

# Study of State and Federal Employment Standards for Seasonal Farm Work

N.J. Department of  
Labor and Industry

Division of  
Workplace Standards



**RECEIVED**

DEC 9 1980

DEPT. OF LABOR AND  
INDUSTRY LIBRARY  
TRENTON, N. J. 08625

*New Jersey State Library*

State of  
New Jersey  
BRENDAN T. BYRNE  
Governor



Department of  
Labor and Industry  
JOHN J. HORN  
Commissioner

A STUDY TO IDENTIFY AND DEFINE THE  
JURISDICTIONAL RESPONSIBILITIES, GAPS, AND OVERLAPS  
BETWEEN CONCURRENT NEW JERSEY STATE AND FEDERAL  
EMPLOYMENT STANDARDS REGULATING THE SEASONAL EMPLOYMENT OF  
FARM WORKERS

Conducted by the

OFFICE OF WAGE AND HOUR COMPLIANCE  
DIVISION OF WORKPLACE STANDARDS

of the

NEW JERSEY STATE DEPARTMENT OF LABOR AND INDUSTRY

for

HONORABLE DONALD ELISBURG  
Assistant Secretary of Labor for Employment Standards  
United States Department of Labor

JOHN J. HORN, COMMISSIONER  
New Jersey Department of Labor and Industry

WILLIAM J. CLARK, ASSISTANT COMMISSIONER FOR  
Labor Relations and Workplace Standards

Trenton, New Jersey

October, 1979

**New Jersey State Library**



STATE OF NEW JERSEY  
DEPARTMENT OF LABOR AND INDUSTRY  
JOHN J. HORN, COMMISSIONER

POST OFFICE BOX V  
TRENTON, N. J. 08625

The Honorable Donald Elisburg  
Assistant Secretary of Labor  
for Employment Standards  
U. S. Department of Labor  
Washington, D. C. 20000

Dear Mr. Elisburg:

In this report we present the findings developed during the course of our study to identify and define the jurisdictional responsibilities, gaps, and overlaps between Federal standards and New Jersey statutes regulating the employment of seasonal farm workers. All appropriate laws have been reviewed and compared, and recommendations made regarding both the structure and administration of the relevant statutes.

It has been our pleasure to conduct this study. We find that, in addition to the opportunity to make recommendations and program improvements, we have profited by the opportunity to examine our own operations and statutes in fine detail. The number of people who assisted and aided in this effort are far too numerous to mention. We thank them all.

Sincerely,

A large, stylized handwritten signature of John J. Horn, written in black ink.

John J. Horn  
Commissioner

Study of State - Federal  
Employment Standards for  
Seasonal Farm Work  
New Jersey Department of Labor & Industry  
Division of Workplace Standards

TABLE OF CONTENTS

<u>Section</u>	<u>Page</u>
I. Introduction.....	1
II. Comparison - Federal and State Laws and Regulations applicable to Farm Labor Contractors/Crew Leaders, and Seasonal Farm Workers .....	3
III. Minimum Wage Laws .....	8
IV. Child Labor Laws .....	10
V. Equal Pay for Equal Work Laws .....	11
VI. Payment of Wages Law .....	12
VII. Wage Collection Law .....	13
VIII. Summary of Recommendations .....	14
General Observation and Summary of Violations noted .....	18
Definitions .....	20
Index to Appendices .....	21
Appendices	

## INTRODUCTION

The Division of Workplace Standards of the New Jersey Department of Labor and Industry and the Employment Standards Administration of the United States Department of Labor have a common concern for the protection of the rights of the farm workers employed within the State.

Both Agencies administer and enforce laws regulating the behavior of Crew Leaders or Farm Labor Contractors, Minimum Wage, Child Labor and Discrimination in Wages. In addition, New Jersey has laws with no Federal comparability which govern the payment of wages and provide for the collection of unpaid wages.

While there are areas of overlap and duplication between respective authority of the two Agencies, there are also provisions within the laws administered by each Agency which have no comparable coverage in the laws of the other Agency.

The two Agencies are in agreement that the duplication that exists should be eliminated and any gap in coverage closed to insure protection of the interest of farm workers.

On June 21, 1978, the New Jersey Department of Labor and Industry proposed that a project be initiated to identify and define the jurisdictional responsibilities, gaps, and duplications between New Jersey Laws and Federal Employment standards regarding farm workers. On September 1, 1978, the Employment Standards Administration of the U.S. Department of Labor agreed to fund the proposed project.

## METHODOLOGY

Federal and State Laws and regulations were compared section by section to identify the similarities, differences and gaps in coverage.

Work locations within New Jersey where Seasonal Farm Workers are used were identified.

The Division of Workplace Standards designed survey forms for use in gathering statistical and narrative data relative to the application of State and Federal Laws and regulations, covering Crew Leaders/Farm Labor Contractor Registration, Minimum Wage, Equal Pay for Equal Work, Employment of Minors, Payment of Wages and the Collection of Wages.

Representatives of the Division of Workplace Standards and the Employment Standards Administration made field visits and completed surveys on 300 employers and crew leaders employing approximately 7,100 workers.

Road Checks were made by Field Representatives of the Division of Workplace Standards and Employment Standards Administration in conjunction with the New Jersey Division of Motor Vehicles and local authorities to determine if Crew Leaders were in compliance with the State and Federal Crew Leader and Farm Contractor Regulation Act and the Wage and Hour Laws.

The New Jersey Farm Bureau in its "This Week" report dated November 18, 1978 advised its membership that the State and Federal Departments of Labor were conducting a joint survey of farms employing seasonal farm workers. The purpose was to "simplify seasonal labor procedures." (see appendix No. 1)

Information developed from the comparisons of the Laws and Regulations and from the field survey was considered in the preparation of

this report and the development of recommendations for change contained herein.

Background information, sample materials and statistical data are presented in the appendices to this report.

The report consists of eight sections; Introduction; Comparisons of Federal and State Laws and Regulations applicable to Crew Leaders/Farm Labor Contractors; Comparison of Minimum Wage Laws; Comparison of Child Labor Laws; Comparison of Equal Pay for Equal Work Laws; Laws governing the payment of wages; Laws governing the collection of wages and summary of Recommendations.

## II

### COMPARISON OF FEDERAL AND STATE LAWS AND REGULATIONS APPLICABLE TO CREW LEADERS/FARM LABOR CONTRACTORS

In 1945, the Division of Migrant Labor was established within the New Jersey Department of Labor and Industry and in 1948, the Bureau of Migrant Labor supplemented it to protect the rights of Migrant Farm Workers. In 1961, the New Jersey Crew Leader Law was enacted to provide for the registration and regulation of Farm Labor Crew Leaders. In April 1975, the Law was repealed and enacted in the present form.

(See appendix #11)

The 1961 Law provided for penalty action against violators of the acts and regulations, but since this was under local court jurisdiction, often times delays occurred and the offenders would have left the State before penalties could be assessed. However, the present Act provides for administrative hearings and the imposition of penalties can be assessed within a short time after violations have been discovered.

The present Act also provides that when a Crew Leader is party to the disbursement of wages, payment must be made at the end of the workday on the premises where the work is performed. Except for these provisions, there is little difference between the Federal Farm Contractor Act of 1963 and the New Jersey Crew Leader Act of 1975.

The earliest statistics available indicated that in 1961, 440 Crew Leaders were registered in New Jersey. This figure dropped to a low of 134 in 1977, but increased to 203 in 1979.

In New Jersey the great majority of farm products are produced in the Southern part of the State; hence most crew leaders operate in this area. There are very few Crew Leaders originating outside of the State with workers being housed on farms. Most of the Crew Leaders transport workers on a "day haul" basis to these South Jersey farms. From Pennsylvania (primarily Philadelphia), Delaware and surrounding New Jersey communities and are referred to as "Day Haul Crew Leaders."

Historically it can be noted Crew Leaders in many cases were not inclined nor capable of keeping proper records and complying with the provisions of the Crew Leader Registration Act and the Wage and Hour Law and thus abuses were found to exist. Since the proper records were not being kept, it was difficult to determine if the workers on "piece rates" were receiving the minimum rate of pay provided by Law. Also, it was common for the Crew Leaders to pay the workers at a tavern on the way home and there was evidence that pay was based on the "whim" of the crew leader.

To overcome these abuses, stipulation was made in the New Jersey Crew Leader Registration Act in 1975, which provided that when the Crew leader was

a party to the disbursement of wages due a worker, he/she would be responsible for proper record keeping and that pay must be made at the end of the day on the premises where the work was performed.

In order to insure that Crew Leaders were complying with this provision of the Act, a series of road checks of vehicles is made each year during the Summer at the height of the harvest seasons. Generally they were conducted jointly by Field Representatives of the Office of Wage and Hour Compliance, the Office of Agricultural Compliance and Compliance Officers from the U.S. Employment Standards Administration. Assisting this group were officers from the New Jersey Division of Motor Vehicles who inspected the vehicles and drivers for proper registration, safety and licensing.

In a number of instances, these road checks revealed that the workers were not being paid the same day on the premises where the work was performed; were not paid the minimum rate; and that the Crew Leaders were not keeping proper records. In addition, both the Office of Agricultural Compliance and the Department of Motor Vehicles Inspectors found violations and citations and summonses were issued. Where violations of the New Jersey Crew Leader Registration Act and Wage and Hour Laws were discovered, the Crew Leaders were issued subpoenas to appear at administrative hearings and they were assessed fines accordingly. Those who failed to appear or pay the fine had their registrations revoked.

Most of the workers interviewed at the road checks stated that they had started working at least an hour before and remained an hour after the time given by the Crew Leader as the starting and the stopping time.

In conducting the current survey, crew leaders were given copies of a comparison chart (see appendix #3) covering New Jersey and Federal

Laws and after they were reviewed and explained by the interviewers, the Crew Leaders were asked a series of questions (see appendix IV). An overwhelming majority (84%) indicated that they felt the laws should be identical with one agency responsible for enforcement and the majority favored the State Agency. The reasons given were that the State was more accessible and easier to work with.

Many of the Crew Leaders stated that it was difficult for them to pay the workers at the end of the day and on the premises where the work was performed because the farmers usually waited until the end of the day to pay them, and gave them a check rather than cash. In most cases the banks are a minimum of several miles from the place of work and are closed by the end of the workday.

It is important to note that the Federal Farm Labor Contractor Act does not require a person to register as a crew leader if he/she furnishes or transports members of his/her own immediate family even if he/she receives a fee, while the New Jersey Crew Leader Law requires anyone who receives a fee to register.

One half of all the Crew Leaders interviewed felt that everyone who hauls workers to a farm should be required to register. The reasons given were that the so-called "family" Crew Leaders competed unfairly with others in that they do not have to carry the same insurance coverage, while being paid the same rates by the farmers.

The Office of Wage and Hour Compliance experiences constant difficulty in determining if family crew members are paid the minimum rate (or if they are actually paid at all) because the farmer generally pays a lump sum to the Leader and neither he nor the farmer keeps any records of the hours worked by each member. The family or so-called family members are most

reluctant to reveal their hours of work, earnings, or to divulge whether the Leader receives any override from the farmer. The Leader usually denies receiving any override and most often states he will pay everyone when they get home.

A number of farmers (82%) stated that they did not feel they should have to make up any differences between earnings at piece rates and the minimum rates because it was hard to control and keep track of workers in fields.

Over half of the farmers interviewed felt that it was no concern of the crew members what the Crew Leader was being paid for his services, and almost all (96%) stated that the farmer should not be responsible for the Crew Leaders' violations.

Over two thirds of the farmers indicated that they operate on a seasonal basis, had utilized the services of crew leaders and were presently using them.

In order to assist the Crew Leaders, the New Jersey Office of Wage and Hour Compliance has for a number of years provided suggested record keeping forms and statement of earnings and deduction forms for the workers. In addition, meetings have been conducted prior to the start of the season to instruct the Crew Leaders on the provisions of the laws and individual counseling has been available at all times.

The interviewers reported that only about half of those interviewed have adequate working knowledge of the applicable State and Federal Laws.

MINIMUM WAGE LAWSDISCUSSIONS AND CONCLUSION:

The State of New Jersey adopted its first Minimum Wage and Hour Law in 1966 and included under its coverage all farm workers at least 18 years of age. Since then the State rate has been traditionally maintained at a level equal to or higher than the Federal rate for farm workers which first went into effect in 1969.

However, the Federal law does not cover an employer unless he provided a total of 500 man days of employment in any one quarter in the prior year, and exempts hand harvest workers paid piece rates who travel each day to their place of work from their permanent residence and who were employed in agriculture less than 13 weeks during the previous calendar year.

Also, under the Federal Law full-time students with a special certificate may be paid 85% of the minimum wage for up to 20 hours a week during the school year. Migrant hand harvesters 16 years of age or under paid piece rates, who are employed on the same farm as their parents, are also exempt if the piece rate is the same as that paid to workers over 18.

Clearly the New Jersey Law provides broader coverage. The above provisions exempt from Federal coverage all day haul harvesters working in the State of New Jersey. (Under the New Jersey Law, no one 18 years of age or over is exempt from coverage.) The New Jersey Law also provides that workers paid at piece rate must be paid the minimum rate for all hours worked on a daily basis and they must be paid daily on the same premises where the work was performed.

Under both Federal and State law, farm workers are exempt from overtime.

Both the Federal and State Statutes provide that an employer may use the "fair value" of any food or lodging furnished workers as part of their wages. However, no profit to the farmer may be included in the fair value.

In conducting the current survey farmers were given copies of a comparison chart (See appendix V) covering New Jersey and Federal Laws and after they were reviewed and explained by the interviewers, the farmers were asked a series of questions (See appendix VI).

Most of the farmers interviewed (93%) felt that the State and Federal rates should be identical and (73%) felt that minors under 18 should be completely exempt from coverage.

Additionally, 71% of the interviewees also felt that workers should be paid a piece rate according to crop and that there should be no guaranteed minimum rate. The reasons most frequently given were that the guaranteed minimum rate encourages loafing on the job, it is difficult to keep track of actual working time and it is not fair to conscientious workers as it eliminates incentive.

