.80	$12.50	TBD

SUBSIDIO PARA COMIDAS* (por comida)

TODOS LOS EMPLEADOS	
NYC: Grandes empleadores (11 o más empleados)	$1.70
NYC: Pequeños empleadores (10 o menos empleados)	$1.70
Long Island y Westchester	$1.70
Resto del estado de Nueva York	$1.70

*****No se considerará a ningún subsidio para comidas como parte del salario mínimo si un empleado migratorio o por temporada gana menos de $254,00 en un período de dos semanas.

SUBSIDIOS PARA ALOJAMIENTO Y SERVICIOS PÚBLICOS**

OCUPACIÓN INDIVIDUAL (por semana)	
NYC: Grandes empleadores (11 o más empleados)	$18.95
NYC: Pequeños empleadores (10 o menos empleados)	$18.95
Long Island y Westchester	$18.95
Resto del estado de Nueva York	$18.95
OCUPACIÓN MÚLTIPLE (por semana)	
NYC: Grandes empleadores (11 o más empleados)	$12.65
NYC: Pequeños empleadores (10 o menos empleados)	$12.65
Long Island y Westchester	$12.65
Resto del estado de Nueva York	$12.65
CASA/APARTAMENTO INDIVIDUAL ENTREGADO POR EL EMPLEADOR (por día)	
NYC: Grandes empleadores (11 o más empleados)	$5.00
NYC: Pequeños empleadores (10 o menos empleados)	$5.00
Long Island y Westchester	$5.00
Resto del estado de Nueva York	$5.00
CASA/APARTAMENTO FAMILIAR ENTREGADO POR EL EMPLEADOR (por día)	
NYC: Grandes empleadores (11 o más empleados)	$8.00
NYC: Pequeños empleadores (10 o menos empleados)	$8.00
Long Island y Westchester	$8.00
Resto del estado de Nueva York	$8.00

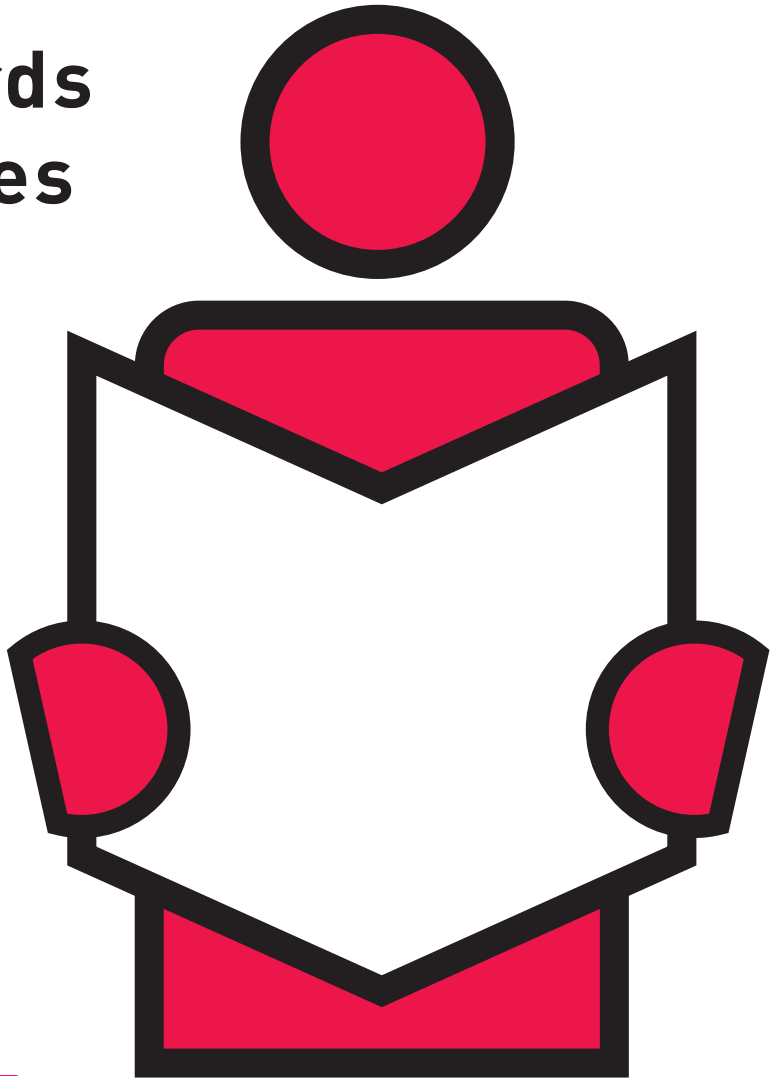
**El subsidio para alojamiento y servicios públicos se aplica a todos los empleados, salvo los empleados migratorios o por temporada. No se considerará a ningún subsidio para alojamiento y servicios públicos como parte del salario mínimo si se trata de un empleado migratorio o por temporada.

