

Cornell Cooperative Extension

Finger Lakes Grape Program



October 5th, 2022

Finger Lakes Vineyard Update

New York Farm Laborer Overtime Threshold to Decline

Richard Stup, Cornell Ag Workforce Development Program



New York's state government took another major step toward reducing the farm laborer overtime threshold on September 30, 2022. Labor Commissioner Roberta Reardon issued a [press release](#) and official [order](#) accepting the findings of the [Farm Laborer Wage Board report](#). The NY State Department of Labor will now begin a rule making process to make the Commissioner's order formally a state regulation, this process will include a 60-day public comment period. This is the conclusion of a long and controversial political process that started with the 2019 passage of the Farm Laborer's Fair Labor Practices Act (FLFLPA) in 2019, and continued through 14 lengthy public meetings and hearings of the wage board.

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What changes will happen and when?

The overtime threshold for farm laborers is currently at 60 hours per week. This will not change for the rest of 2022 and for all of 2023. The overtime threshold will begin to decline on January 1, 2024 by dropping to 56 hours per week, and then it will continue to decline by four hours every other year after that until it reaches 40 hours per week in 2032. Here is the schedule:

- January 1, 2024, the threshold declines to 56 hours;
- January 1, 2026, the threshold declines to 52 hours;
- January 1, 2028, the threshold declines to 48 hours;
- January 1, 2030, the threshold declines to 44 hours;

January 1, 2032, the threshold declines to 40 hours, and remains there.

Farm employers will be responsible for paying farm laborers 1.5 times their regularly hourly rate for any hours worked above the weekly overtime threshold. Note that overtime is only payable to those who meet the definition of "farm laborer." While this includes most farm employees, it does not include many [family employees](#) who are related to a farm owners, and some employees who are exempt from overtime due to their status as executive, professional, or administrative employees. Visit [this page](#) on the Cornell Ag Workforce website to view a [presentation](#) that explains this in more detail. One key point to note, just paying an employee via salary DOES NOT exempt them from overtime, they must qualify to be exempt from overtime based on their relationship to the owner or their job qualification as executive, professional, or administrative.

What about the tax credit for overtime?

With the 2022-23 Budget Act, New York state government created a new tax credit that will essentially cover the cost of overtime for farm employers. While this tax credit is technically effective now, it is not relevant because the required overtime threshold remains at 60 hours per week. Note, tax credits are only available for **state required** overtime, those employers who currently pay overtime voluntarily below 60 hours per week are not eligible for the tax credit.

New York Farm Laborer Overtime Threshold to Decline (continued from page 1)

Here are a few details about the tax credit:

1. Farm employers who are corporations (including a New York S corporation), sole proprietorships, LLCs and partnerships are eligible.
2. Only “farm laborers” as defined in NY labor law are eligible employees. This makes sense because these are the only types of employees for whom overtime is required; family members and certain executives, professionals, and administrative personnel are excluded.
3. Eligible overtime hours include those in any calendar week that exceed the overtime threshold set by the commissioner of labor, up to 60 hours in a week. This is important, only those hours between the threshold and 60 hours are reimbursable through the tax credits, any overtime hours worked above 60 will not be reimbursed to the employer.
4. Farm wineries and cideries who derive more than 50% of their income from beverage sales will need to follow some special rules. Only workers employed on qualified agricultural property will be eligible for the tax credit.
5. Only the overtime premium is reimbursable through the tax credit. For example, if the threshold is at 56 hours in 2024, and an employee whose regular pay is \$18/hour works 58 hours in one week that year, then she will be eligible for two hours of overtime pay. Overtime is 150% of regular pay so she will earn \$27 for each overtime hour worked. Only the overtime premium, the extra \$9/hour over her regular rate, is eligible for reimbursement through the tax credit.
6. When pay goes up, marginal costs such as taxes and worker’s compensation premiums also go up. Recognizing this, the overtime tax credit will allow employers to take 118% of the eligible overtime compensation to cover those additional costs.
7. Advance payments of tax credits for overtime premiums paid from January 1st to July 31st are possible. To receive advance payments, employers will need to prepare their claim and submit it to the NYS Department of Agriculture and Markets.