Although many Crew Leaders (71%) were not in favor of the requirement to pay day haul workers daily on the premises where the work was performed because it entails additional record keeping and the farmers pay by check late in the day, the majority of farmers questioned (54%) were in favor of it because they could be sure that the workers received their pay.

Under both the State and Federal Laws, all employers must keep records of hours worked and wages paid to employees. Under the New Jersey

Law If a Crew Leader is involved in the payment he must keep additional records to show the place of work, names and addresses of all workers, gross payments, deductions, rate per hour of unit, number of hours worked and amount picked if on a piece rate basis. Also under New Jersey Law employers must supply in writing with each payment to a worker the name and address of the employer, name and social security number of the employee, total hours worked, gross pay, itemized deductions and net pay.

#### IV

#### CHILD LABOR LAWS

##### DISCUSSIONS AND CONCLUSIONS:

The New Jersey Child Labor Law is more restrictive than the portions of the Fair Labor Standards Act, which govern the employment of minors. While there are no restrictions as to hours worked under the Federal Law, under the New Jersey Law minors under 18 cannot work more than 10 hours a day, 6 days a week and no more than 60 hours in a week. In addition, after 5 continuous hours of work they must have at least a half hour meal period. The New Jersey Law is also more restrictive insofar as the operation of hazardous equipment is involved.

Under the New Jersey Child Labor Law, minors must be at least 12 years of age to work in agricultural pursuits and those under the age of 16 must have a special agriculture permit. While under the Fair Labor Standards Act, the employment of minors under 12 years of age is prohibited, a 1977 amendment grants waivers to permit those at least 10 years of age to be employed as hand harvesters of short season crops if specific requirements are met.

Over half of the farmers interviewed thought that a minor at least 16 years of age should be permitted to perform any kind of work, while about

one third thought that a minor should be at least 18 years of age before being exempted from restrictions on hazardous work.

The majority interviewed (94%) feel that the restrictions on prohibited work should be the same under both Federal and State coverage and (76%) felt that the New Jersey Laws were more restrictive in this sense.

Most of the farmers (94%) felt that there should not be any restrictions on the employment of their own children because farm children are more familiar with farm machinery and a farmer parent knows what is best for his/her own children.

The vast majority of farmers (94%) also felt that one agency should have the full responsibility for the enforcement of the law and it should be the State because of its being closer to where the work is going on and the State Law being less confusing than the Federal.

The farmers interviewed indicated that overall, only about 10% of their workers were under 18 years of age.

## V

### EQUAL PAY FOR EQUAL WORK

#### DISCUSSIONS AND CONCLUSIONS:

The Federal Law exempts workers whose employers did not use more than 500 man days of labor during any quarter of the previous calendar year and hand harvest workers paid piece rate who commute each day to their place of work from their permanent residence and who were employed in agriculture for less than 13 weeks during the previous calendar year.

The New Jersey Discrimination in Wages Law, enacted in 1952 provides that no employer shall discriminate in any way in the rate or of payment of

wages to any employee because of his or her sex. However, it does provide that a differential in pay between employees based upon a reasonable factor or factors other than sex does not constitute discrimination.

No violations of the New Jersey Law have been experienced. And, since the farmers interviewed indicated that they favored piece rates versus hourly rates, to allow productivity alone to govern earnings, they were not questioned any further on this subject.

## VI

### PAYMENT OF WAGE LAWS

#### DISCUSSIONS AND CONCLUSIONS:

The New Jersey Wage Payment Law, enacted in 1965, covering the payment of wages, does not have any analogous Federal coverage.

This law enables the Office of Wage and Hour Compliance to investigate claims for unpaid wages that are received directly from workers or referred by other agencies. Frequently field representatives are able to resolve them in the field to the satisfaction of all parties. Moreover, if wages claimed by a worker cannot be collected under this statute the worker can initiate claims for a maximum amount of \$300 under the New Jersey Wage Collection Law.

The New Jersey Wage Payment Law provides for the time and manner of payment and set forth that only certain authorized deductions or diversions may be made from wages. In addition, workers must be notified (at the time of hiring) regarding the rate of pay, pay days and further must be advised of any change of rate prior to such changes being implemented. Lastly, the employer must furnish each employee with a statement of deductions for each pay period and keep records of hours and wages and make such records available for

examination.

## VII

### WAGE COLLECTION LAW

#### DISCUSSIONS AND CONCLUSIONS:

Under this New Jersey Statute a worker may file a claim for wages if the amount in dispute does not exceed \$300.00 and where the employer has failed to make payment upon an informal demand.

Upon receipt of such a claim the Wage Collection Section of the Office of Wage and Hour Compliance docket the claim and issues a summons to the employer to appear at a formal hearing before a bilingual referee.

If, after hearing testimony from both parties, the referee issues an award in favor of the employee and the employer disagrees or fails to make payment, a judgement can be filed with the appropriate County Clerk.

There is no parallel Federal legislation.

## SUMMARY OF RECOMMENDATIONS

1. The New Jersey and United States Department of Labor should work together to develop simplified and standardized Payroll and Wage Statement forms that will meet the needs of the farmers, Crew Leaders and farm workers. (See appendix VII)
2. The New Jersey and United States Department of Labor should work together to develop simplified and standardized posters to advise farmers, Crew Leaders and farm workers of their responsibilities and rights under the laws. (See appendix VIII)
3. The registration of Crew Leaders should be transferred from the New Jersey Division of Employment Services to the Division of Workplace Standards, Office of Wage and Hour Compliance or Office of Agricultural Compliance.
4. The New Jersey Department of Labor and Industry should work together with the New Jersey Division of Motor Vehicles to amend the Motor Vehicle Law to require operators of any vehicles transporting 8 or more workers to or from work on a farm to secure a special Bus Drivers' License.
5. Amend the New Jersey Child Labor, Wage and Hour and Wage Payment Laws to authorize the Commissioner of Labor and Industry or his authorized representative to assess a civil penalty of not less than \$50 or more than \$500 for violations.
6. Require any farmer utilizing the services of a Crew Leader to submit in advance to the prospective Crew Leader in writing, with a copy to the Office of Wage and Hour Compliance, information showing the location of the work, the crop to be harvested, the rate of pay to the Crew Leader and the rate of pay to the workers.

## SUMMARY OF RECOMMENDATIONS

The Office of Wage and Hour Compliance would transmit a copy of this to the Job Service Office and the United States Department of Labor.

7. Continue to perform routine inspections of farms and Crew Leaders on a random basis in cooperation with the United States Department of Labor. Also working with the N.J. Division of Motor Vehicles, United States Department of Labor and Office of Agricultural Compliance, conduct a greater number of crew leader road checks.
8. Amend the New Jersey Wage and Hour Law to provide that minors under the age of 18 shall receive the minimum wage. (Both State and Federal)
9. Where the farmer applies food and housing allowances toward the Minimum Wage, standard values should be adopted, and no allowances permitted where the housing is not approved by local authorities.
10. In order to discourage the exchange of picking tickets for food, drinks, etc., the farmer should be required to use a standard punch card system of accounting for the workers' production. This would also eliminate the practice of some workers holding back tickets at the end of the day.
11. Farmers should be required to pay Crew Leaders in cash. However, if they wish to pay by check, sufficient arrangements should be made to permit the cashing of such, by the Crew Leader without difficulty and prior to the end of the work day.
12. In cooperation with the United States Department of Labor, the Offices of Wage and Hour Compliance and Agricultural Compliance, should conduct a seminar

### SUMMARY OF RECOMMENDATIONS

for one week, prior to the start of the season, to instruct farmers, Crew Leaders and their agents in the requirements of all the laws governing their actions.

13. The New Jersey Wage and Hour Law should be amended to require a farmer to pay both piece rate and hourly rate workers the minimum wage for all "Down Time" exceeding one half hour daily, where the worker is required to be at his place of work or on duty. This would include, but not be limited to time waiting for supplies and equipment, transfer from one job site to another, and inclement weather.

14. The New Jersey Wage and Hour Law should be amended to require a farmer who recruits out of state farm workers, other than day haul, to notify them in advance, in writing, the day the work will commence, when it will cease, and the rate of pay. At least the minimum wage should be guaranteed for this period of time except for voluntary absences.

15. It is recommended that the New Jersey and United States Departments of Labor, continue to cooperate in the rapid referral of matters that primarily fall within the jurisdiction of the other agency and keep each agency advised of common activities and interests.

16. Amend the New Jersey Wage and Hour Law to designate the farmer rather than the Crew Leader as the employer of the workers and as such, solely responsible for compliance with the State Wage and Hour, Child Labor and Wage Payment Laws.

### SUMMARY OF RECOMMENDATIONS

17. It is recommended that the New Jersey Crew Leader Registration Act be amended to require the applicant to demonstrate his or her knowledge and understanding of the applicable New Jersey laws, either by attendance at a seminar conducted by the Offices of Wage and Hour Compliance, Agricultural Compliance and the United States Department of Labor or by demonstrating such knowledge and understanding of the laws and regulations to the registrar at the time he or she applies for the certificate.

18. It is recommended that the New Jersey Crew Leader Registration Act be amended to require Crew Leaders to disclose to the workers the charges being made for the Crew Leader's services, food, refreshments, transportation and housing. This disclosure should be in the form of a poster, prominently displayed in the vehicle used for transportation or in housing furnished.

19. It is recommended that OSHA and the Employment Standards Administration of the United States Department of Labor jointly develop a single uniform standard of housing for migrant farm workers that would replace the present Federal Standards for migrant worker camps which do not apply to present conditions. These standards should be developed by personnel who have actual field experience.

20. The State Employment Service procedures should be simplified to better meet the needs and requirements of farmers, Crew Leaders and workers. Personnel should be fully trained and utilized to accomplish this end.

GENERAL OBSERVATIONS  
AND SUMMARY OF VIOLATIONS NOTED

While conducting the survey, the records of both the Crew Leaders and farmers were examined by State and Federal investigators for compliance with all the laws.

Very few violations of the Child Labor Laws were observed. No children under the legal age were found working and the only violations noted were the failure of minors under 16 to have special agriculture permits. In these cases, the employers were made aware and were advised to have the minors secure the permits before returning to work.

Fewer violations of the Wage and Hour Laws were found where the farmers maintained the records and paid the workers.

Where Crew Leaders were keeping the records and paying the workers, the greatest number of violations were found. Frequently, piece rate workers claimed that they started picking earlier and stopped later than shown by the time records, which would be an indication that the records were "adjusted" to reflect that the workers were paid the minimum rate.

Thirty on site inspections of Crew Leaders and farmers were made. At the same time selected workers were time tested for productivity and earnings.

Where workers failed to earn the minimum daily rate, either the Crew Leader or the farmer made up the difference. Crew Leaders who failed to keep the required records, were told of the requirements by the Field Representatives and provided with forms where necessary.

The violations by the Crew Leaders of the Federal Laws found by the investigators during the surveys were the failure to furnish the farmer with

a copy of his records and failure to post the employment information in the vehicles. The violations incurred by the farmers were failure to obtain a copy of the Crew Leader records, failure to pay the minimum wage to minors under 18, improper deductions for transportation and failure to register as crew leaders by corporate growers.

Most of the violations of the Wage and Hour Laws and the Crew Leader Law by Crew Leaders were uncovered during the three road checks of vehicles conducted at the end of three separate work days. A total of 67 vehicles carrying 1,257 workers were stopped between the hours of 4:00 p.m. and 6:30 p.m.

Crew Leaders with minor violations were given warnings. A total of ten with serious violations were subpoenaed to appear at formal hearings in Trenton and were fined a total of \$500.00.

Six Crew Leaders had their registration certificates suspended or revoked and court charges were filed against three for illegally acting as Crew Leaders.

From this, it is reasonable to conclude that road checks at the end of the day are a most effective means of detecting violations and obtaining compliance from Crew Leaders.

As a result of this survey certain provisions of the New Jersey Crew Leader Registration Act will be implemented by the promulgation of Rules. (See appendix XII)

**New Jersey State Library**

## DEFINITIONS

- Agency or Agencies - Either the Office of Wage and Hour Compliance, Division of Workplace Standards, New Jersey Department of Labor and Industry, or the Employment Standards Administration of the United States Department of Labor.
- Agent - A regular employee of a Crew Leader who assists the Crew Leader by either driving vehicles, or assisting in record keeping or supervision.
- Bureau of Migrant Labor - Former State agency which had jurisdiction over Crew Leaders replaced by the Office of Agricultural Compliance.
- Comparison Chart - Prepared by the Office of Wage and Hour Compliance to assist farms and Crew Leaders in understanding the laws. (See Appendix III and V)
- Crew Leader - As defined by the New Jersey Crew Leader Registration Act, any person who transports, recruits, supplies or hires farm or food processing laborers and who, for any money or valuable consideration paid, anticipated or promised to be paid, directly or indirectly, by any farm operator or laborer, directs all or part of the work of such workers, or any person who recruits, supplies, or hires farm or food processing laborers for any money or other valuable consideration paid, anticipated or promised to be paid, directly or indirectly, by any farm operator, but shall not include any owner or leaser of a farm or food processing plant who recruits or hires laborers for work on his farm or in his plant.
- Day Haul Crew Leader - One who transports farm workers from their place of residence to a place(s) of work and return on a daily basis, as further defined under "Crew Leaders."
- Day Haul Worker - A farm worker who is daily transported from his or her place of residence to work on a farm by a day haul Crew Leader.
- Fair Value - Not more than the actual cost to the employer of the food or lodging supplied by an employer to an employee.
- Family Crew Leader - A Crew Leader who transports members of his or her own immediate family to work on a farm daily, to and from their home either for a fee or free of charge,
- Family Crew Member - A farm worker who is transported by a member of his or her immediate family to work on a farm daily, to and from their home either for a fee or free of charge. Immediate family shall include spouse, children, parents, brothers, or sisters.
- Farm Labor Contractor - Any person who for a fee, either for or on behalf of another person, recruits, solicits, hires, furnishes, or transports migrant workers (excluding members of his or her immediate family) for agricultural employment.