NOTAS

TBD (a determinar). A determinar por vía administrativa antes de las fechas indicadas.

YOU HAVE A RIGHT TO KNOW!

Your employer must inform you of the health effects and hazards of toxic substances at your worksite.



Learn all you can about toxic substances on your job.

For more information, contact:

Name

Location & Phone Number

THE RIGHT TO KNOW LAW WORKS FOR YOU.

NEW YORK STATE DEPARTMENT OF HEALTH

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NEW YORK STATE OF OPPORTUNITY. Department of Labor

Department of Labor
Division of Labor Standards

Pay Notice and Acknowledgement for Farm Workers

This notice, when properly completed, satisfies the:

- Pay notice provisions of Section 195 of the NYS Labor Law
- Written work agreement provisions of Part 190, the Farm Minimum Wage Order

1. **Employer Information:**

   Name: _____ Phone: _____

   Doing Business As (DBA) Name(s): _____

   Physical address: _____

   Mailing address: _____

   Federal Employer Identification Number (FEIN) (optional): _____

2. **Notice given:** ☐ At hiring ☐ Before a change in pay rates, allowances claimed, or payday
3. **Specific location where worker will work:** _____
4. **Types of work to be performed:**

   ☐

5. **Hours:** _____

   Per Section 161.1 of the NYS Labor Law hours may not exceed 60 per work week except by prior mutual agreement.

6. **Describe employer provided housing** arrangements, if any, including number of rooms and cooking facilities:

   ☐

7. **Employee's regular hourly rate(s) of pay and overtime rate of pay:** _____

   _____

   Indicate basis; per hour, shift, day, week, salary, or per unit. (Give capacity of unit.)

   Rate: _____ per: _____ Overtime rate: _____

   Rate: _____ per: _____ Overtime rate: _____

   The Overtime Rate must be at least time and one-half the regular pay rate. If the pay rate is not hourly based, the overtime rate must be at least 1½ times the worker's weighted average of the multiple rates of pay for the week, with few exceptions.

   Section 163-a NYS Labor Law: Beginning on January 1, 2020 agricultural employers must pay at least time and one-half of the employees' regular rate of pay for all hours worked in excess of 60 hours during a calendar week, **and** must not take place unless workers agree to work more than 60 hours in the calendar week in question.

8. **Payday:** _____ For week ending: _____
9. **Frequency of pay:** Weekly: _____ Other: _____
10. **Allowances,** if any, to be credited towards minimum wage:

    Number of meals per day: _____ Amount per meal: $_____

    Lodging: $ _____

    Payments in kind $ _____ Specify: _____

    _____

11. **All planned payroll deductions** (e.g., health insurance, retirement contributions, other):

12. **Employer provided benefits** (e.g. paid sick time, vacation, personal days, holidays, other):

13. **Approximate period of employment:** Start date: _____ End date: _____

14. **Non-economic terms and conditions of employment** (e.g., transportation availability, medical service, childcare, schooling, etc.):

15. **Day-of-rest:** _____

Employers may not compel farm laborers to work on their day-of-rest. Farm Laborers must be paid time and one-half their regular rate of pay for volunteering to work on their day-of-rest.
Section 161.1 NYS Labor Law: Beginning on January 1, 2020 every farm laborer shall be allowed at least 24 consecutive hours of rest in each calendar week.

24 consecutive hours off for weather events, or crop conditions may count as a day of rest in a calendar week.

Nothing in this provision prevents a farm laborer from voluntarily working on his/her day-of-rest provided that his/her employer compensates the employee at a rate of at least time and one-half of the employees' regular rate of pay for all hours worked on the day-of-rest.

16. **Employee Acknowledgment and Affirmation:**

On this day, I have been notified of my pay rate, overtime rate, day-of-rest, allowances, and payday.

