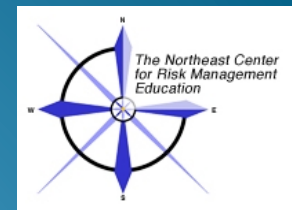


Labor Regulations & Record Keeping

Alison M. De Marree
NYS Fruit & Vegetable Expo
Syracuse, New York
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Why Keep Records?

- To PROTECT your business against government agency audits (non-compliance fines) and lawsuits.
- To increase profits, efficiencies, return on investment by monitoring labor use and expense as related to the income generated by various enterprises.
- To evaluate progress by comparing set standards from one year to the next



Forms To Use When Hiring / Rehiring

1. I-9 Form

3. Farm Work Agreement / H-2A Work Order

5. Form W – 4 (2011)

Employee's Withholding Allowance Certificate

4. Form IT-2104 (2011)

Employee's Withholding Allowance Certificate

6. Form LS 52 (10/09)

Notice & Acknowledgement of Wage Rate & Designated
Payday Hourly Rate Plus Overtime

Federal Labor Regulations: To Whom Do They Apply?

Farms with 500 Man Days in Previous Year Calendar Quarter

| Week | 2009 | # of workers | # of Days | MAN DAYS |
|------|---------|-----------------|--------------|-------------|
| 1 | 7/3/09 | 5 | 5 | 25 |
| 2 | 7/10/09 | 5 | 5 | 25 |
| 3 | 7/17/09 | 5 | 5 | 25 |
| 4 | 7/24/09 | 5 | 5 | 25 |
| 5 | 7/31/09 | 5 | 5 | 25 |
| 6 | 8/7/09 | 5 | 5 | 25 |
| 7 | 8/14/09 | 7 | 6 | 42 |
| 8 | 8/21/09 | 7 | 6 | 42 |
| 9 | 8/28/09 | 7 | 6 | 42 |
| 10 | 9/4/09 | 8 | 6 | 48 |
| 11 | 9/11/09 | 10 | 6 | 60 |
| 12 | 9/18/09 | 10 | 6 | 60 |
| 13 | 9/25/09 | 10 | 6 | 60 |
| | | | | 504 |



Highlights of Applicable Federal Regs.

- **Migrant and Seasonal Worker Protection Act**
 - Housing statement
 - Work conditions / agreement **when recruiting**
 - Wage statement: **weekly** hours & **weekly** summary of piecework & rates
 - Records: **daily** hours & **daily** piecework with rates
 - Inspection of vehicles transporting workers
 - Housing inspection even if only ONE migrant worker (USDOL inspection)
- **OSHA Field Sanitation Standards**
 - Potable water - enough for each worker
 - field toilets (2 if 20 or more workers)
- **Fair Labor Standards Act** (if sending fruit out of state or if handling fruit other than your own)
 - **record daily start and end times for each employee – keep 2 years**
 - employee's permanent address must be on pay statement

H-2A Temporary Labor

- Adverse effect wage rate for all employees doing the same work
- \$10.16 per hour in 2010
- Must apply for work order certification 60 days before date of need & complete I-129 USCIS form when approved by USDOL
- Must keep records of US citizens applying for jobs, reasons not hired & complete 2 reports for USDOL
- Must provide housing, transportation & reimburse travel & subsistence while travelling to & from work site from permanent address
- Must keep track of hours offered to each employee & include this on their pay statement (in addition to summary of hours worked, piecework rates & amounts)
- Daily records of hours worked by the piece & hour, rates paid, description piecework completed (bins, volume, etc.)



NYS Regulations that Apply

- **NYS Minimum Wage Order**
 - Wage statements, daily records: pieces, rates, hours worked
- **Portable Toilets & Potable Water in Field**
- **Grower Registration: Bringing in 5 or More Workers**
- **Grower Registration if Using Crew Leader**
- **Dept of Health Inspection of Farmworker Housing**
(5 or more workers)
- **Child Labor Laws**
- **Organic Growers: Unpaid Interns are Illegal in NYS!**

NYS Posters Required By Law

| | |
|---------------------|---|
| LS-110 (11-90) FARM | Summary of Minimum Wage Order for Farm Workers |
| LS-309 (1-86) | Your Farm Work Agreement with Wage Ranges |
| IA 133 (4-03) | Unemployment Insurance Notice to Employees |
| LS-113.1 (3-04) | Farm Labor Contractor Registration/Labor Camp Commissary Permit |
| LS-113 (2-04) | Grower Certificate of Migrant Registration |
| DOH-1320(9/91) | NYSDOH Permit to Operate a Labor Camp |
| No number | Prohibiting sexual orientation or military status discrimination |
| 2706 | The Right To Know Poster (health effects/hazards of workplace toxins) |
| C-105(10-97) | Notice of Compliance to Workers Comp Law |
| 64-1637(2/98) | |