NYS Ag and Markets will be involved in this process. They will develop an application process that employers will use to document their claim for the tax credit. Ag & Markets will then issue a certificate of tax credit to eligible employers. All the details of this process will need to be worked out.

Obviously, there are many details to work out before January 1, 2024. Farm employers need to pay careful attention to their employee payroll record systems. It is important to have accurate and detailed records of employee hours worked and overtime paid in order to take advantage of this important and potentially large tax credit.

Where do we go from here?

New York farmers are intelligent, resilient, and adaptable, all of those qualities will be required in abundance for the years ahead. The best farm managers will continue to sharpen their leadership and employee management skills in order to recruit and retain the most effective and productive employees. New York farmers will adopt technologies and automation when it makes economic sense, and that automation will replace some farm labor, while it augments and increases the value of other skilled farm labor that remains. The state tax credit will shift part of the cost of overtime to the people of New York, rather than causing farm employers to bear it alone. This shift will benefit farm employees who will likely work some overtime hours in New York, rather than face the serious reductions in work hours, and weekly income, that California and Washington farm employees [are reportedly](#) experiencing.

Going forward, as it has been in the past, the theme for farm employers will be to adapt and create something new, even in the face of adversity.

Labor Roadshow VI

New York's Ag Workforce Development Council (AWDC) [Labor Roadshow VI](#) heads back on the road with three in-person sites and one online option for 2022. The program will run from 8:30 am to 4:30 pm. [Registration](#) is required, and payment of \$65 per person is collected on site. Agenda, registration, and more details are available at agworkforce.cals.cornell.edu/labor-roadshow-v.

- **November 9:** Genesee Community College-Batavia Campus, One College Road, Batavia, NY 14020-9704. Room T119 Lecture Hall, Conable Technology Building.
- **November 10:** Cayuga-Onondaga BOCES, 1879 West Genesee Street Rd, Auburn, NY 13021. Conference Room 1, 2, 3.

Online Option: on November 10, 2022 only, the event will be broadcast for remote audiences and recorded for paid registrants to view later.

- **November 22:** CCE Saratoga Auditorium, 50 West High Street, Ballston Spa, NY 12020.
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Labor continues to be the primary challenge for many farm businesses and Labor Roadshow VI tackles those challenges head-on with topics:

- Attracting and retaining your farm workforce
- Management strategies in a union eligible work environment
- TN Visas: Introduction to the program and best practices for using
- The H-2A Program: Accessing guest workers for all types of farms
- Producer's real-world experiences with H-2A
- Farm Safety: Real world tips for building a strong safety culture
- Farm-provided employee housing management and development

Ag Workforce Development Council member organizations include: NEDPA, Cornell Cooperative Extension, Cornell Agricultural Workforce Development, Cayuga Marketing, AgriMark, Upstate Niagara, New York Farm Bureau, New York Vegetable Growers Association, New York Animal Ag Coalition, Agri-Placement Services, New York Horticultural Society, Dairy Farmers of America, Farm Credit East, Gray & Oscar LLC.



RMA Adds Saperavi and Zweigelt to Crop Insurance Policies

The following article was provided by DeAnna Darling of Crop Growers to inform grape growers of this change in crop insurance policies. - Hans

Starting in the 2023 crop year, which will begin for perennial crops on November 20, 2022, two additional grape varieties will be eligible to be insured under their own type classification: Saperavi and Zweigelt. This is due in part to a request made by a Finger Lakes grower who felt that the varieties were being undervalued by remaining in the “All Other Vinifera” type. Thanks to this grower advocating for these varieties, we were able to assist him in recommending this change to USDA’s Risk Management Agency. Finger Lakes sales data was included in the research to support the change. The price per ton in the event of a loss are as follows:

Saperavi \$1,000/ton

Zweigelt \$1,755/ton

While there is a lag between actual market pricing received, this is a win for local growers with these varieties so their policies can more accurately reflect their crop’s insurable value. If you are currently insured, your Crop Insurance Agent should be aware of these changes, however, be sure to discuss breaking out these varieties in their own type class prior to the Sales Closing date of November 20. If you would like to sign up for a crop policy please reach out to [Crop Growers](#) or find another agent [here](#).