I affirm that I told my employer what my primary language is. Check one:

- ☐ I have been given this pay notice in English because it is my primary language, or
- ☐ I have been given this pay notice in English only, because the Department of Labor does not yet offer a pay notice form in my primary language, which is:_____

Employee's name (print): _____

Signature: _____ **Date:** _____

17. **Preparer's name** (print):_____ **Title:** _____

The employee must receive a signed copy of this document. The employer must preserve a copy for 6 years.

Additional Information:

Section 195 NYS Labor Law: Employers must give the information on this notice in writing to all employees at the time of hiring.

Employers must notify employees in writing of any changes to the information in this notice at least seven calendar days prior to the time of such changes, unless such changes are reflected on the employee's wage statement. However, even if the change will be reflected on the employee's wage statement, employers may not lower an employee's rate(s) of pay without notifying the employee before the work is performed.

Employers must notify their employees in writing or by publicly posting their policy on sick leave, vacation, personal leave, holidays and hours.

Employers must preserve their payroll records for 6 years.

NYS Minimum Wage Order for Farm Workers: Employers must post, in a conspicuous place on the farm:

- a copy of any generally applicable work agreement **and**
- a posting issued by the NYS Department of Labor summarizing the Farm Minimum Wage provisions.

It is unlawful for an employee to be paid less than an employee of the opposite sex or because the employee is in a protected class.

Employers may not prohibit employees from discussing their wages with co-workers.

Employers may not enquire about an employee's salary history

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NEW YORK STATE OF OPPORTUNITY. Department of Labor

Departamento de Trabajo
División de Normas Laborales

Aviso de Pago y Acuerdo de Trabajo para Trabajadores Agrícolas

Este aviso, cuando se llena correctamente, satisface:

- Las disposiciones sobre aviso de pago de la Sección 195 de la Ley del Trabajo del Estado de NY
- Las disposiciones sobre acuerdo de trabajo por escrito de la Parte 190 de la Orden de Salario Mínimo Agrícola

1. **Información del empleador:**

   Nombre:_____Teléfono:_____

   Operando bajo el nombre: _____

   Dirección física: _____

   Dirección postal: _____

   Número de Identificación Federal del Empleador (FEIN) (opcional): _____

2. **Aviso dado:** ☐Al ser contratado ☐Antes de un cambio en el sueldo, las prestaciones o el día de pago
3. **Lugar específico en donde trabajarán los trabajadores:** _____
4. **Tipos de trabajo que harán:**

   ☐

5. **Horas:**_____

   De acuerdo con la Sección 161.1 de la Ley de Trabajo del Estado de New York las horas no pueden ser más de 60 por semana laboral, salvo por mutuo acuerdo.

6. **Describa los arreglos de vivienda proporcionado por el empleador**, de haberlos, incluyendo la cantidad de habitaciones y las instalaciones para cocinar:

   ☐

7. **Sueldo regular del empleado y sueldo por tiempo extra:**_____

   _____

   Indique la base: por hora, turno, día, semana, salario, o por unidad. (Incluya la capacidad de la unidad).

   Sueldo:_____por:_____Sueldo por tiempo extra _____

   Sueldo:_____por:_____Sueldo por tiempo extra _____

   El sueldo por Tiempo Extra debe ser al menos una y media veces del sueldo por hora regular. Si el sueldo no es por hora, la tarifa de Tiempo Extra debe de ser al menos 1 ½ veces el promedio ponderado de todas las tarifas de pago en la semana, con pequeñas excepciones.

   Ley de Trabajo Sección 163-a del Estado de NY: A partir del 1 de enero de 2020 los empleadores agrícolas tienen que pagar al menos una y media veces el sueldo regular por todo trabajo en exceso de las 60 horas en una semana laboral, y no puede llevarse a cabo al menos que los trabajadores acepten trabajar más de 60 horas en dicha semana.

8. **Día de pago:**_____ Para la semana que terminó el: _____
9. **Frecuencia de pago:** Semanal:_____Otra: _____
10. **Prestaciones,** si las hay, para acreditar para el salario mínimo:

    Número de comidas al día:_____ Importe por comida $ _____
    Alojamiento: $_____
    Pagos en especie $ _____ Especifique:_____

11. **Todas las demás deducciones de nómina previstas** (como seguro de salud, contribuciones de jubilación, otras):

12. **Beneficios provistos por el empleador** (por ejemplo, permiso pagado por enfermedad, vacaciones, días por motivos personales, feriados, otros.):

13. **Período aproximado de empleo:** Fecha de inicio:_____Fecha de terminación: _____

14. **Términos y condiciones no económicas de empleo** (por ejemplo, disponibilidad de transporte, servicio médico, guardería, escuelas, etc.):

15. **Día de descanso:**_____.