Fee            Payment of money or other valuable consideration to a Crew Leader by a farmer for furnishing or supervising farm workers, or by a farm worker to a Crew Leader for transportation to or from the place of work.

Interviewer - Field Representative of the Office of Wage and Hour Compliance who collected the data for the farm survey.

Migrant Farm Worker - Any person who is primarily engaged in seasonal or temporary farm work and may be used interchangeably with the term "Migrant Laborer" and temporary farm worker.

Override - Fee or commission earned by a Crew Leader based upon the piece work earnings of the members of the crew.

Piece Rate - Standard rate for each unit harvested. (In most instances hand picked units).

Register - Obtaining a valid Crew Leader or agents certificate to operate.

Regular Employee - See "Agent"

Road Check - The halting of Crew Leader vehicles by the New Jersey Division of Motor Vehicles at a strategic location in order that Crew Leaders and workers may be interviewed by representatives of the New Jersey and United States Departments of Labor to insure compliance with Federal and State Laws.

Seasonal Farm Worker - See migrant farm worker.

Survey        Joint study of seasonal agriculture employment in New Jersey conducted by the New Jersey Department of Labor and Industry and the United States Department of Labor.

## APPENDICES

- I. Issue of New Jersey Farm Bureau "This Week" - No. 47  
November 18, 1978.
- II. New Jersey Crew Leader Act - effective April 7, 1975.
- III. Comparison between State and Federal laws relating to the  
Agriculture Industry - Farm Labor Contractor Act of 1963 and  
New Jersey Crew Leader Act of 1975.
- IV. Questions asked Crew Leaders for Farm Survey.
- V. Comparison between State and Federal laws relating to the  
Agriculture Industry - Farm Labor Standards Act of 1938, New  
Jersey Wage and Hour, Child Labor, Wage Payment, and Dis-  
crimination in Wage Laws.
- VI. Questions asked Farmers for Farm Survey.
- VII. Sample of employee wage statement, sample of recommended  
earnings record.
- VIII. Sample of farm workers hourly wage scale poster - English  
and Spanish; sample of abstract of New Jersey Wage and Hour  
Law pertaining to farm workers - English and Spanish.
- IX. Statistical summary of road checks of Crew Leader vehicles  
in 1979.
- X. Sample of United States Department of Labor application for a  
Farm Labor Contractor certificate of registration.
- XI. Sample of supplemental information application for New Jersey  
Crew Leader Registration.
- XII. Proposed rules on Crew Leaders.



# this week

## IN FARM BUREAU

November 18, 1978  
Vol. XVI No. 47

CHANGE IN CONVENTION SPEAKER Late this week Farm Bureau was notified that U.S. Secretary of Agriculture Bob Bergland would be unable to appear as the banquet speaker at the Convention.

We are however extremely fortunate to have in Secretary Bergland's place the Director of the Office of Government and Public Affairs for the USDA, James Webster. Webster is the legislative "right hand" of Secretary Bergland and renowned for his speaking abilities. He is one of the most knowledgeable men in the USDA and will be a worthy replacement of Secretary Bergland. Those who had heard Webster know that he is a man to whom we should listen.

While it is not known what his speech will contain, it is a sure bet that it will be informative and timely.

PESTICIDE CONTAINER DISPOSAL Farm Bureau has been working closely with the Department of Environmental Protection on the problem of disposing of pesticide containers at landfills. It has been the practice of most landfills to refuse such containers even though they are properly rinsed or cared for.

President West called a meeting with the Solid Waste Administration (DEP) and the Pesticide Control Office (DEP) to work out an arrangement whereby pesticide containers may be properly accepted by landfills. Such an agreement has been reached.

In a letter to all landfill operators, the Solid Waste Administration has authorized the acceptance of rinsed and/or emptied pesticide containers by such landfills under the following conditions:

1. Pesticide applicators certified by the NJDEP Office of Pesticide Control may deliver for disposal rinsed or emptied pesticide containers;
2. The applicator must display his pesticide applicator certification card to the landfill operator; and
3. The applicator must complete a Pesticide Container Disposal Form and give the completed form to the landfill operator.

The form is a simple one, simply stating that the applicator has followed proper procedures for emptying or rinsing pesticide containers.

This is a major step toward solving what has become a monumental problem for farmers. Farm Bureau worked closely with the DEP to accomplish this goal.

DEPARTMENT OF LABOR STUDY COMMENCES Members in several of the southern counties have reported to our Trenton office, the visits of representatives from the State Labor Department to their farms. These representatives have been asking questions that seem to be taking the form of an informal investigation.

Farm Bureau contacted the Department of Labor and discovered that the State has joined in a cooperative study with the U.S. Department of Labor to study Federal and State employment standards for seasonal farmworkers. The explanation given to Farm Bureau is that there are State and Federal laws governing seasonal farm labor which are often duplication of effort, or that in many cases state laws are more "comprehensive" and that even with both federal and state jurisdictions, there are still "gaps" which may need attention.

Persons conducting the study should identify themselves to your satisfaction and provide a clear explanation of the study. Basically, the study is being conducted to provide a vehicle for simplifying seasonal labor procedures.

CERTIFICATE OF PARTICIPATION CANCELLED President West announced this week that Marge Van Ness asked that her "Certificate of Participation" be cancelled and the money be turned over to Farm Bureau. She was one of the many who purchased such certificates to raise the money used to purchase the adjoined building to the present Farmhouse. President West said that he was, "pleased and grateful to Marge Van Ness for her generosity and concern for Farm Bureau." President West also said that she enclosed a \$100.00 booster check with the cancellation instructions. "THANKS MARGE ..."

FARMERS' BROKERAGE & SUPPLY, INC. Below is a quick look at the principle cash grain prices for the period ending 11/17/78. More details can be obtained by calling 609/695-8600 or 609/235-6837, 24 hours a day.

<u>Commodity</u>	<u>Last Night</u>	<u>Last Week</u>	<u>Last Year</u>
Soybeans	6.26	6.36	6.07
Wheat	3.83	3.83	2.90
Corn	2.29	2.32	2.22

BOOSTERS Angelo Recipi, \$25.00, Cape May; Lawrence Schwin, \$25.00, Union, John M. Sherrerd, \$25.00, Hunterdon. Once again the success of the booster program is an overwhelming reassurance that Farm Bureau is alive and well. Those who have contributed to the booster program, are those who recognize that the financial stability of Farm Bureau depends on more than just dues income. Each year the booster program shows remarkable gains, which is a clear indication of the concern and support for the most effective farmer organization anywhere.

Thank you and keep up the good work.

**NEW JERSEY CREW LEADER REGISTRATION ACT**  
**P.L. 1975, C-49 amending and supplementing P.L. 1971, C. 192**

EFFECTIVE APRIL 7, 1975

The following is a reprint of the "Crew Leader Registration Act". Statute reprints are for ready reference only. For official texts consult the New Jersey Statutes.

An act providing for the registration and regulation of farm labor crew leaders, and providing penalties for its violation, repealing P.L. 1961, c.33 (C.34:8A-1 et seq.) and supplementing Title 34 of the Revised Statutes.

**N.J.S.A. 34:8A-7.**

As used in this Act:

(a) "Crew leader" means any person who transports, recruits, supplies or hires farm or food processing laborers and who, for any money or other valuable consideration paid, anticipated or promised to be paid, directly or indirectly by any farm operator or laborer, directs all or any part of the work of such workers, or any person who recruits, supplies, or hires farm or food processing laborers for any money or other valuable consideration paid, anticipated or promised to be paid, directly or indirectly by any farm operator or laborer, but shall not include any owner or lessee of a farm or food processing plant who recruits or hires laborers for work on his farm or in his plant.

(b) "Commissioner" means the Commissioner of the Department of Labor and Industry or his authorized representative.

(c) "Seasonal farm worker" means any person who is engaged in seasonal or temporary farm work and is a term that may be used interchangeably with the terms "migrant laborer" and "temporary farm worker."

**N.J.S.A. 34:8A-8.**

No person shall act as a crew leader, nor shall any person employ a crew leader unless he possesses a current and valid certificate of registration issued by the Department of Labor and Industry. The application and certificate of registration forms shall be prescribed by the commissioner.

A certificate of registration shall expire at midnight on December 31 of the year for which it is granted unless sooner revoked or suspended by the commissioner. A certificate of registration may be renewed each year upon the filing of an application of renewal on a form prescribed by the commissioner. The certificate of registration, once issued, shall not be transferable, shall be kept by the registrant in his immediate personal possession and shall be displayed by the registrant upon request of the commissioner or any properly designated representatives of the commissioner or upon the request of the person by whom the crew leader is employed or upon the request of any seasonal farm worker or prospective seasonal farm worker.

Any person holding a valid certificate of registration pursuant to this act, or any regular employee of such a person, shall wear and display when engaging in activities as a crew leader such identification as the commissioner may require, showing such registration to be duly certified by the State and such regular employee to be the agent of such registrant.

Every such regular employee shall be subject to the provisions of this act and of any rules and regulations promulgated pursuant to this act to the same extent as if he were required to obtain a certificate of registration in his own name. For the purpose of this act, every registrant shall be responsible for the activities of every agent designated by him, and shall be subject to any penalties under this act, including the refusal, suspension or revocation of a certificate of registration, proceeding from any act of any agent designated by him, while such agent is engaged in activities as crew leader.

#### **N.J.S.A. 34:8A-9.**

All applicants for a crew leader certificate of registration shall furnish evidence satisfactory to the commissioner of his good character, knowledge of and experience with the labor laws applicable to crew leaders and farmers and food processing laborers and any other evidence which the commissioner may establish by rule and regulation. In addition, any applicant transporting seasonal farm workers shall furnish proof satisfactory to the commissioner of compliance with the statutory and regulatory requirements of the New Jersey Division of Motor Vehicles. The commissioner may refuse to issue a certificate of registration to any applicant who does not meet the requirements of this section or any applicable rules or regulations issued hereunder.

The commissioner may, however, at his discretion and upon receipt of a signed application from a crew leader stating seasonal farm workers will not be transported by him issue a registration certificate on which the words "not authorized to transport" are conspicuously placed.

#### **N.J.S.A. 34:8A-10.**

In addition to any other responsibilities imposed by law upon the crew leader, he shall:

(a) Keep records of place of work, gross payments, deductions, and names and addresses of all workers to whom payments are made, in those instances where a crew leader is party to the disbursement of any wages or other compensation due and payable to any seasonal farm worker for time, labor or employment. In addition, for workers employed on a time basis, the number of units of time employed and the rate per unit of time shall be recorded on the payroll records, and for workers employed on a piece rate basis, the number of units of work performed, the number of units of time employed and the rate per unit shall be recorded on such records;

(b) Ascertain and disclose to each seasonal farm worker at the time the worker is recruited the following information to the best of his knowledge and belief: (1) the area of employment, (2) the crops and operations on which he may be employed, (3) the transportation, housing and insurance to be provided him, (4) the wage rates to be paid him, and (5) the charges to be made by the crew leader for his services;

(c) File with the commissioner a correct change of address immediately upon each occasion such crew leader permanently changes his address;

(d) Display conspicuously at all times and offer a copy thereof to each seasonal farm worker or head of a seasonal farm worker house-hold a bilingual (Spanish/English) handbill or similar notice stating the terms and conditions of employment in such form and in such manner as the commissioner may prescribe and which shall include the information required in subsection b. of this section, and in addition the name and address of the crew leader, the name and address of the employer upon whose premises the work is to be performed, and the date or period for which such employment is offered.

Every such handbill shall have printed thereon a schematic pay schedule, columnizing on the left under the heading "Hours Worked" the numbers 1 through 10 and to the right under the heading "Minimum Wage" the corresponding total minimum wages for each number of hours worked, and preceded by the words, "Even if you work by piece rate, you must receive no less than the following:"

(e) Designate an agent, in such a manner and on such forms as the commissioner may prescribe, which agent may be the commissioner but who in any case shall be available to accept service of summons in any action against such crew leader at any and all times during which such crew leader is absent from the jurisdiction of the State or otherwise unavailable to accept service.

In those instances where a crew leader is party to the disbursement of any wages or other compensation due and payable to any seasonal farm worker for time, labor or employment, he shall make, immediately upon termination of the period of employment for which the worker was employed, such payment or compensation to such seasonal farm worker on the same premises where said labor or employment was performed or provided.

#### **N.J.S.A. 34:8A-10.1.**

It shall be unlawful for any crew leader to terminate, suspend, demote, transfer, or take adverse action against any past, present or prospective seasonal farm worker in retaliation for the exercise by such seasonal farm worker of any right secured under the laws and regulations of the State or Federal Government.

A rebuttable presumption that an action is retaliatory shall arise from any termination, suspension, demotion or taking of adverse action on the part of the crew leader which action occurs within a period of 60 days following any act by a seasonal farm worker to exercise any right secured under the provisions of this act or under the laws and regulations of the State or any agency or political subdivision thereof which establish the rights of persons engaged in farm labor or which establish duties of employers of persons engaged in farm labor.

Any person aggrieved hereunder may maintain a civil action against the crew leader. Any crew leader found to have violated

this act shall be liable to such person aggrieved for full reinstatement and for back wages accumulated during the period of such unlawful retaliation and to exemplary damages in treble the amount of back wages found due, and for costs and attorney's fees.

#### **N.J.S.A. 34:8A-11.**

The commissioner may refuse to renew and may revoke or suspend any certificate of registration after a hearing upon reasonable notice if the applicant:

- (a) Fails to comply with the provisions of this act or any rules and regulations promulgated hereunder;
- (b) Knowingly misrepresents to any seasonal farm worker facts relating to working conditions and hours or to the wages to be paid;
- (c) Knowingly misrepresents any material fact in his application for a crew leader certificate of registration;
- (d) Violates any State or Federal labor or criminal law; or
- (e) Is not in fact the real party in interest in holding such certificate of registration and that the real party in interest in any such application or certificate of registration is a person, firm, partnership, association, or corporation which previously has applied for such certification and has been denied such certification, or which previously has been issued a certificate of registration which was subsequently revoked, suspended, or not renewed in this or any other state requiring the registration of crew leaders.