For more information on the Grape Crop Insurance Policy, visit: [Grape Policy Factsheet](#)

Crop Growers, LLP is an equal opportunity provider.

Short Survey on Herbicide Resistance

Lynn Sosnoskie - Assistant Professor of Weed Science, Cornell AgriTech

With the recent documentation of evolved herbicide resistance in New York, including Palmer amaranth (glyphosate, ALS-inhibitors), waterhemp (glyphosate, ALS-inhibitors), horseweed (glyphosate, ALS-inhibitors, paraquat), lambsquarters (bentazon), Cornell wants to better understand the current “state of the state” with respect to herbicide performance and failure.

Specifically, we are surveying growers/land managers/crop consultants/extension specialists/industry personnel, etc., across cropped (e.g. agronomic, vegetable, fruit), ornamental/horticultural (e.g. Christmas tree farms, golf courses), and non-cropped (e.g. industrial, roadsides) systems in NY to describe the distribution of herbicide resistance in the state.

This survey is VERY SHORT and should be QUICK to answer. It is also COMPLETELY ANONYMOUS. Your responses will help Cornell weed scientists plan future research and extension projects.

You can access the survey using the link below.

https://cornell.ca1.qualtrics.com/jfe/form/SV_a2F9urYcHjpl5Ay

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Free Mental Health First Aid Trainings for Ag Communities of New York State

Did you know that farmers are more likely than the general population to die by suicide?

NY FarmNet is collaborating with county Cornell Cooperative Extension offices this fall to offer free, full day, in person Mental Health First Aid (MHFA) courses. Farmers, agribusiness workers, and anyone who interacts with the agricultural community in New York is encouraged to attend. Trainings run from 8am to 5pm, and lunch will be provided from a local eatery with a one hour break.

Mental Health First Aid teaches you how to identify, understand, and respond to signs of mental health and substance use challenges among adults. You'll build skills and confidence you need to reach out and provide initial support to those who are struggling. You'll also learn how to help connect them to appropriate support.

After the course, you will be able to:

- Recognize common signs and symptoms of mental health and substance use challenges.
- Understand how to interact with a person in crisis and connect them with help.
- Use self-care tools and techniques.

The instructors for these courses are part of a recently trained cohort that work within the NY agricultural community. They include representatives from NY FarmNet, Cornell Cooperative Extension, Farm Bureau, Young Farmers Coalition, NY Center for Ag Medicine and Health (NYCAMH), and Black Farmers United NYS.

Scheduled full day MHFA trainings for this fall include:

- Tuesday, October 18th in Hudson/Columbia County
- Wednesday, October 19th in Cortland/Cortland County
- Friday, October 21st in Ithaca/Cornell University/Tompkins County
- Tuesday, October 25th in Middletown/Orange County
- Wednesday, November 2nd in Binghamton/Broome County
- Monday, November 7th in Lockport/Niagara County
- Tuesday, November 8th in Fonda/Montgomery County

To register, go to www.nyfarmnet.org/trainings. If we don't yet have a training scheduled in your area, check back soon, or contact NY FarmNet at 1-800-547-3276 or nyfarmnet@cornell.edu.

These free trainings are made possible by funding from the United States Department of Agriculture's National Institute of Food & Agriculture. They have invested nearly \$25 million in addressing farmer behavioral health on a state by state basis as part of the Farm and Stress Assistance Network (FRSAN) through state Departments of Agriculture.

This work is supported by 7 U.S.C. 5936, Section 7522 of FCEA of 2008, Farm and Ranch Stress Assistance Network (FRSAN), Grant No. 2021-70035-35550, from the U.S. Department of Agriculture, National Institute of Food and Agriculture.