Los empleadores no pueden obligar a los empleados a trabajar en su día de descanso. Los empleados tienen que recibir el pago de una y media veces de su sueldo regular por trabajar voluntariamente en el día de descanso.

Ley de Trabajo Sección 161.1 del Estado de NY: A partir del 1 de enero de 2020 todo trabajador agrícola tiene permitido disfrutar al menos 24 horas de descanso consecutivas en cada semana laboral.

Las 24 horas consecutivas tomadas por condiciones de clima, o condiciones de cultivo pueden ser aceptables como un día de descanso en una semana laboral.

Estas disposiciones no previenen que un trabajador agrícola trabaje voluntariamente en su día de descaso con tal que el empleador le pague al trabajador al menos una y media veces el sueldo regular del trabajador por todas las horas trabajada en el día de descanso.

16. **Aceptación y Afirmación del empleado:**

En este día se me ha notificado de mi sueldo, mi sueldo por tiempo extra, mi día de descanso, mis prestaciones y mi día de pago designado. Le he dicho a mi empleador cuál es mi idioma principal. Me han entregado este aviso de pago en español porque es mi idioma principal.

Nombre del empleado (letra de molde): _____

Firma:_____**Fecha**: _____

17. **Nombre de quien llenó el documento**(letra de molde):_____**Puesto:**_____

El empleado debe recibir una copia firmada de este formulario. El empleador debe conservar una copia durante 6 años.

Información adicional:

La Sección 195 de la Ley de Trabajo del Estado de NY: Los empleadores tienen que dar la información de este aviso por escrito a todos los empleados al momento de su contratación.

Los empleadores tienen que notificar por escrito a los empleados sobre cualquier cambio en la información de este aviso por lo menos siete días calendario antes del momento del cambio, salvo cuando dichos cambios se reflejen en el recibo de pago del empleado. Sin embargo, incluso si el cambio se refleja en el recibo de pago del empleado, los empleadores no pueden reducir el sueldo de un empleado sin notificarle al empleado antes que desempeñe el trabajo.

Los empleadores tienen que notificar a sus empleados sobre sus políticas, permiso por enfermedad, vacaciones, permisos personales, días feriados y horas trabajadas, ya sea por escrito o publicándolas en un lugar prominente.

Los empleadores tienen que conservar sus registros de nóminas durante 6 años.

Orden de Salario Mínimo para Trabajadores Agrícolas del estado de NY: Los empleadores tienen que publicaren un lugar prominente de la granja:

- una copia del acuerdo de trabajo de aplicación general, y
- una publicación expedida por el Departamento de Trabajo del Estado de New York que resuma las disposiciones referentes al Salario Mínimo Agrícola.

Es ilegal que un empleado reciba un pago menor que el de un empleado del sexo opuesto o porque el empleado forma parte de una clase protegida.

Los empleadores no pueden prohibir que los empleados hablen sobre sus sueldos con sus compañeros de trabajo.

Los empleadores no pueden preguntar sobre el historial salarial de un empleado.

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NEW YORK STATE OF OPPORTUNITY. Department of Labor

Division of Labor Standards

GUIDELINES

Notice Requirements for Fringe Benefits and Hours

Section 195.5 of the New York State Labor Law effective December 12, 1981 provides as follows:

> *"Every employer shall notify his employees in writing or by publicly posting the employer's policy on sick leave, vacation, personal leave, holidays and hours."*

To assist employers in complying with this provision, the Division of Labor Standards has issued the following guidelines:

1. An employer shall distribute in writing to each employee, the employer's policy on the above-enumerated items. The employer upon the request of the Department must be able to affirmatively demonstrate that such written notification was provided to employees by means, which may include, but not be limited to, distribution through company newspapers or newsletters or by inclusion in a company payroll.

   OR

   An employer shall post and keep posted in each establishment in a conspicuous place where notices to employees are customarily posted, a notice that states where on the employer's premises they may see such information in writing. Such information may be contained in a union contract, employee handbook, personnel manual, or in other written form. Deviations for an employee from such stated policy must be given to said employee in writing.