Such action by the commissioner shall be in addition to any other penalties provided by law.

#### **N.J.S.A. 34:8A-11.1.**

The commissioner or his designated representative shall investigate and gather data with respect to matters which may aid in carrying out the provisions of this act. In any case in which a complaint has been filed with the commissioner regarding a violation of this act or with respect to which the

commissioner has reasonable grounds to believe that a crew leader has violated any provisions of this act, the commissioner or his designated representative shall investigate and gather data respecting such case, and may, in connection therewith, issue subpoenas requiring the attendance and testimony of witnesses or the production of any evidence in connection with such investigation. The commissioner or any agent designated by him for such purposes may administer oaths and affirmations, examine witnesses, and receive evidence.

In addition, the commissioner shall affirmatively monitor and investigate the activities and operations of crew leaders as described in this act without respect to specific complaints, at such frequency and in such a manner as is reasonably necessary to assure the enforcement of the provisions of this act by adopting and implementing a plan to include, as a minimum, (1) the interviewing each month, April through November, of a representative cross section of seasonal farm workers employed by virtue of the services of crew leaders registered with the State, and (2) the making of periodic inspections of records such as those required by subsection a. of section 4(C. 34:8A-10) of the act hereby supplemented.

#### **N.J.S.A. 34:8A-12.**

Any person who violates any of the provisions of this act or of the rules and regulations promulgated hereunder shall be a disorderly person and upon conviction, for each violation, shall be punished by a fine of not less than \$50.00 and not more than \$500.00, or imprisonment for not more than 30 days, or both.

#### **N.J.S.A. 34:8A-13.**

Upon a violation of any of the provisions of this act, any aggrieved seasonal farm worker, the commissioner or the Attorney General are specifically authorized to institute a civil action in a court of competent jurisdiction for injunctive relief to restrain the violation and for such other further relief as the court shall deem proper. In such an action the court may proceed in a summary manner. Neither the institution of the action, nor any of the proceedings therein, shall relieve any party to such proceedings from the penalty prescribed for a violation of this act

**N.J.S.A. 34:8A-14.**

In addition to any other sanctions herein or otherwise provided by law, the commissioner, upon notice and hearing, may impose a penalty not exceeding \$500.00 for any violation of this act or of any rule or regulation duly issued hereunder. Such penalty shall be used for, and recovered by and in the name of the commissioner in a civil action by a summary proceeding under the Penalty Enforcement Law (N.J.S. 2A:58-1). Where any violation of this act or of any rule or regulation duly issued hereunder is of a continuing nature, each day during which such violation continues after the date fixed by the commissioner in any order or notice for the correction or termination of such violation, shall constitute an additional separate and distinct offense, except during the time an appeal from said order or notice may be taken or is pending. It shall be a complete defense to any action for a penalty pursuant to this section for the defendant to prove that the violation complained of is solely the result of the willful destruction by the occupants of any camp; provided, that proof of such fact shall not alter any duty to correct or terminate said violation as ordered by the commissioner.

**N.J.S.A. 34:8A-15**

The Commissioner of the Department of Labor and Industry is specifically authorized to enforce the provisions of this act and to promulgate all rules and regulations which, in his discretion, are necessary to carry out the provisions of this act.

**N.J.S.A. 34:8A-16**

Any agreement by an employee purporting to waive or to modify his rights hereunder, shall be void as contrary to public policy.

**N.J.S.A. 34:8A-17.**

If any provision of this act, or the application thereof to any person or circumstances, shall be held invalid, the remainder of the act and the application of such provision to other persons or circumstances shall not be affected thereby.

COMPARISONS BETWEEN STATE AND FEDERAL LAWS  
RELATING TO THE AGRICULTURE INDUSTRY

This outline is for general information and is not to be considered in the same light as official statements of position contained in Interpretative Bulletins and other such releases formally adopted and published in the New Jersey Register and the Federal Register.

	FEDERAL	STATE
<u>NAME OF LAW</u>  <u>ADMINISTERING AGENCY</u>	Farm Labor Contractor Registration Act of 1963 as Amended (7 USC 2041 et seq.)  U.S. Department of Labor, Employment Standards Administration, Wage & Hour Division, PO Box 441, Trenton, NJ 08603 (609) 989-2247	Suppliers of Labor Crew Leader Act NJSA 34:8A-7 et seq.  New Jersey Department of Labor <u>Registration</u> N.J. State Employment Service, Labor and Industry Bldg., Trenton, NJ (609) 292-2400 <u>Enforcement</u> Office of Agricultural Worker Compliance, Box 2039, Trenton, NJ 08625 (609) 292-2341 The Office of Wage & Hour Compliance, Dept. of Labor and Industry, John Fitch Plaza, Trenton, NJ 08625 (609) 292-2306
<u>COVERAGE</u>	Any person, who, for a fee, either for himself or on behalf of another person, recruits, solicits, hires, furnishes, or transports migrant workers (excluding members of his immediate family) for Agricultural Employment.	All persons who transport, recruit, supply, hire and/or direct farm or food processing workers for a fee.

EXCEPTIONS

## FEDERAL

Such term shall not include:

1. Any nonprofit charitable organization, public or nonprofit private educational institution, or similar organization.
2. Any farmer, processor, canner, ginner, packing shed operator, or nurseryman who personally engages in any such activity for the purpose of supplying migrant workers solely for his own operation.
3. Any full-time or regular employee of any entity referred to in (1) or (2) above who engages in such activity solely for his employer on no more than an incidental basis.
4. Any person who engages in any such activity (A) solely within a twenty-five mile intrastate radius of his permanent place of residence and (B) for not more than thirteen weeks per year.
5. Any person who engages in any such activity for the purpose of obtaining migrant workers of any foreign nation for employment in the United States.
6. Any full-time or regular employee of any person holding a certificate of registration under this Act.
7. Any common carrier.
8. Any custom combine, hay harvesting, or sheep shearing operation or
9. Any custom poultry harvesting, breeding, debeaking, sexing, or health service operation.

## STATE

Farm owners or lessee who recruit or hire for their own businesses.

APPENDIX III

	FEDERAL	STATE
<u>REGISTRATION</u>	<p>All covered must register.  Valid only for current calendar year.  Registration must be kept in possession.  Must be shown to all with whom deals as Farm Labor Contractor.  Farm Labor Contractor Employee must register. Same rules apply.</p>	<p>All covered persons must be registered.  Registration for 1 calendar year.  Registration must be kept in possession.  Registrants and their employees wear and display identification as required.  Regular employees must be designated.  Regular employees subject to Act.  Crew Leader responsible for regular employees.</p>
<u>REGISTRATION REQUIREMENTS</u>	<p>Set of fingerprints.  Vehicle identification and proof of insurance and proof of safety.  Housing identification and proof of safety and health.  Must authorize Secretary of Labor to accept service of legal process.  Limited certificates available.</p>	<p>Satisfactory evidence of good character, knowledge of and experience with the applicable labor laws and any other evidence established by rule.  If transporting, proof satisfactory of compliance with motor vehicle rules, (insurance, inspection, etc.)  Applicants who do not meet requirements may be refused.  If not transporting may be issued limited certificate.</p>
<u>RESPONSIBILITIES OF CREW LEADER</u>	<p>Carry Certificate of Registration and exhibit.  Disclose terms and conditions of employment at hire, post at work site.  Post housing terms and conditions.  If contractor pays: Keep payroll records showing:  Total earnings  All withholdings  Net earnings .  On time basis, total hours and rate  On Piece rate, total pieces and rate  Must disclose amount received on account of workers labor  Must provide copy of payroll to Grower  Refrain from engaging undocumented workers  Promptly pay when due all monies or things of value  Refrain from requiring any worker to purchase any goods solely from him/herself or any other person.</p>	<p>Maintain records of place of work  Gross payments  Deductions  Names and addresses of all workers paid when crew leader is a party to disbursement  When employed on piece basis also the number of units of work performed  The number of units of time employed  The rate per unit  When employed on a time basis, the number of units of time  The rate per unit of time  Disclose to workers the area of employment  The crops and operation  The transportation, housing and insurance provided  The wage rates and service charges  File address changes.  Display and offer copies of poster stating terms and condition of employment and with piece-rate minimum wage comparison tables.</p>

## APPENDIX III

	FEDERAL	STATE
		Designate an agent to accept service. If a party to wage disbursement, pay on premises immediately upon termination of employment.
<u>RESPONSIBILITIES OF USER</u>	Must determine Contractor has valid certificate in possession. (willful violations result in automatic denial of Wagner-Peyser Services for up to 3 years). Must obtain copies of contractors payroll records.	No person shall employ a crew leader unless he possesses a current and valid certificate of Registration.
<u>SPECIAL RESTRICTIONS</u>	Discrimination against workers exercising rights under Act or participating in investigation is prohibited. 180 day limitation to file complaint w/ Secretary of Labor alleging such discrimination.	Retaliatory action forbidden. 60 day limitation civil action for reinstatement and compensation provided for.
<u>REFUSAL OF RENEWAL AND REVOCATION</u>	False statements in application. Misleading information to workers on terms and conditions. Fails to keep agreement with worker or grower. Fails to comply with Interstate Commerce Commission rules. Knowingly hires undocumented worker. Fails to keep insurance in effect. Knowingly acts as "Front" for ineligible party. Has been convicted of certain crimes within past 5 years. Uses unsafe, unhealthy housing or vehicle. Failure to comply.	Failure to comply with act. Misrepresentation to workers of conditions of employment, wages or hours. Misrepresentation of material fact in application. Violation any State or Federal Labor or criminal law. Not the real party of interest where the real party is ineligible. Hearing required.

## APPENDIX III

	FEDERAL	STATE
<u>INVESTIGATION</u>	<p>Either routine or on complaint.            Power to investigate and gather data.            Power to subpoena.            Power to administer oaths.            Interview workers periodically.            Inspecting records.            Confidentiality must be protected.</p>	<p>Either routine or on complaint.            Power to investigate and gather data.            Power to subpoena.            Power to administer oaths.            Interview workers periodically.            Inspecting records.</p>
<u>CRIMINAL PENALTY</u>	<p>1st offense \$500 or up to 1 year imprisonment or both.            Subsequent \$10,000 or up to 3 years or both.</p>	<p>Disorderly person. Fine not less than \$50.00 nor more than \$500 for each violation or imprisonment not more than 30 days.</p>
<u>CIVIL ACTION</u>	<p>Aggrieved person can file suit in District Court.            Secretary can petition for injunctive relief.</p>	<p>The Commissioner of Labor and Industry or the Attorney General authorized to seek injunctive relief.</p>
<u>CIVIL PENALTIES</u>	<p>Civil money penalty NTE \$1,000 per violation.</p>	<p>Notice and hearing not to exceed \$500 for each violation.</p>
<u>RULE MAKING</u>	<p>Secretary of Labor empowered to enforce act and promulgate rules and regulations.</p>	<p>Commissioner empowered to enforce act and promulgate rules and regulations.</p>
<u>WAIVERS</u>	<p>Employee waivers void exception in favor of Secretary.</p>	<p>Employee waivers not permitted.</p>
<u>SEVERANCE</u>	<p>Valid provisions not affected if a portion is found invalid.</p>	<p>Valid provisions not affected if a portion is found invalid.</p>

Summary of the  
Questions asked Crew Leaders

	Percentage Responding YES
	94%
1. Do you feel that the State and Federal definition of a Farm Labor Contractor/Crew Leader should be identical?	94%
2. Do you feel that family group leaders should be required to register and have the same responsibilities as Farm Labor Contractors/Crew Leaders?	50%
<p>Most of those responding "no" felt that the Family Crew Leaders had an unfair advantage in that they were paid the same, but did not have to carry insurance nor comply with the other requirements.</p> <p>Most of those opposed did not feel that they should be subject to any restrictions as they were working on their own.</p>	
3. Do you feel that Contractor/Crew Leaders should be required to register each calendar year?	72%
<p>Most of those opposed stated that it was too much trouble.</p>	
4. Would you recommend any changes in the definition of a Contractor/Crew Leader?	9%
<p>Several of those favoring changes felt that there should be an earnings amount in the definition.</p>	
5. Do you feel that agents or regular employees of Contractor/Crew Leaders should be required to register?	47%
<p>The reasons given for not registering varied, some Crew Leaders felt that the regular employees were reluctant to do it for various reasons.</p>	
6. Do you feel that you should be required to keep records and advise your workers of the conditions of employment?	47%
<p>Most of those opposed felt that there was too much paper work involved.</p>	

Percentage  
Responding  
YES

---

7. Do you feel that workers employed on a daily basis should be paid the same day on the premises where the work is performed? 29%

Most of those opposed stated that the farmers made it difficult to comply by not paying them in cash or if by check, too late in the day to cash at local banks.

8. Do you feel that the farmer should be required to insure that the Crew Leader is registered before utilizing his services? 94%

9. Do you feel that the farmer should be required to obtain a copy of the Crew Leaders payroll records? 75%

Most of those opposed stated that it was either too much trouble or that it was not necessary.

10. Do you feel that a Crew Leader should be denied a certificate or have it revoked for failure to comply with the provisions of the law? 84%

11. Do you feel that the penalties provided in the State and Federal laws are sufficient to deter offenders? 91%

12. Do you feel that the State and Federal laws relating to Minimum Wages, Child Labor, Wage Payment, Record Keeping, and Crew Leader Registration, should be identical? 84%

13. Do you feel that one agency, State or Federal, should have full responsibility for the enforcement of all the laws? 97%

14. Do you feel that the State should have full responsibility for the enforcement of all the laws? 54%

Most of those in favor of the State felt that it was easier to work with and better understands the problems of the farmer and Crew Leader.