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Upcoming Events

Upcoming Events

Don't forget to check out the calendar on our website (<http://flgp.cce.cornell.edu/events.php>) for more information about these and other events relevant to the Finger Lakes grape industry.



B.E.V. NY 2023 – SAVE THE DATE!

Tuesday, March 28 – Thursday, March 30

Conference Website: <http://www.bevny.org>

LIVE AND IN-PERSON IN 2023!! Be sure to plan to join us for B.E.V. NY this winter. We're working out a few final details before putting out more information but be sure to put the dates on your calendar now!

Unified Wine & Grape Symposium

January 24 – 26, 2023

SAFE Credit Union Convention Center

Sacramento, CA

Website: <https://www.unifiedsymposium.org/>

The Big Kahuna of industry meetings and trade shows, the Unified Symposium features a wide array of talks from industry and scientific professional on all manner of topics related to marketing and sales, winemaking and grape growing. The trade show features over 750 exhibitors from all over the world. If you're in the U.S. grape and wine industry, you really should attend Unified at least once in your life. You get a much bigger perspective on the national and global industry at this event.

2022 GDD & Precipitation

FLX Teaching & Demonstration Vineyard – Dresden, NY					
Date	Hi Temp (F)	Lo Temp (F)	Rain (inches)	Daily GDDs	Total GDDs
9/28/22	57.0	52.0	0.18	4.5	2848.1
9/29/22	58.3	42.1	0.02	0.2	2848.3
9/30/22	59.9	39.6	0.00	0.0	2848.3
10/1/22	65.3	48.0	0.00	6.7	2855.0
10/2/22	59.0	46.8	0.00	2.9	2857.9
10/3/22	57.9	38.8	0.00	0.0	2857.9
10/4/22	57.4	47.1	0.00	2.3	2860.1
Weekly Total			0.20"	16.5	
Season Total			18.10"	2860.1	

GDDs as of October 4, 2021: 2942.6

Rainfall as of October 4, 2021: 24.89"



Seasonal Comparisons (at Geneva)

	2022 GDD ¹	Long-term Avg GDD ²	Cumulative days ahead (+)/behind (-) ³
April	58.3	62.9	-2
May	337.8	254.6	+7
June	506.9	484.1	+6
July	676.2	645.5	+7
August	530.0	595.7	+11
September	374.3	359.9	*
October	6.3	112.8	*
TOTAL	2639.2	2515.5	

¹ Accumulated GDDs for each month.

² The long-term average (1973-2021) GDD accumulation for that month.

³ Numbers at the end of each month represent where this year's GDD accumulation stands relative to the long-term average. The most recent number represents the current status.

2022 GDD & Precipitation

Precipitation

	2022 Rain ⁴	Long-term Avg	Monthly deviation from avg ⁶
April	2.00"	2.83"	-0.82"
May	1.66"	3.09"	-1.43"
June	5.18"	3.52"	+1.66"
July	1.95"	3.46"	-1.51"
August	2.18"	3.22"	-1.04"
September	3.90"	3.46"	+0.44"
October		3.47"	
TOTAL ⁴ Monthly rainfall totals up to current date	12.97"	23.05"	

⁵ Long-term average rainfall for the month (total)

⁶ Monthly deviation from average (calculated at the end of the month)

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October 5th, 2022

Additional Information

Become a fan of the [Finger Lakes Grape Program on Facebook](#), or follow us on [Twitter \(@cceflgp\)](#) as well as YouTube. Also check out our website at <http://flgp.cce.cornell.edu>.

Got some grapes to sell? Looking to buy some equipment or bulk wine? List your ad on the [NY Grape & Wine Classifieds website](#) today!

Finger Lakes Grape Program Advisory Committee

Eric Amberg- Grafted Grapevine Nursery

Bill Dalrymple- Dalrymple Farm

Matt Doyle- Doyle Vineyard Management

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Cornell Cooperative Extension Finger Lakes Grape Program

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The Finger Lakes Grape Program is a partnership between Cornell University and the Cornell Cooperative Extension Associations in Ontario, Seneca, Schuyler, Steuben, Wayne and Yates Counties.

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