2. As used in the provision above, "hours" means the hours which constitute a standard workday and workweek for the establishment, and any other regular schedule, such as for part-time employees. Deviations should be given to the affected employee in writing.

For more information, call or write the nearest office of the Division of Labor Standards, of the New York State Department of Labor, listed below:

Albany District
State Office Campus
Bldg. 12 Room 185A
Albany, NY 12240
(518) 457-2730

Binghamton
Sub-District
44 Hawley Street
Binghamton, NY 13901
(607) 721-8014

New York City District
75 Varick Street
7th Floor
New York, NY 10013
(212) 775-3880

Garden City District
400 Oak Street
Suite 101
Garden City, NY 11530
(516) 794-8195

Buffalo District
65 Court Street
Room 202
Buffalo, NY 14202
(716) 847-7141

Rochester
Sub-District
276 Waring Road
Room 104
Rochester, NY 14609
(585) 258-4550

Syracuse District
333 East Washington Street
Room 121
Syracuse, NY 13202
(315) 428-4057

White Plains District
120 Bloomingdale Road
White Plains, NY 10605
(914) 997-9521

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New York State Department of Labor
Division of Labor Standards

Guidelines Regarding the Rights of Nursing Mothers to Express Breast Milk in the Work Place

Section 206-c of the New York State Labor Law provides as follows:

Right of Nursing Mothers to Express Breast Milk.

> An employer shall provide reasonable unpaid break time or permit an employee to use paid break time or meal time each day to allow an employee to express breast milk for her nursing child for up to three years following child birth. The employer shall make reasonable efforts to provide a room or other location, in close proximity to the work area, where an employee can express milk in privacy. No employer shall discriminate in any way against an employee who chooses to express breast milk in the workplace.

This law is applicable to all public and private employers in New York State, regardless of the size or nature of their business. In administering this statute, the Department applies the following interpretations and guidelines:

I. Notice

A. Employers shall provide written notification of the provisions of Labor Law §206-c to employees who are returning to work, following the birth of a child, and their right to take unpaid leave for the purpose of expressing breast milk. Such notice may either be provided individually to affected employees or to all employees generally through publication of such notice in the employee handbook or posting of the notice in a central location.

B. An employee wishing to avail herself of this benefit is required to give her employer advance notice. Such notice shall preferably be provided to the employer prior to the employee's return to work following the birth of the child in order to allow the employer an opportunity to establish a location and schedule leave time amongst multiple employees if needed.

II. Reasonable Unpaid Break Time

A. Reasonable unpaid break time is sufficient time to allow the employee to express breast milk. Each break shall generally be no less than twenty minutes. If the room or other location is not in close proximity to the employee's work station (e.g. as in a shared work location with a common lactation room) each break shall generally be no less than thirty minutes. Employees can elect to take shorter unpaid breaks for this purpose.

B. The number of unpaid breaks an employee will need to take for expression purposes varies depending on the amount of time the employee is separated from the nursing infant and the mother's physical needs. In most circumstances, employers shall provide unpaid break time at least once every three hours if requested by the employee.

C. Upon election of the employee, unpaid break time may run concurrently with regularly scheduled paid break or meal periods.

D. Upon election of the employee, an employer shall allow the employee to work before or after her normal shift to make up the amount of time used during the unpaid break time(s) for the expression of breast milk so long as such additional time requested falls within the employer's normal work hours.

E. This benefit is available to the employee during their basic work week and any overtime or additional hours worked.

F. An employee may be required to postpone scheduled unpaid break time for no more than thirty minutes if she cannot be spared from her duties until appropriate coverage arrives.

III. Reasonable Efforts and Privacy

A. All employers are required to make reasonable efforts to provide a private room or other location for the purpose of expression of breast milk. "Reasonable effort" requires that the room or other location must be provided for use of employees expressing breast milk so long as it is neither significantly impracticable, inconvenient, or expensive to the employer to do so. Relevant factors in determining significant impracticality, inconvenience, or expense include but are not limited to:

1. The nature of work performed at the business;
2. The overall size and physical layout of the business;
3. The type of facility where the business is housed;
4. The size and composition of the employer's workforce;
5. The business' general hours of operation and the employees' normal work shifts;
6. The relative cost of providing a room or other space for the dedicated purpose.