Most of those in favor of the Federal felt that way because it was bigger and had more resources and authority. However, they also stated that they felt this way because of greater exemptions under the Federal Law and less subject to investigations.

COMPARISONS BETWEEN STATE AND FEDERAL LAWS  
RELATING TO THE AGRICULTURE INDUSTRY

This outline is for general information and is not to be considered in the same light as official statements of position contained in Interpretative Bulletins and other such releases formally adopted and published in the New Jersey Register and the Federal Register.

	FEDERAL LAWS	STATE LAWS (NEW JERSEY)
<u>NAME OF LAW</u>	<p>The Fair Labor Standards Act of 1938</p> <p>Farm Labor Contractor Registration Act of 1963 as Amended (7 USC 2041 et seq.)</p>	<p>(4) Four Laws: The Wage and Hour Law The Child Labor Law The Wage Payment Law The Discrimination in Wage Law</p> <p>(1) One Law: Suppliers of Labor (Crew Leader Registration Act)</p>
<u>AGENCY WHICH ADMINISTERS LAW</u>	<p>The U.S. Dept. of Labor-Employment Standards Administration, Wage and Hour Div., 402 East State Street, Trenton, New Jersey 08608 (609) 989-2247 - Trenton (609) 757-5198 - Camden (609) 344-4011 - Ext. 240 - Atlantic City</p>	<p>The Office of Wage and Hour Compliance, Dept. of Labor and Industry, John Fitch Plaza, Trenton, New Jersey 08625 (609) 292-2306 Office of Agricultural Worker Compliance, Box 2039, Trenton, New Jersey 08625 (609) 292-2341 N.J. State Employment Service, Labor and Industry Bldg., Trenton, New Jersey (609) 292-2400</p>
<u>COVERAGE</u>	<p>Employers who used more than 500 man-days of Farm Labor in any quarter of the previous calendar year.</p>	<p>All farms in New Jersey with 1 or more employees.</p>
<u>OVERTIME</u>	<p>No requirement for agricultural employees.</p>	<p>Farm employees are exempt from overtime.</p>

	FEDERAL	STATE
<u>MINIMUM WAGE EXEMPTIONS</u>	<p>For complete details on exemptions see copy of the Act itself and/or Part 780. "Exemptions Applicable to Agriculture..." List of the common exemptions, by section of the FLSA.</p> <p><u>Minimum Wage &amp; Overtime - Exemptions Section of FLSA</u> - See page 6 for details</p> <ul style="list-style-type: none"> <li>(a) 500 man day test</li> <li>(b) members of immediate family</li> <li>(c) hand harvest, piece rate, commuter 13 weeks a year.</li> </ul> <p><u>Overtime: Exemption Section</u></p> <ul style="list-style-type: none"> <li>13 (b) 5 poultry/egg/milk - outside buyer</li> <li>13 (b) 12 any employee in agriculture or in agricultural irrigation not for profit or share crop basis.</li> <li>13 (b) 13 livestock auctions</li> <li>13 (b) 14 country grain elevator maximum 5 EE's</li> <li>13 (b) 16 transporting produce from the farm <ul style="list-style-type: none"> <li>A. to a place of 1st processing or 1st marketing within the same state or</li> <li>B. transporting people for harvesting or produce between farm and any point within the state</li> </ul> </li> <li>13 (b) 28 forestry with maximum of 8 employees</li> </ul>	<p><u>Minimum Wage</u></p> <p>Farmers and Crew Leaders can apply for partial exemption for handicapped workers. Must be certified before being paid lower rates.</p> <p>All farm laborers under the Age of 18.</p>
<u>MINIMUM WAGE</u> Employees Covered	All employees both over and under the age of 18 years of age, except those engaged on a Piece Rate Basis. See page 6 for details.	All employees 18 years of age and over. Employees engaged on a Piece Rate Basis must be paid for each day worked not less than the Minimum Hourly Rate times the Total Number of Hours worked.

	FEDERAL	STATE
<u>MINIMUM WAGE</u> Hourly Rate	In general, \$2.65/hour effective Jan. 1, 1978, Jan. 1, 1979-\$2.90, Jan. 1, 1980-\$3.10, Jan. 1, 1981 \$3.35. Farmers can apply for partial-exemption (85% of minimum wage) for some full-time students, student learners, apprentices and handicapped workers. Must be certified before being paid lower rates. See (Child Labor-102 Bulletin).	\$2.90 per hour effective March 1, 1979. \$3.10 per hour effective January 1, 1980.
<u>RECORDKEEPING</u>	Employer must maintain for each worker. <ol style="list-style-type: none"> <li>1. name in full - home address</li> <li>2. sex and occupation</li> <li>3. number of man days worked each week or each month</li> <li>4. time of day and day of week when work week begins</li> <li>5. basis on which wages are paid eg. \$40.00 per day, \$3.00 per day, \$100.00 per week.</li> <li>6. hours worked each workday and total hours worked each week.</li> <li>7. total daily or weekly earnings</li> <li>8. total additions to or deductions from wages paid each pay period</li> <li>9. total wages paid each pay period</li> <li>10. date of payment and pay period covered by payment</li> </ol> <p>Firm must identify on the records, employees who qualify as hand harvest labor.</p>	<ol style="list-style-type: none"> <li>1. name and address of employee</li> <li>2. birth date if under 18 years of age</li> <li>3. hours worked each day</li> <li>4. hours worked each week</li> <li>5. gross weekly earnings</li> <li>6. basis on which wages are paid (hourly or piece rate)</li> <li>7. deductions</li> </ol> <p>Where a Crew Leader is a party to the disbursement of wages, in addition to the above, the Crew Leader must maintain the following records as well.</p> <p>Place of work            The rate per hour of hourly workers            The Piece Rate if working on piece work            Number of units of work performed if work on Piece Rate Basis.</p>
<u>PAYMENT OF WAGES</u>	Payroll period as defined by Farmer or Contractor (Cannot exceed 1 month).  E.G. Day Haul to be paid on day basis.	At least twice during each calender month.  In those instances where a crew leader is party to the disbursement of any wages or other compensation due and payable to any seasonal farm worker for time, labor or employment, he shall make, immediately upon termination of the period of employment for which the worker was employed, such payment or compensation to such seasonal farm worker on the same premises where said labor or employment was performed or provided.

	FEDERAL	STATE
<u>PAYMENT OF WAGES</u>		Eg. Employees working on a daily basis must be paid daily.
<u>STATEMENT OF DEDUCTIONS</u>	<p>Farmer not required to give statement of deductions to any of his employees.</p> <p>Farm Contractor if involved in the disbursement of wages must give statement of deductions, including How much Contractor made as a result of the work of that particular employee.</p>	<p>Employer and/or Crew Leader must supply in writing to the farm worker with each payment the following:</p> <p>Name and address of employer  Name and social security number of employee  Total hours worked  Gross Pay  Itemized deductions  Net Pay</p>
<u>PERMITTED PAYROLL DEDUCTIONS</u>	<ol style="list-style-type: none"> <li>1. Federal and State Income Tax, Social Security Tax, State Unemployment Tax</li> <li>2. If authorized by employee, deductions may be made for: <ol style="list-style-type: none"> <li>a) savings bonds</li> <li>b) employees contributions for life insurance, hospitalization and medical insurance</li> <li>c) union dues</li> <li>d) payments into savings accounts</li> <li>e) contributions to charitable organizations.</li> </ol> </li> <li>3. Employer may take credit toward minimum wage for <u>reasonable cost</u> for room and board if furnished.</li> </ol> <p>Deductions must be withheld on a Pay Period basis.</p>	<p>No deductions or diversion except for:</p> <ol style="list-style-type: none"> <li>1) Federal and State Income Tax, Social Security Tax, Unemployment Tax</li> <li>2) If authorized by employee and employer deductions may be made for: <ol style="list-style-type: none"> <li>a) savings bonds</li> <li>b) employees contributions for life insurance, hospitalization and medical insurance.</li> <li>c) union dues</li> <li>d) payments into savings accounts</li> <li>e) contributions to charitable organizations</li> <li>f) purchase of company products or employers loans in accordance with periodic repayment schedule.</li> </ol> </li> <li>3) Employer may take credit toward minimum wage for actual cost for room and board if furnished.</li> </ol> <p>Deductions must be done on a workweek basis.</p>

	FEDERAL	STATE
<u>TERMS &amp; CONDITIONS OF EMPLOYMENT</u>	Official poster must be displayed where employees can readily see it.	Official Abstract must be displayed where employees can readily see it of Statutory Minimum Rate and Wage Payment Law. Crew Leader must display poster (Bilingual) containing:  Area of employment Crops or operations worker will be employed Transportation, housing and insurance to be provided Wage Rate to be paid Charges to be made by Crew Leader Name and address of Crew Leader Name and address of employer Date or period for which employment is offered Schematic pay schedule of minimum rates.
<u>YEARS RECORDS MUST BE KEPT</u>	Payroll records must be kept for 3 years.	Payroll records must be kept for 6 years.
<u>DISCRIMINATION IN WAGES</u>	Sex discrimination on rates of pay prohibited for "equal" work.	Sex discrimination on rate of pay prohibited for "equal" work.
<u>ENFORCEMENT</u>	Compliance backwage liability can be enforced administratively or by court action. Minors: Civil money penalty (1974 Amendment) To \$1000 maximum for each plus \$10,000 and possible imprisonment in repeat violations. Employees can also sue for backwages and liquidated damages and legal fees.	Penalties for willful violation, misdemeanor conviction fine \$25.00 to \$500.00 or by imprisonment.  Compliance and backwage liability can be enforced administratively or by court action.
<u>RESPONSIBILITY OF ANY PERSON ENGAGING A FARM LABOR CONTRACTOR OR CREW LEADER</u>	No person shall engage the services of any Farm Labor Contractor to obtain Farm Laborers without determining that the Contractor possesses a valid certificate from the US Department of Labor.	No person shall employ a Crew Leader who does not possess a current and valid certificate of registration issued by the NJ Dept. of Labor and Industry.

## FEDERAL

## Section 13 (a) (6) of the FLSA

The "500 Man Day" Exemption (13a6) If an employer of agricultural workers employs them a total exceeding 500 man/days in any calendar quarter of the past calendar year the employees are subject to the minimum wage or equal pay. Conversely, if this 500 man-day test is not met the employees are exempt from minimum wage and equal pay requirements of the Law.

- a. What's a "man-day"? A "man-day" is any day of one (1) hour or more in which an employee performs any agricultural labor.
- b. What's a "calendar" quarter? A "calendar" quarter is any one of the following: Jan-March, April-June, July-Sept., Oct.-Dec.
- c. What's a "calendar" year? A "calendar" year is a year beginning Jan. 1 and ending on Dec. 31.

As a general rule of thumb 7 men or women working 6 days (of at least 1 hr. per day) a week in a calendar quarter will exceed the 500 man day rule.

Note 1 - Certain employees are not counted in calculating the 500 man day rule. These are:

- 1 - members of the farmer's immediate household.

Note 2 - Certain employees are counted in calculating the 500 man day rule, but do not themselves receive minimum wage and equal pay even if the employer exceeds the 500 man day limit for exemptions. These are:

- 1 - employees of employers who did not exceed 500 man days in any calendar quarter in the past calendar year.
- 2 - children under 16 hand harvesters, paid a piece-rate, who receive same piece-rate as other workers on the farm and whose parents are employed on that farm.
- 3 - employees primarily engaged in the range production of livestock.
- 4 - hand harvesters, paid piece rates, who commute to farm daily from their permanent residences and who have not been employed in agriculture (anywhere) more than 13 weeks in the preceeding calendar year.

	FEDERAL	STATE
<p><u>CHILD LABOR</u></p> <p>Minimum Age</p>	<p><u>Under 12</u>: A) Can work on farm owned and operated by parent or legal guardian. B) Hand harvesting if special requirements are met.</p> <p>Age 12/13 <u>Outside of school hours</u> may work on same farm where parent/guardian employed or with <u>written</u> consent or parent or guardian in non-hazardous work.</p> <p>Age 14/15 <u>Outside school hours</u>, any farm in non-hazardous work.</p> <p>Age 16 can work on any farm, during and outside school hours, no hazardous work prohibitions. See Bulletin CL-102 for list of hazardous occupation.</p>	<p>Under 12, No child under the age of 12 may be employed in agricultural pursuits.</p> <p>May work outside school hours and during school vacation in connection with minor's own home.</p>
Maximum Hours	None	<p>Less than 16 years of age cannot work during school hours.</p> <p>Under 18, maximum of 10 hours daily, maximum of 6 consecutive days, maximum of 60 hours per work week. Must receive a meal period of <math>\frac{1}{2}</math> hour after 5 consecutive hours worked.</p>
Prohibited Work	<p>Children 16 and above may work in any agricultural occupations.</p> <p>1. Under 16 May not operate tractor of over 20 PTO horsepower, or connecting or disconnecting an implement or any of its parts to or from such a tractor.</p>	<p>Children 18 and above are permitted to do everything assign them because they are no longer covered under any Child Labor Law Provisions.</p> <p>Under 16 May not drive tractors regardless of size.</p> <p>Not permitted to work in, about, or in connection with power-driven machinery. Exceptions: Children under 16 years of age may use standard domestic type machines. Office machines Standard types of poultry feeders Egg graders Egg washers egg coolers Milking machines</p>