Federal Posters Required By Law

- EEOC-P/E-1 (Revised 9/02) Equal Employment Opportunity is the Law
- WH Pub. 1462 Sept 1988 Employee Polygraph Protection Act
- WH Pub. 1386 Ag Employee Rights Under the Fair Labor Standards Act
Revised 7/98
- OSHA 3165 Employee Right to A Safe & Healthful Workplace
- WH-516 Rev 5/96 MSPA Worker Info -Terms & Conditions of Employment in language employee can understand
- OMB #1215-0146 Housing Terms & Conditions
- OSHA No. 200 OSHA's Form 300A Listing Injuries & Accidents
- WH Pub 1376 Rev 4/83 Migrant & Seasonal Agricultural Worker Protection Act Notice
- WHD 1491 Feb 2010 Employee Rights Under the H-2A Program



State & Federal Posters Available for Purchase

- Ag Affiliates has 2 giant posters (one covering NYS laws, the other covering Federal Laws) for sale
- include most of the posters required by law for:
\$29.50- \$39.40 if you are a member or
\$39.50-\$49.50 each if you are not a member.

Contact Paul Baker to order at 716-807-6827 or
fax 616-219-4089 or email at pbaker.ag@roadrunner.com

Bin Tickets: Yields by Block, Picker, Variety

Farm Name Here

Farm Address Here

Picker No. _____

Orchard No. _____

Date: _____

Variety/Strain _____

FRESH

PEELER

JUICE

GingerGold

AutumnCrisp

Honeycrisp

McIntosh

Gala

Cortland

Acey Mac

Macoun

Golden

CrimsonCrisp

20 Oz

RI Greening

Empire

Red Delicious

N. Spy

Ben Davis

Fortune

Jonagold

Crispin

L. Rome

Idared

Rome

Cameo

Fuji

Braeburn

Inspector # 1 2 3

Daily/Weekly Piecework Records

| | | | | | | | | | | | | | | |
|----------------|-----|-----------|----------------|--------|----------------------|---------|---------|---------|---------|---------|---------|----------|---------|---------|
| Farm Name: | | | | | | | | | | | | | | |
| 9/9/10 | | | Hours | Piece | Picking by the piece | | | | | | 9/9/10 | Earnings | | |
| Thurs | Emp | Hrly | Paid | Hours | bin | bin | bin | bin | bin | bin | bin | Thurs | per | Total # |
| Name | # | Employees | by Hr | Worked | \$22.00 | \$20.00 | \$18.00 | \$15.00 | \$12.00 | \$10.00 | \$10.00 | Totals | hour | of bins |
| Crew #1 | | | block number > | | | | | | | | | \$ | | |
| | 1 | | | | | | | | | | | 0.00 | #DIV/0! | 0.00 |
| | 2 | | | | | | | | | | | 0.00 | #DIV/0! | 0.00 |
| | 3 | | | | | | | | | | | 0.00 | #DIV/0! | 0.00 |
| | 4 | | | | | | | | | | | 0.00 | #DIV/0! | 0.00 |
| | 5 | | | | | | | | | | | 0.00 | #DIV/0! | 0.00 |
| | 6 | | | | | | | | | | | 0.00 | #DIV/0! | 0.00 |
| | 7 | | | | | | | | | | | 0.00 | #DIV/0! | 0.00 |
| | 8 | | | | | | | | | | | 0.00 | #DIV/0! | 0.00 |
| | 9 | | | | | | | | | | | 0.00 | #DIV/0! | 0.00 |
| | 10 | | | | | | | | | | | 0.00 | #DIV/0! | 0.00 |
| | 11 | | | | | | | | | | | 0.00 | #DIV/0! | 0.00 |
| | 12 | | | | | | | | | | | 0.00 | #DIV/0! | 0.00 |
| | 13 | | | | | | | | | | | 0.00 | #DIV/0! | 0.00 |
| | 14 | | | | | | | | | | | 0.00 | #DIV/0! | 0.00 |
| | 15 | | | | | | | | | | | 0.00 | #DIV/0! | 0.00 |