B. The room or location provided by the employer for this purpose cannot be a restroom or toilet stall.

C. An employer may dedicate one room or other location for the expression of breast milk and establish a schedule to accommodate the needs of multiple employees needing access thereto.

D. An employer who is unable to provide a dedicated lactation room or other location under these guidelines, may allow the use of a vacant office or other available room on a temporary basis for the expression of breast milk, provided the room is not accessible to the public or other employees while the nursing employee is using the room for expression purposes.

E. As a last resort, an employer who is unable to provide a dedicated lactation room or other location under these guidelines may make available a cubicle for use by individuals expressing breast milk, provided the cubicle is fully enclosed with a partition and is not otherwise accessible to the public or other employees while it is in use for expression purposes. The cubicle walls shall be at least seven feet tall to insure the nursing employee's privacy.

F. Each room or other location used for the expression of breast milk under these guidelines shall be well lit at all times through either natural or artificial light. If the room has a window, it shall be covered with a curtain, blind, or other covering to ensure privacy for the mother as she is expressing

breast milk. The room shall contain, at a minimum, a chair and small table, desk, counter, or other flat surface. In addition, employers are encouraged to provide an outlet, clean water supply, and access to refrigeration for the purposes of storing the expressed milk.

G. An employer is not responsible for insuring the safekeeping of expressed milk stored in any refrigerator on its premises. The employee is required to store all expressed milk in closed containers, regardless of the method of storage and to bring such milk home with her each evening.

H. The employer must maintain the cleanliness of the room or location set aside for the use of employees expressing breast milk at work.

I. An employer may not deny an employee this benefit due to difficulty in finding a location for purposes of the same.

J. For the purposes of this provision: "Private" shall mean that the room or other location shall not be open to other individuals frequenting the business, whether as employees, customers, or other members of the public. To insure privacy, the room or location should have a door equipped with a functional lock. If a door with a functional lock is not available (in the case of a fully enclosed cubicle) as a last resort an employer must utilize a sign advising the room or location is in use and not accessible to other employees or the public.

IV. Close Proximity

A. Any room or location provided for the expression of breast milk must be in close proximity to the work area of the employee(s) using it for the expression of breast milk.

B. Close proximity means the room or location must be in walking distance and the distance to the location should not appreciably lengthen the break time.

C. Should an employer have more than one employee at a time needing access to a lactation room or other location, the employer may dedicate a centralized location for use by all such employees, provided however, that the employer shall make every effort to locate such space at a reasonable distance from the employees using it.

D. Employers located in shared work areas such as office buildings, malls, and similar premises may cooperate with one another to establish and maintain a dedicated lactation room, provided however, that such rooms must be located at a reasonable distance from the employees using the room. Each employer utilizing such common dedicated lactation room will retain individual responsibility for ensuring that it meets all the requirements of these guidelines with regard to their employees. Use of a common dedicated lactation room pursuant to this paragraph will not reduce, mitigate, or otherwise affect the employer's obligations under these guidelines.

V. Non-Discrimination

No employer shall discriminate in any way against an employee who chooses to express breast milk in the workplace. Encouraging or allowing a work environment that is hostile to the right of nursing mothers to take leave for the purpose of expressing breast milk could constitute discrimination within the meaning of this section of the guidelines.

VI. Suggested Employer Activities

A. In addition to the activities set forth in the guidelines above, an employer may consider implementing one or more of the following activities in connection with the needs of employees who are breast feeding children:

1. Providing educational information in the lactation room or area regarding the benefits of breastfeeding and tips on expressing and storing breast milk including posters, newsletters, books, and referral information to health education programs about breastfeeding.
2. Allowing flexible work hours, job sharing, and/or part-time scheduling to accommodate employees with children of nursing age.
3. Providing an easily accessible sink to wash tubing used for pumping breast milk.
4. Allowing mothers of nursing children attending on-site day care to take breaks to breast feed in lieu of pumping.
5. Providing a listing of lactation consultants whom breastfeeding mothers could contact for assistance.
6. Including protection for pregnant and breastfeeding mothers in the company's sexual harassment policy.
7. Designation of a breastfeeding coordinator to allow consistent and coordinated implementation of this benefit in the workplace.

B. Not all questions can be anticipated; therefore these guidelines may not cover all situations that may arise. For additional assistance or information please contact the Division of Labor Standards office nearest you.