FEDERAL	STATE
<p>Under 16</p> <p>2. Not permitted to operate or assist to operate (including starting, stopping, adjusting, feeding or any other activity involving Physical contact associated with the operation) any of the following machines:</p> <p>Feed grinder</p> <p>Corn picker Auger conveyor  Cotton picker Mobile pea viner  Grain combine Potato combine  Hay Mower Potato digger  Hay Baler Forage forester  Crop dryer Forage blower  The unloading mechanism of a nongravity type self unloading wagon or trailer  Power post hole digger  Power post driver  Non walking rotary tiller</p> <p>3. Power-driven circular or chain saw</p> <p>Fork lift</p> <p>Trencher or earthmoving equipment</p> <p>4. Working on a farm in a yard, pen, or stall occupied by a:  Bull, boar, or stud horse maintained for breeding purposes, sow with suckling pigs, or cow with newborn calf (with umbilical cord present).</p>	<p>Under 16 and 18</p> <p>No minors under age of 18 shall be employed, permitted or suffered to work in, about or in connection with the following machines or functions:</p> <p>Oiling, wiping, or cleaning machinery in motion or assisting therein.</p> <p>Grinding, abrasive, polishing, or buffing machines.</p> <p>Corn picker  Power driven hay balers  Power field choppers</p> <p>Guillotine action cutting machines</p> <p>Operation or repair of elevators or other hoisting apparatus.</p> <p>Power driven woodworking machine</p> <p>Demolition of buildings, ship or heavy machinery.</p>

FEDERAL	STATE
<p>5. Felling, bucking, skidding, loading, or unloading timber with butt diameter of more than 6 inches.</p> <p>6. Working from a ladder or scaffold (painting repairing, or building structures, pruning trees, picking fruit, etc.) at a height of over 20 feet.</p> <p>7. Driving a bus, truck, or automobile when transporting passengers, or riding on a tractor as a passenger or helper.</p> <p>8. Working inside: A fruit, forage, or grain storage designed to retain an oxygen deficient or toxic atmosphere, an upright silo within 2 weeks after silage has been added or when a top unloading device is in operating position, a manure pit, or a horizontal silo while operating a tractor for packing purposes.</p> <p>9. Handling or applying (including cleaning or decontaminating equipment, disposal or return of empty containers, or serving as a flagman for aircraft) applying agricultural chemicals classified under the Federal Insecticide, Fungicide, and Rodenticide Act (7 USC 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.</p> <p>10. Handling or using a blasting agent, including but not limited to, dynamite, black powder, sensitized ammonium nitrate, blasting caps, and primer cord.</p>	<p>Construction work of any kind</p> <p>Explosives and highly inflammable substances Benzol or any Benzol compound which is volatile or which can penetrate the skin. Dangerous or poisonous acids and dyes.</p> <p>Explosives and highly inflammable substances.</p>

## FEDERAL

## STATE

11. Transporting, transferring, or applying anhydrous ammonia.

Exceptions

Above prohibitions do not apply to employment of minors under 16 years of age by their parents or by persons standing in the place of their parents on farms owned or operated by such parents or persons.

Under carefully regulated conditions, employment of 14 and 15 years old minors in certain of the agricultural occupations declared to be hazardous is exempt:

- a. Student Learners-may work in above occupations Number 1 thru 6.
- b. 4-H Federal Extension Service Training Program-minors 14 and 15 years old with certificates may work in connection with items Numbered above 1 thru 2.
- c. Vocational Agriculture Training Program-farmers must keep copy of certificate of completion on file, and may work in connection with above Numbered items 1 thru 2.

Work around steam boilers carrying a pressure in excess of 15 pounds.

Transportation of payrolls off the employer's premises.

The above does not apply to work done by pupils in public or private schools of New Jersey under the supervision and instruction of officers or teachers of such organizations and to a child who is at least 17 years old employed in the type of work in which he majored under the conditions of the special vocational school graduate permit.

AGRICULTURE  
PERMITS

Agricultural permits - State certificate acceptable for federal age requirements  
- Keep proof of age on file.

Required through ages 12 and 15.  
Not required at 16, but farmer has burden of Proof of Age and may ask minor to secure an Agricultural Age Certificate.

Summary of the  
Questions asked Farmers

	Percentage Responding YES
1. Do you operate on a seasonal basis?	72%
2. Have you had any experience with Crew Leaders in the past?	64%
3. Are any Crew Leaders presently employed?	60%
4. Are you familiar with New Jersey Laws as they relate to farm workers?	91%
5. Are you familiar with United States Laws as they relate to farm workers?	86%
6. Do you feel that New Jersey and United States Wage and Hour Laws should be identical?	93%
7. Do you know whether you have to comply with either State or Federal Wage and Hour Laws?	84%
8. Are there any specific changes that you would like to see made?	57%
<p>The majority responding "<u>yes</u>" felt that both laws should be uniform, that workers should be paid on a piece rate with no minimum guarantee, and that minors under the age of 18 should be exempt from any minimum.</p>	
9. Do you feel that all workers regardless of age should receive the minimum rate?	27%
<p>The majority who were against stated that those under 18 lacked knowledge and experience and were not as productive as adults, while those in favor thought that equal work should receive equal pay.</p>	
10. Should the size of the farm, or the number of workers be a factor in determining who is covered?	23%
11. Have you had any experience with handicapped workers?	21%

Percentage  
Responding  
YES

---

12. Do you feel that handicapped workers should receive the minimum rate? 34%
- Those opposed gave their reasons that pay should be based upon productivity, but that there should be a special rate based upon degree of handicap.
13. Do you employ workers on a piece rate basis? 47%
14. Should workers paid on piece rates be guaranteed the minimum rate? 18%
15. Would you favor a minimum piece rate for each crop rather than a minimum hourly rate? 71%
- The majority who were in favor thought that it would simplify record keeping and reward the good workers. Most of those opposed just did not feel that it was feasible to establish fair crop piece rates.
16. Are there any provisions in either the State or Federal Minimum Wage Law that you feel should be changed? 66%
- Most of those favoring changes were against any guaranteed minimum rate for piece workers.
17. Where Crew Leaders are involved, do you feel that they should have responsibility for the payment of wages? 76%
18. Are you in favor of the State law provision requiring day haul workers employed on a daily basis be paid on the premises where the work is performed? 54%
- Most of those not in favor stated that it involved too much paper work and it should be up to the workers and Crew Leaders where the workers should be paid.
19. If the worker does not wish to be paid daily, do you feel that there should be a special exemption from this requirement? 78%
20. Do you agree with the New Jersey requirement that workers must receive a statement of deductions with each pay? 81%
- Those against this stated that it was a waste of time and involved too much paper work.
21. Do you feel that the Child Labor requirement pertaining to hazardous work should be identical under both State and Federal Law? 94%

	Percentage Responding YES
22. Do you feel that a child should be at least 16 years of age to perform any type of hazardous work on a farm?	87%
23. Do you feel that a child should be at least 18 years of age to perform any type of work on a farm?	30%
24. Do you feel that the minimum age for minors to perform hazardous work on a farm should be the same under both State and Federal Law?	95%
25. Do you feel that the Child Labor Laws are too restrictive regarding the type of hazardous work?	54%
26. Do you feel that the State law is more restrictive than the Federal Law?	76%
27. Do you feel the same restrictions should apply to the farmers own children?	6%
<p>Most of them were against the restrictions as they apply to their own children because they feel that their children were more experienced and that the farmer is better able to supervise his own children.</p>	
28. Do you feel that one agency should have full responsibility for the enforcement of the Child Labor Law?	94%
29. Do you feel that the farmer should be required to keep a copy of the Crew Leaders records?	43%
<p>Most of those replying "<u>yes</u>" stated that it was a protection for both the workers and the farmers so that the farmers would know what was going on.</p> <p>Most of those replying "<u>no</u>" stated that it was either too much work or that the Crew Leader was the employer.</p>	
30. Do you feel that the farmer should be held responsible for the records of the Crew Leader or for any violations incurred by the Crew Leader?	4%
<p>Most of the farmers thought that the Crew Leader was the employer and his own boss and that the farmer should not be held liable for the acts of the Crew Leader.</p>	
31. Are you in favor of the present situation where both the State and Federal agencies make separate investigations to enforce the respective laws?	5%
32. Do you feel that the State agency should be given the responsibility to investigate and enforce the laws and regulations of both agencies?	58%

**EMPLOYEE WAGE STATEMENT**

**EMPLOYER** \_\_\_\_\_

**ADDRESS** \_\_\_\_\_

**EMPLOYEE** \_\_\_\_\_

**EMPLOYEE S.S. #** \_\_\_\_\_ **DATE** \_\_\_\_\_

**HOURS WORKED** \_\_\_\_\_ **GROSS PAY \$** \_\_\_\_\_

**DEDUCTIONS** \_\_\_\_\_

\_\_\_\_\_

**NET PAY \$** \_\_\_\_\_



**RECORDS REQUIRED OF FARMERS AND CREW LEADERS**

1. Name
2. Address
3. Total Hours Worked
4. Basis on which wages are paid - piece work or hourly
5. Workers must receive not less than \$2.90 per hour regardless of method

# FARM WORKERS

## IT IS THE LAW IN NEW JERSEY

### YOU MUST EARN

### NO LESS THAN

### \$2.90 PER HOUR EVEN IF

### YOU WORK PIECE-RATE

#### Example:

If you work **10** hours in one day, even by piece-rate, you must  
earn at least **\$29.00**

<u>IF YOU WORK</u>	<u>EVEN BY PIECE-RATE</u>	<u>EFFECTIVE MARCH 1, 1979 YOU MUST EARN AT LEAST</u>
9 Hrs. Daily . . . . .		\$26.10 Daily
8 Hrs. Daily . . . . .		\$23.20 Daily
7 Hrs. Daily . . . . .		\$20.30 Daily
6 Hrs. Daily . . . . .		\$17.40 Daily
5 Hrs. Daily . . . . .		\$14.50 Daily
4 Hrs. Daily . . . . .		\$11.60 Daily
3 Hrs. Daily . . . . .		\$ 8.70 Daily
2 Hrs. Daily . . . . .		\$ 5.80 Daily
1 Hr. Daily . . . . .		\$ 2.90 Daily

IF YOU RECEIVE LESS THAN THESE WAGES CALL:

(609) 292-2337

**TRABAJADORES AGRICOLAS**  
**SEGUN LA LEY**  
**EN NUEVA JERSEY**

**USTED TIENE QUE GANAR**  
**NO MENOS DE \$2.90 POR HORA**  
**AUNQUE TRABAJE POR AJUSTE**

**Ejemplo:** Si usted trabaja **10** horas en un dia,  aunque sea por ajuste,  
 tiene que recibir por lo menos **\$29.00**

<u>SI TRABAJA</u>	<u>AUNQUE SEA POR AJUSTE</u>	<u>EFFECTIVO EL 1 DE MARZO DE 1979 TIENE QUE RECIBIR POR LO MENOS</u>
9 Hrs. DIARIAS . . . . .		\$26.10 DIARIOS
8 Hrs. DIARIAS . . . . .		\$23.20 DIARIOS
7 Hrs. DIARIAS . . . . .		\$20.30 DIARIOS
6 Hrs. DIARIAS . . . . .		\$17.40 DIARIOS
5 Hrs. DIARIAS . . . . .		\$14.50 DIARIOS
4 Hrs. DIARIAS . . . . .		\$11.60 DIARIOS
3 Hrs. DIARIAS . . . . .		\$ 8.70 DIARIOS
2 Hrs. DIARIAS . . . . .		\$ 5.80 DIARIOS
1 Hr. DIARIAS . . . . .		\$ 2.90 DIARIOS

**SI GANA MENOS HAGA RECLAMACIONES LLAMANDO:**

(609) 292-2337

OFFICE OF WAGE AND HOUR COMPLIANCE  
 DIVISION OF WORKPLACE STANDARDS  
 P.O. BOX 875  
 Trenton, New Jersey 08625

MINIMUM RATES

All farm laborers 18 years of age and over in New Jersey must be paid a minimum of \$2.90 per hour effective March 1, 1979. Employees engaged on a piece-rate basis to labor on a farm shall be paid for each day worked not less than the minimum hourly wage rate multiplied by the total number of hours worked. Farm workers, therefore, must earn not less than \$2.90 per hour even if they work at piece rates. For example, if they work 10 hours in one day either at piece rates or time rates they must earn at least \$29.00. The following chart shows the minimum wages to be paid based on the minimum hourly wage rate multiplied by the total number of hours worked:

1 hour	\$ 2.90	6 hours	\$17.40
2 hours	5.80	7 hours	20.30
3 hours	8.70	8 hours	23.20
4 hours	11.60	9 hours	26.10
5 hours	14.50	10 hours	29.00

OVERTIME RATES

Labor on a farm is exempt from the premium overtime provisions of the law. Workers employed in the first processing of farm products must be paid overtime in accordance with the wage order for such employment.

MINORS

Minors under 18 in agricultural work are not covered by the New Jersey Minimum Wage but may be covered by the Federal Wage and Hour rates. Minors in the first processing of farm products are covered by the minimum wage rates in the wage order.

Children must be at least 12 years old to work on a farm and must have working permits between 12 and 16. Minors under 16 cannot work during the hours which they are required to be in school and they cannot work outside of school hours more than 10 hours in any day, more than 60 hours in a week and not more than 6 days in a row.

RECORDS

All employers must keep records of hours worked and wages paid to his employees. If a crew leader is involved in the payment of wages or other compensation he must keep certain records for all workers to whom payments are made. These records must be available for inspection by the Office of Wage and Hour Compliance. These specific records must include:

1. Place of work
2. Names of all workers to whom payments are made
3. Addresses of all workers to whom payments are made
4. Gross Payment
5. Deductions
6. The number of units of time (hours) employed
7. The rate per unit of time (hourly rate)
8. The number of units of work performed if on piece work
9. The rate per unit of work

PAYMENTS TO WORKERS

1. Employees working on a daily basis must be paid daily.
2. Payment must be made on the same premises that the work was done.

A crew leader may not terminate, suspend, demote, transfer, or take adverse action against any seasonal farm worker in retaliation for the worker's exercising any of his rights under State or Federal laws and regulations. A worker cannot agree with the crew leader to waive any of his rights.

Employers must supply following information in writing to each employee with each wage payment:

Name and address of the employer.  
 Name and social security number of the employee.  
 Total hours worked.  
 Gross pay. Itemized deductions. Net pay.