Another Daily Field Record Example

| Harvest Log by Bin Trailer | | | | | | | | | | | | | Date : _____ | | | | | | |
|------------------------------------|--------------|-----------------------|------|-----|-----|-----------|--------|------|-----------|------|-----|-----|--------------|-----|---------|-----------|-----------|-----------|------------|
| Bin Trailer # : _____ | Day of Week: | THU | FRI | SAT | SUN | MON | TUE | WED | | | | | | | | | | | |
| Picking by the hour > AM | start: | AM | end: | | | PM | start: | | PM | end: | | | | | | | | | |
| Picking by the piece >AM | start: | AM | end: | | | PM | start: | | PM | end: | | | | | | | | | |
| 30 min lunch hr: | | | | | | | | | | | | | | | | | | | |
| | | | 7am | 8am | 9am | 10am | 11am | noon | 1pm | 2pm | 3pm | 4pm | 5pm | 6pm | | Fr | Pr | Ju | Day |
| | Block # > | | | | | | | | | | | | | | end | T | T | T | T |
| | Variety > | | | | | | | | | | | | | | of | O | O | O | O |
| LATE | start | | Fr | Fr | Fr | Fr | Fr | Fr | Fr | Fr | Fr | Fr | Fr | Fr | day | T | T | T | T |
| OR | | | Pr | Pr | Pr | Pr | Pr | Pr | Pr | Pr | Pr | Pr | Pr | Pr | ticket | A | A | A | A |
| LEFT | Picker | | Ju | Ju | Ju | Ju | Ju | Ju | Ju | Ju | Ju | Ju | Ju | Ju | control | L | L | L | L |
| early | # | Picker Name | 7am | 8am | 9am | 10am | 11am | noon | 1pm | 2pm | 3pm | 4pm | 5pm | 6pm | # | S | S | S | S |
| | | | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | | | |
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| | | | | | | | | | | | | | | | | | | | |
| | | crew together: | | | | | | | | | | | | | | | | | |
| | | juice | | | | | | | | | | | | | | | | | |
| | | process | | | | | | | | | | | | | | | | | |
| | | fresh | | | | | | | | | | | | | | | | | |
| Missing Picker / Other Info: | | | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | | | |
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| | | | | | | | | | | | | | | | | | | | |

QC Inspector Initials: _____

Wage Statements

1

Tremendous Tree Fruit Farm

1234 Hard Knock Road, Sodus, N.Y. 14551

2011 Employee Pay Statement

Fed. Emp ID #

16-000001

Employee Permanent Address:

| Name | | Employee Permanent Address: | | | | | | | | | | | |
|--------|------------------------|-----------------------------|------|------|------|------|------|------|-------------|-----|--------|--|--|
| Hugh | | 8/27 | 8/28 | 8/29 | 8/30 | 8/31 | 9/1 | 9/2 | Total | | | | |
| S.S. # | 000-00-0000 | Thurs | Fri | Sat | Sun | Mon | Tues | Weds | hrs | pcs | Rate | Gross Earnings | |
| Number | Hours offered > | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | | | | |
| 529327 | Hours worked > | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | | | | |
| | Hourly work > | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | | \$9.70 | Earning: hrs paid by the hr > \$0.00 | |
| | Fresh Fruit Rate 5 > | | | | | | | | 0.00 | | 0.00 | Description of piece work unit: volume/size > 0.00 | |
| | Fresh Fruit Rate 4 > | | | | | | | | 0.00 | | 0.00 | > 0.00 | |
| | Fresh Fruit Rate 3 > | | | | | | | | 0.00 | | 0.00 | > 0.00 | |
| | Fresh Fruit Rate 2 > | | | | | | | | 0.00 | | 0.00 | > 0.00 | |
| | Fresh Fruit Rate 1 > | | | | | | | | 0.00 | | 0.00 | > 0.00 | |
| | Process Fruit Rate 3 > | | | | | | | | 0.00 | | 0.00 | > 0.00 | |
| | Process Fruit Rate 2 > | | | | | | | | 0.00 | | 0.00 | > 0.00 | |
| | Process Fruit Rate 1 > | | | | | | | | 0.00 | | 0.00 | > 0.00 | |
| | Picked Juice | | | | | | | | 0.00 | | 0.00 | > 0.00 | |
| | Drops / Juice > | | | | | | | | 0.00 | | 0.00 | > 0.00 | |
| | | | | | | | | | 0.00 | | | Adjustment/Supplement if necessary > > | |
| | | | | | | | | | | | | per hour > #DIV/0! Gross Pay > \$0.00 | |
| | | | | | | | | | | | | Social Security \$0.00 | |
| | | | | | | | | | | | | Federal Tax Withholding \$0.00 | |
| | | | | | | | | | | | | State Tax Withholdin \$20.00 /wk \$0.00 | |
| | | | | | | | | | | | | Insurance 0.00 | |
| | | | | | | | | | | | | Total Deductions \$0.00 | |
| | | | | | | | | | | | | Net Earnings \$0.00 | |
| | Picker Number > | | | | | | | | | | | | |
| | | | | | | | | | | | | Hugh | |

Withheld at Worker's Request

Hugh



Electronic Records

- Use of spreadsheets & smart phones
- Summarizing daily records on spreadsheets
- Back Ups!
- Hard Copies in Files



For More Information:

- Please contact Alison DeMarree
- amd15@cornell.edu – be sure to note the nature of your request in the subject line
- Our website: www.fruit.cornell.edu/lof/ has many forms under the business & labor management section