Albany District
State Office Campus
Bldg. 12 Room 185A
Albany, NY 12240
(518) 457-2730

Binghamton
Sub-District
44 Hawley Street
Binghamton, NY 13901
(607) 721-8014

New York City District
75 Varick Street
7th Floor
New York, NY 10013
(212) 775-3880

Garden City District
400 Oak Street
Suite 101
Garden City, NY 11530
(516) 794-8195

Buffalo District
65 Court Street
Room 202
Buffalo, NY 14202
(716) 847-7141

Rochester
Sub-District
276 Waring Road
Room 104
Rochester, NY 14609
(585) 258-4550

Syracuse District
333 East Washington Street
Room 121
Syracuse, NY 13202
(315) 428-4057

White Plains District
120 Bloomingdale Road
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Division of Labor Standards
Permit and Certificate Unit
Harriman State Office Campus
Building 12, Room 185B
Albany, NY 12240
www.labor.ny.gov

Date:

Address reply to:

New York State Department of Labor
Division of Labor Standards
Permit and Certificate Unit
Harriman State Office Campus
Building 12, Room 185B
Albany, NY 12240-0121

Enclosed are copies of "Regulations Relating to the Granting of Farm Labor Contractor Certificates of Registration, Grower/Processor Certificates of Migrant Registration, and Farm Labor Camp Commissary Permits" and "Summary of New York State Labor Laws Relating to Farm or Food Processing Employment." **Please read both carefully.**

All growers or food processors must supply the information requested on the back of this letter. Fill in the information, sign and return this letter in the enclosed self-addressed envelope.

If you will bring into New York State, or will be responsible for bringing into the State, five or more non H-2A farm or food processing workers without utilizing the services of a farm labor contractor (crew leader), you must obtain a "Grower/Processor Certificate of Migrant Registration" from the Commissioner of Labor. This is required regardless of where migrants come from, whether from other states or from places outside of the country: Texas, Florida, Jamaica, Mexico, etc.

Complete both copies of the enclosed "Application for Grower/Processor Certificate of Migrant Registration," answering all questions. In question 11 C, if the unit rate is per box, per bin, etc., you must specify the capacity of the unit: "$.40 per 1 1/8 bu box, $8.00 per 20-1 1/8 bu bin," etc. If the migrants will be paid by the hour, indicate "per hour" after the rate.

In question 4, enter the name of the state(s) or country(s) from which migrants will come. If you have less than five non H-2A migrants or you are only using H-2A workers, you do not need a "Grower/Processor Certificate of Migrant Registration."

When you have answered all questions and signed your name, return one application, and appropriate documents proving Workers' Compensation and Disability Insurance Coverage in the enclosed self-addressed envelope. Keep a copy of the application for your files. If your application is approved, a "Grower/Processor Certificate of Migrant Registration" is mailed to you.

Applicable minimum wage law applying to employees hired must be obeyed.

See reverse side

If you plan to use the services of one or more farm labor contractors (crew leaders), list their names and addresses on the bottom of this letter. You are required to countersign the contractor's application and return it to the Department of Labor at the address on the front of the form. If the application is approved, you receive a certificate authorizing you to use the farm labor contractor. You may only use the services of a contractor who has a certificate authorizing him/her to work for you.

If you expect to recruit five or more non H-2A migrant workers **and** use the services of a farm labor contractor, you must obtain both the "Grower/Processor Certificate of Migrant Registration" and the certificate authorizing you to use the contractor.

If your application shows that you will operate a farm labor camp commissary, a permit is mailed to you upon approval of the application.

If you have any questions concerning the completion of the enclosed application, please write to the address on the front of the form.

Enc.

The following is to be completed and returned by all growers or food processors

Check information which applies to you:

☐ I will
☐ I will not bring or be responsible for bringing five or more non H-2A migrants into New York State this year.

☐ I will
☐ I will not participate in the H-2A Program this year.

☐ I do
☐ I do not expect to use contractors (crew leaders) this year.

If you **do** expect to use contractors (crew leaders), complete the information requested below.

Name of contractor (crew leader)	Address Street – City or P.O. – County - State	Approximate dates Start	End

Signature of Grower or Food Processor

Date

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The New York State Department of Labor is an Equal Opportunity Employer/Program. Auxiliary aids and services are available upon request to individuals with disabilities.

NEW YORK STATE OF OPPORTUNITY. Department of Labor