## LA LEY DE HORAS Y SALARIOS DE NUEVA JERSEY

### MINIMO BASICO

Todos los trabajadores agrícolas de 18 años de edad o más tienen que ser pagados a razón de \$2.90 por hora efectivo el 1 de marzo de 1979. Aquellos que se empleen para trabajar por ajuste en las fincas tendrán que recibir al final del día una cantidad no menor que el mínimo por hora multiplicado por el total de horas trabajadas. Los trabajadores agrícolas, por lo tanto, deben ganar no menos de \$2.90 por hora sin cuando trabajen por ajuste. Por ejemplo, si trabajan 10 horas en un día, lo mismo por ajuste que por hora, deben ganarse por lo menos \$29.00. La gráfica de abajo demuestra los salarios mínimos que deben pagarse basado en el mínimo por hora multiplicado por el número total de horas trabajadas:

1 hora	\$ 2.90	6 horas	\$17.40
2 horas	5.80	7 horas	20.30
3 horas	8.70	8 horas	23.20
4 horas	11.60	9 horas	26.10
5 horas	14.50	10 horas	29.00

### TIEMPO EXTRA

El trabajo agrícola está exento de las disposiciones sobre tiempo extra de la ley. Aquellos trabajadores empleados en el procesamiento inicial de productos agrícolas deben recibir la paga que por tiempo extra señala la orden de salarios para tal ocupación.

### MENORES

Los menores de 18 años que se empleen en trabajos agrícolas no están protegidos por el Salario Mínimo de Nueva Jersey pero pueden estar cubiertos por los mínimos federales sobre horas y salarios. Aquellos menores empleados en el procesamiento inicial de productos agrícolas están cubiertos por el Salario Mínimo de Nueva Jersey establecido en la orden de salarios para tal ocupación. Los niños tienen que tener por lo menos 12 años para poder trabajar en la finca y tienen que tener permisos de trabajo de los 12 a los 16. Los menores de 16 años no pueden trabajar durante las horas que se le requiere estar en la escuela y no pueden trabajar fuera de las horas escolares más de 10 horas diarias ni más de 60 horas semanales ni más de 6 días corridos.

### DOCUMENTOS

Todos los patronos tienen que mantener documentación escrita sobre las horas trabajadas y los salarios pagados a sus empleados. Si un encargado de trabajadores (crew leader) está envuelto en el pago de salarios u otra compensación, tiene que mantener documentación escrita de todos los trabajadores a quienes se les hacen los pagos. Esta documentación tiene que estar disponible para inspección por el Negociado de Horas y Salarios. Tales documentos deben incluir:

1. Sitio de trabajo
2. Los nombres de todos los trabajadores a los que se les han hecho los pagos
3. Las direcciones de todos los trabajadores a los que se les han hecho los pagos
4. La paga sucia
5. Las deducciones
6. El número de unidades de tiempo (horas) empleadas
7. La paga por unidad de tiempo (hora)
8. El número de unidades de trabajo realizadas si es por ajuste
9. La paga por unidad de trabajo (ajuste)

### PAGOS A LOS TRABAJADORES

1. Todo trabajador empleado diariamente tiene que ser pagado al final del día.
2. El pago tiene que ser en el mismo sitio en que fue hecho el trabajo.

Un encargado de trabajadores (crew leader) no puede terminar, suspender, rebajar de posición, transferir o tomar acción adversa alguna contra cualquier trabajador agrícola en represalias por haber el trabajador ejercido alguno de sus derechos bajo leyes o disposiciones estatales o federales. Un trabajador no puede hacer un arreglo con el encargado de trabajadores (crew leader) para renunciar a ninguno de sus derechos.

Los patronos tienen que suplir la siguiente información a cada empleado en cada pago: Nombre y dirección del patrono, nombre y seguro social del trabajador, total de horas trabajadas, paga sucia, deducciones detalladas, paga limpia.

1 9 7 9STATISTICAL SUMMARY OF  
ROAD CHECKS  
CREW LEADER VEHICLES

Number of Road checks .....	3
Number of Vehicles Stopped .....	67
Number of Workers .....	1257
Number of Registered Crew Leaders .....	40
Number of Non-Registered Crew Leaders .....	4
Family Crews .....	23
Total Violations of Crew Leader Act.....	9
Violations for Failure to Register .....	4
Violations - other .....	5
Total Violations of New Jersey Motor Vehicle Laws .....	12
New Jersey Motor Vehicle Summons Issued .....	11
New Jersey Motor Vehicle Warnings Issued .....	1
Total Wage and Hour Law Violations .....	29
Wage and Hour Law Subpoenas Issued .....	10
Wage and Hour Law Warnings Issued .....	19

<b>U.S. DEPARTMENT OF LABOR</b> Employment Standards Administration Wage and Hour Division	<b>APPLICATION FOR A FARM LABOR CONTRACTOR                  CERTIFICATE OF REGISTRATION</b> Farm Labor Contractor Registration Act of 1963, as amended									
Please read instructions before completing this application. No Farm Labor Contractor Certificate of Registration may be issued unless a completed form has been received (7 U.S.C. 2041 et. seq.).										
1. Application for Certificate of Registration for _____ If renewal, give number of last certificate _____ Federal <input type="checkbox"/> Init. <input type="checkbox"/> Renewal Consolidated Federal-State <input type="checkbox"/> Init. <input type="checkbox"/> Renewal	<table border="1" style="width:100%; border-collapse: collapse;"> <tr> <td colspan="2" style="text-align:center;">FOR OFFICIAL USE ONLY</td> <td rowspan="4" style="width:15%; vertical-align: top;">Date WH-411 Issued:</td> </tr> <tr> <td style="width:15%;">Number:</td> <td>Housing Authorized: <input type="checkbox"/> Yes <input type="checkbox"/> No</td> </tr> <tr> <td>Transportation Authorized: <input type="checkbox"/> Yes <input type="checkbox"/> No</td> <td>Driving Authorized: <input type="checkbox"/> Yes <input type="checkbox"/> No</td> </tr> <tr> <td></td> <td></td> </tr> </table>	FOR OFFICIAL USE ONLY		Date WH-411 Issued:	Number:	Housing Authorized: <input type="checkbox"/> Yes <input type="checkbox"/> No	Transportation Authorized: <input type="checkbox"/> Yes <input type="checkbox"/> No	Driving Authorized: <input type="checkbox"/> Yes <input type="checkbox"/> No		
FOR OFFICIAL USE ONLY		Date WH-411 Issued:								
Number:	Housing Authorized: <input type="checkbox"/> Yes <input type="checkbox"/> No									
Transportation Authorized: <input type="checkbox"/> Yes <input type="checkbox"/> No	Driving Authorized: <input type="checkbox"/> Yes <input type="checkbox"/> No									
2. The Applicant is a/an (Check one). <span style="float:right;">If incorporated, give date and State of Incorporation.</span> <input type="checkbox"/> Individual <input type="checkbox"/> Corporation <input type="checkbox"/> Cooperative <input type="checkbox"/> Partnership <input type="checkbox"/> Association <input type="checkbox"/> Other (Specify) _____ Date _____ State _____										
3. Applicant Identification: (Please Print) Name (Last, first, middle) _____ Permanent Address (Number & Street, RFD, or P.O. Box, City or Town, State, Zip Code) _____ Telephone Number _____ Social Security Number _____ Social Security Employer Identification Number (If none, enter "none".) _____ State Unemployment Insurance Reporting Number (If none, enter "none".) _____	4. Person Making Application (whether in person's own behalf or for a corporation, etc. If same as item 3, write "same as item 3".) (Print) Name (Last, first, middle) _____ Address (Number & Street, RFD or P.O. Box, City or Town, State, Zip Code) _____ Telephone Number _____ Social Security Number _____									
5. To be Completed by "Individual" applicant only (see item 2) Height _____ ft. _____ in Weight _____ Color of: Eyes _____ Hair _____ <input type="checkbox"/> Male <input type="checkbox"/> Female Date of Birth (Mo., day, year): _____ Place of Birth: _____										
6. Give Address to Which Notices and Documents Should be Sent. _____	7. Check Each Activity to be Performed Involving Migrant Workers for Agricultural Employment. <input type="checkbox"/> Recruit <input type="checkbox"/> Solicit <input type="checkbox"/> Transport <input type="checkbox"/> Hire <input type="checkbox"/> Furnish <input type="checkbox"/> Pay									
8. Give the Greatest Number of Agricultural Workers That Will be in the Crew(s) at Any Time. _____	9. Will Transportation be Provided the Workers? <input type="checkbox"/> Yes (Give number and type of vehicles used to transport migrant workers.) <input type="checkbox"/> No (Explain how workers get to the work site) _____									
10. Will You Drive a Vehicle to Transport Workers? (To be completed by an "individual" applicant) <input type="checkbox"/> No <input type="checkbox"/> Yes If "Yes", read instructions and complete the following: Drivers License No. _____ State _____ Date Issued _____ Expiration Date _____ Vehicles Qualified to Operate: _____ Type _____ Capacity _____ Restriction(s): _____	11. Will the Applicant Farm Labor Contractor Own or Control Housing Which Will Be Used by Agricultural Workers in the Crew At Any Time During the Calendar Year or in Any Location? <input type="checkbox"/> Yes (Submit statement identifying all housing to be used and proof that such housing meets all applicable Federal and State safety and health standards.) <input type="checkbox"/> No (Give the name and address of all persons who own or control housing to be used by workers in the crew.) _____									

## INSTRUCTIONAL AND INFORMATION GUIDE FOR APPLYING FOR A CERTIFICATE OF REGISTRATION

(FOR FURTHER DETAILS, REFER TO THE REGULATIONS (29 CFR, PART 40) AND TO THE U.S. DEPARTMENT OF LABOR PAMPHLET "FARM LABOR CONTRACTOR REGISTRATION ACT, AS AMENDED, DECEMBER, 1974" (WH Publication 1365).

NOTE: SUBMISSION OF THIS APPLICATION FORM DOES NOT AUTHORIZE THE APPLICANT TO ENGAGE IN FARM LABOR CONTRACTING ACTIVITIES. If the application is approved, the applicant will be issued a Farm Labor Contractor Certificate of Registration.

ITEM 1. Application for certificate.

Federal - Check this block when applying for a Federal Certificate of Registration.

Consolidated Federal-State - Check this block when applying for both a Federal and State Certificate of Registration. For further information, contact the local Employment Service Office.

If no Farm Labor Contractor Certificate of Registration (Form WH-411) has ever been issued to you by the U.S. Department of Labor (even though you previously applied for one), check "initial". If a certificate has been issued to you by the U.S. Department of Labor, check "renewal" and enter the number of the last certificate issued to you. If you are applying for an initial certificate, attach to this application a completed Form FD-258, Fingerprint Card. If you are applying for a renewal, submit a completed FD-258 if 3 years have elapsed since you last submitted a completed FD-258.

ITEM 2. - Operating as an individual or organization. If application is for a Corporation, Partnership, Association, Cooperative or other organization, each officer, director, partner, or employee who will engage in any of the covered farm labor contracting activities on behalf of the organization must obtain either a Farm Labor Contractor Certificate of Registration or a Farm Labor Contractor Employee Identification Card prior to so engaging in farm labor contracting activities. (Form WH-412 is the application form for a Farm Labor Contractor Employee Identification Card.)

ITEM 3. - Enter the complete legal name and address of the applicant. The Social Security Number is used for identification purposes; its submission is authorized by Title 29 of the Code of Federal Regulations, Part 40.

ITEM 4. - This item is to identify the person submitting an application on behalf of an organization. If the information requested is the same as that furnished under item 3, enter "same as item 3".

ITEM 9. - A certificate of registration AUTHORIZING THE APPLICANT TO TRANSPORT MIGRANT WORKERS in connection with the applicant's business, activities, or operations as a farm labor contractor will not be issued until the following have been submitted:

a. Evidence of compliance with applicable Federal and State rules and regulations as follows: All vehicles which the applicant is to provide or arrange to furnish to transport migrant workers must first be inspected and approved each year by a Federal or State inspector or by a responsible garage or mechanic. A completed Form WH-414, Vehicle Identification and Mechanical Inspection Report, must be submitted each year for each vehicle to be used to transport workers.

b. Evidence of compliance with the insurance or financial responsibility requirements of the Farm Labor Contractor Registration Act of 1963, as amended and the Regulations issued thereunder, as follows: FARM LABOR CONTRACTOR MOTOR VEHICLE LIABILITY CERTIFICATE OF INSURANCE showing the passenger hazard included (i.e., workers are covered by liability insurance while being transported) as evidence that the required insurance has been obtained for the protection of persons and their property while being transported; or FARM LABOR CONTRACTOR MOTOR VEHICLE LIABILITY CERTIFICATE OF INSURANCE, showing the passenger hazard excluded (i.e., workers are not covered by liability insurance while being transported) and FARM LABOR CONTRACTOR STANDARD ACCIDENT POLICY CERTIFICATE OF INSURANCE, as evidence that liability and accident insurance has been obtained for the protection of persons while being transported; or a liability bond prescribed by the Secretary of Labor.

ITEM 10. - This item applies to individuals applying for a certificate in their own name rather than on behalf of a corporation or other organization. (See item 2 above.) If you drive a bus or truck to transport migrant workers and you are applying for an initial certificate, submit a completed Form WH-415, DOCTOR'S CERTIFICATE with this application. If applying for a renewal and your last DOCTOR'S CERTIFICATE is more than three years old, submit a new Form WH-415.

12. A. Have you been convicted within the past 5 years, under State or Federal law, of any of the following crimes?
1. Crimes involving robbery, extortion, bribery, embezzlement, grand larceny, burglary, arson, violation of narcotics laws, murder, rape, assault with intent to kill, assault which inflicts grievous bodily injury, prostitution, or peonage.  
 Yes     No
  2. Gambling in connection with or incident to activities as a farm labor contractor; sale, distribution or possession of alcoholic liquors in connection with or incident to activities as a farm labor contractor.     Yes     No
- B. Have you ever been convicted, under State or Federal law of any criminal charge relating to illegal aliens?  
 Yes     No

*(If "YES" to any of the above, state crime and give date and place of conviction.)*

13. The intended farm labor contracting activities will begin approximately \_\_\_\_\_  
*(month, day, year)*

Describe briefly your method of operation *(crops, agricultural activity, places, etc.)*

*I certify that compensation is to be received for the intended farm labor contractor services and that all representations made by me in this application are true to the best of my knowledge and belief.*

\_\_\_\_\_  
*(Applicant's Signature and Title)*

Subscribed and sworn to before me this

\_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

\_\_\_\_\_  
*(Witness to signature - may be authorized government representative or notary public)*

**A false answer or misrepresentation to any question on this application may be punishable by fine or imprisonment (U.S. Code, title 18, sec. 1001).**

**ITEM 11.** - A farm labor contractor is considered an "owner" of migrant worker housing if the farm labor contractor has a legal or equitable interest in such facilities. A farm labor contractor is in "control" of housing facilities when the contractor is in charge of or has the power or authority to oversee, manage, superintend or administer housing, either personally or through an authorized agent or employee acting on the farm labor contractor's behalf, irrespective of whether compensation is paid for acting in any of the aforesaid capacities.

a. Proof that housing owned or controlled by a farm labor contractor complies with applicable Federal and State safety and health standards and can be satisfied by one of the following:

1. A signed statement by the grower attesting that the housing complies with applicable Federal and State safety and health standards; or
2. A signed statement by the applicant attesting that the housing complies with applicable Federal and State safety and health standards; or
3. A written statement issued by an authorized State and Federal agency.

b. Should the required written proof be unavailable at the time the applicant files the application, an attestation in writing (see page 5 of application Form WH-410) must be submitted, stating that the applicant will not house migrant workers in any housing that does not meet applicable Federal and State safety and health standards. The applicant will then be issued a certificate of registration without housing authorization. This certificate will be amended to housing authorized at such time when the required proof is submitted.

**CERTIFICATION.** This application must be subscribed and sworn to by you before a person authorized to administer oaths. The completed application and related forms and documents should be submitted to any local employment service office or other designated office in the State. Each applicant for a Certificate of Registration, in addition to all other requirements, must sign the statement on page 5 of this form, authorizing the Secretary of Labor to accept legal service of summons in any action against the applicant when such applicant is unavailable to accept summons, or has departed from the jurisdiction of the court in which such action is commenced.



PROPOSED RULES

ON

CREW LEADERS

Chapter 103 of Title 12, NJAC

Proposal dated October 22, 1979

STATE OF NEW JERSEY  
DEPARTMENT OF LABOR AND INDUSTRY  
Division of Workplace Standards  
Office of Agricultural Worker Compliance  
Trenton, New Jersey

BRENDAN BYRNE  
Governor  
State of New Jersey

John J. Horn  
Commissioner  
New Jersey Department of Labor and Industry

NOTE

This rule reprint is for ready reference only. For official text, consult the New Jersey Administrative Code.

## FOREWORD

With the enactment of the Crew Leader Registration Act, NJSA 34:8a-7 et seq., it is appropriate that certain provisions of the Act be implemented by rules.

Therefore, it is with this purpose that this Chapter 103, Crew Leaders of Title 12, NJAC has been promulgated.

This chapter is promulgated by the Commissioner of Labor and Industry of the State of New Jersey, under authority vested in him by NJSA 34:8A-15, as follows:

"The Commissioner of the Department of Labor and Industry is specifically authorized to enforce the provisions of this act and to promulgate all rules and regulations which, in his discretion, are necessary to carry out the provisions of this act."

This chapter was promulgated in accordance with the Administrative Procedures Act, NJSA 52:14B-1 et seq.

All standards and publications referenced in this chapter are available in accordance with Appendix A.

In accordance with Executive Order No. 66 (1978) on expiration of rules, this chapter shall expire on \_\_\_\_\_.

## TABLE OF CONTENTS

### SUBCHAPTER 1. GENERAL PROVISIONS

12:103-1.1	Title and citation
12:103-1.2	Purpose
12:103-1.3	Scope
12:103-1.4	Effective date
12:103-1.5	Agreements with Federal agencies
12:103-1.6	Prohibited arrangements
12:103-1.7	Substitute service
12:103-1.8	Validity

### SUBCHAPTER 2. DEFINITIONS

12:103-2.1	Definitions
------------	-------------

### SUBCHAPTER 3. REGISTRATION

12:103-3.1	Certificate of registration
12:103-3.2	Application for registration
12:103-3.3	Agency response
12:103-3.4	Issuance of certificate
12:103-3.5	Crew leader duties
12:103-3.6	Hearings

### APPENDIX A. AVAILABILITY OF STANDARDS AND PUBLICATIONS REFERRED TO IN THIS CHAPTER

SUBCHAPTER 1  
GENERAL PROVISIONS

12:103-1.1 Title and citation

This regulations shall be known and may be cited as Chapter 103, Crew Leaders of Title 12, NJAC.

12:103-1.2 Purpose

The purpose of this chapter is to provide minimum standards for the registration and performance of crew leaders.

12:103-1.3 Scope

This chapter shall apply to all crew leaders subject to the Crew Leader Registration Act, NJSA 34:8A-7 et seq.

12:103-1.4 Effective date

This chapter shall take effect on \_\_\_\_\_.

12:103-1.5 Agreements with Federal agencies

The State Department of Labor may enter into agreement with the U.S. Department of Labor to register crew leaders or farm labor contractors and to assist in enforcement of Federal laws and regulations and may at its discretion, apply for and utilize grants or contracts for such purpose, providing that such action is in keeping with the purposes of the act.

12:103-1.6 Prohibited arrangements

No employer or crew leader or agent shall enter into any agreement that will in any way contravene any of the provisions of the act and these rules.

12:103-1.7 Substitute service

The responsibility of the commissioner when he serves as an agent as provided under NJSA 34:8A-10(e) shall consist of forwarding any paper, such as a summons, to the last known address furnished by the person for whom the service is accepted.

12:103-1.8 Validity

Should any section, paragraph, sentence, or word of this chapter be declared for any reason to be invalid, such decision shall not affect the remaining portions of this chapter.

## SUBCHAPTER 2

### DEFINITIONS

#### 12:103-2.1 Definitions

The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise:

"Act" means Crew Leader Registration Act, NJSA 34:8A-7 et seq.

"Agency" means the Office of Agricultural Worker Compliance or the New Jersey State Employment Service.

"Agent" means any person employed by a crew leader to perform a service on his behalf. Such a person means an assistant crew leader, driver, field walker, checker, counter, recordkeeper, field foreman, strawboss, helper, cook, cashier, payclerk, supervisor, or any person who shall stand for, or act in the place of the crew leader.

"Approved" means acceptable to the commissioner.

"Commissioner" means the commissioner of the Department of Labor and Industry or his authorized representative.

"CFR" means Code of Federal Regulations.

"Crew leader" means any person:

(a) Who transports, recruits, supplies or hires farm or food processing laborers, and who, for any money or other valuable consideration paid, anticipated or promised to be paid, directly or indirectly, by any farm operator, or laborer, directs all or any part of the work of such workers, or;

(b) Any person who recruits, supplies, or hires farm or food processing laborers for any money or other valuable consideration paid, anticipated or promised to be paid, directly or indirectly by any farm operator or laborer.

(c) Crew leader does not mean any owner or lessee of a farm or food processing plant who recruits or hires laborers for work on his farm or in his plant, or a farm foreman.

"Farm foreman" means an individual, other than the crew leader, who, in behalf of the farm operator, supervises, directs, or controls all or a part of the work.

"Farm labor contractor" means crew leader.

"NJAC" means New Jersey Administrative Code.

"NJSA" means New Jersey Statutes Annotated.

"Office of Agricultural Worker Compliance" means the Office of Agricultural Worker Compliance, New Jersey Department of Labor and Industry, P.O. Box 2039, Trenton, N.J. 086265.

"Person" means any individual, partnership, association, joint stock company, trust or corporation.

"Regular employee" means agent.

"Seasonal farm worker" means any person who is engaged in seasonal or temporary farm work, and is a term that may be used interchangeably with the terms "migrant worker" and "temporary farm worker".

"Shall" means a mandatory requirement.

## SUBCHAPTER 3

### REGISTRATION

#### 12:103-3.1 Certificate of registration

(a) The certificate of registration required by NJSA 34:8A-8 shall be obtained through inquiry made to:

1. The Office of Agricultural Worker Compliance, New Jersey Department of Labor and Industry, P.O. Box 2039, Trenton, N.J. 08625, or
2. Nearest office of New Jersey State Employment Service.

#### 12:103-3.2 Application for registration

(a) A person, to register as a crew leader, shall furnish evidence of good character. This requirement shall be met through the process of submitting acceptable and verifiable answers to specific questions on such forms as the commissioner shall prescribe. This shall apply to initial applicants, and also shall apply, at the discretion of the commissioner, to renewals at such a time interval as he may prescribe.

(b) A person, to register as a crew leader, shall furnish evidence of knowledge and experience with, the labor laws applicable to crew leaders, farmers and food processing laborers. This evidence and knowledge and experience shall be obtained by:

1. Attending an instructional class given by the New Jersey Department of Labor and Industry, or
2. By demonstrating such knowledge and experience to the registrar.

(c) A person, to register as a crew leader, shall furnish proof of compliance with the statutory and regulatory requirements of the New Jersey Division of Motor Vehicles. This proof of compliance shall be:

1. Evidence that the vehicle used to transport workers is insured and that the insurance is adequate,
2. Evidence that the vehicle has been inspected and approved,
3. Evidence that the driver of the vehicle possesses a current and valid driver's license, and
4. Such other proof as the commissioner may prescribe.

(d) The person registering as crew leader shall furnish written evidence that housing used, or to be used, to house his seasonal farm workers and their immediate families has been inspected, and that it currently complies with the provisions of:

1. 29 CFR Part 1910.142, Temporary Labor Camps, or
2. 29 CFR Part 620, Housing for Agricultural Workers.

#### 12:103-3.3 Agency response

(a) The agency shall determine that the applicant has completed the necessary forms and that the information required has been correctly entered.

(b) The agency shall determine that the necessary documentation has been furnished together with all other required information.

(c) The agency shall determine that the applicant is in fact subject to such registration and operates or intends to operate as crew leader.

(d) The agency shall determine that the applicant does not, in fact, transport workers in the case where a "not authorized to transport" certificate is requested.

(e) In the event that there exists grounds to believe that the applicant is not qualified for registration, appropriate investigation shall be made prior to issuing a certificate.

#### 12:103-3.4 Issuance of certificate

(a) A certificate of registration shall be issued when the provisions of sections 3.1 through 3.3 have been met.

(b) The certificate shall be mailed to the applicant by either registered or certified mail, to the address given by the applicant, except as provided in subsection 3.4(c).

(c) When a delay in procedure of subsection 3.4(b) would cause unnecessary hardship to the applicant, and he has provided sufficient proof of the address claimed and is fully qualified, the certificate may be issued directly to the applicant.

#### 12:103-3.5 Crew leader duties

(a) No crew leader or agent thereof shall redeem any tickets or markers, given to persons engaged in piecework, to tally work performed, for any goods or services provided, but they shall only be redeemed by the crew leader or agent thereof, or the employer, for cash value, from the person to whom issued and such transaction shall be entered in the payroll records.

(b) No ticket or marker shall be used as payment, barter or exchange for any goods or services provided by any other party, but shall only be redeemed by the crew leader or agent thereof, or the employer, for cash value, from the person to whom issued and such transaction shall be entered in the payroll records.

(c) The disclosure of the charges to be made for the crew leader's services shall include prices to be charged for any food, housing, transportation, or services for which money or other valuable consideration is received and which is furnished to the worker by a crew leader or his agent.

(d) A crew leader shall file with the commissioner a correct change of address within 10 days upon each occasion such crew leader permanently changes his address. This permanent address shall be that mailing address where the crew leader can receive timely notice.

12:103-3.6 Hearings

(a) The Office of Agricultural Worker Compliance shall give reasonable notice by personal service or by certified or regular mail to the place of residence of the registrant or applicant. The notice shall be served at least ten days prior to the date of hearing.

(b) Failure of the registrant or applicant to receive such notice due to misrepresentation of address or refusal to accept notice, shall be considered prejudicial and the Office of Agricultural Work Compliance shall be deemed to have acted in good faith and to have fulfilled its' obligation as to reasonable notice.

(c) Should a person fail to appear at a hearing after reasonable notice and without valid excuse, the hearing shall then proceed, and the results shall be published.

(d) Reasonable notice shall be given, to the registrant or applicant of the decision of such hearing in a like manner as the notice of the hearing.

(e) Any registrant whose certificate has been suspended or revoked, or any crew leader who is holding a certificate that has been suspended or revoked, shall, upon receiving notice of such action, surrender the registration document to the Office of Agricultural Worker Compliance without delay.

APPENDIX A

AVAILABILITY OF STANDARDS AND PUBLICATIONS REFERRED TO IN THIS CHAPTER

A copy of each of the standards and publications referenced in this chapter is on file and may be inspected at the following office of the Division of Workplace Standards between the hours of 9:00 AM and 4:00 PM on normal working days:

State of New Jersey  
Department of Labor and Industry  
Division of Workplace Standards  
Labor and Industry Building, Room 1103C  
Trenton, New Jersey

Copies of the referenced standards and publications may be obtained from the organizations listed below. The abbreviations preceding these standards and publications have the following meaning and are the organizations issuing the standards and publications listed.

CFR                      Code of Federal Regulations  
Copies available from:  
Superintendent of Documents  
U.S. Government Printing Office  
Washington, D.C. 20402

NJSA                      New Jersey Statutes Annotated  
Copies available from:  
Office of Agricultural Worker Compliance  
Department of Labor and Industry  
Post Office Box 2039  
Trenton, New Jersey 08625

<u>No. of Edition</u>	<u>Title</u>
29 CFR Part 620	Housing for Agricultural Workers
29 CFR Part 1910.142	Temporary Labor Camps
NJSA 34:8A-7 et seq.	Crew Leader Registration Act