

Winter Rows- Kim Knappenberger

CROP UPDATE December 1, 2022

Cornell Cooperative Extension Lake Erie Regional Grape Program



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<u>Click here to</u> watch Podcasts

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The Lake Erie Regional Grape Program is a Cornell Cooperative Extension partnership between Cornell University and the Cornell Cooperative Extensions in Chautauqua, Erie and Niagara county NY and in Erie County PA. Chautauqua County Farm Bureau® is working hard to gain workforce options, retain necessary protectants, and ensure policy that benefits our growers



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Don't miss this opportunity!

<u>REGISTER</u> for the December 9, 2022- Virtual Event-"Spray Program- What's Your Plan?" 9:00am- Noon

Speakers: Dr. Kaitlin (Katie) Gold, Assistant Professor of Grape Pathology, School of Integrative Plant Science, Cornell University and Bryan Hed, Research Technologist (Plant Pathology), Lake Erie Regional Grape Research and Extension Center.

This meeting is intended to be interactive so that growers will have the ability to ask questions concerning specific pest problems or potential problems in the 2023 season. Topics that will be addressed include: timing of spray applications at critical growth stages; pesticide options, efficacy; and resistance management.

Register by December 7th!

Kevin Martin, Penn State University, LERGP, Business Management Educator

NYS Labor Law Updates

There are no significant changes in labor laws in PA that I have been made aware of. The last big changes to PA labor came when the minimum weekly payment for exempt status was increased to \$644 on a federal level.

Nationally, minimum wage trends are being taken over by the states. PA and some other states are now an exception to the general rule. Average state minimum wages will increase from \$9.91 to at least \$10.20 per hour. This along with other indicators is evidence of the irrelevance of minimum wage, particularly in the North East region. Increasing minimum wages to \$10 now has very little impact on actual wages. The minimum wage in NY will increase to \$14.20 on December 31st. It will likely increase to \$15.00 on December 31, 2023. That will not officially be announced until sometime in 2023 but it does nearly follow the recent pattern of .70 cent increases.

Overtime rules for agricultural have been approved. For 2022 and 2023 there are no changes to overtime for farm workers. The rules still require 1.5x pay for work on the day of rest or above 60 hours. The phase down begins 1/1/2024.

Start Date	Hours
January 1, 2024	56
January 1, 2026	52
January 1, 2028	48
January 1, 2030	44
January 1, 2032	40

The current overtime threshold will remain the financial burden of the farm operation. The desire of much of the labor board and government policy was to reduce the number of individuals working more than 60 hours a week to improve health and safety on the job. NYS is currently budgeting and planning to provide a 118% tax credit for overtime costs that are incurred because of these lower thresholds.

For more information on how farmers have been impacted by the current overtime rule check out the following <u>article online</u> or read here in our Crop Update.

NY FARM WORKFORCE IN TRANSITION

October 19, 2022

How New York Farmers Adapted to New Farm Labor Overtime Requirements

Richard Stup, Elizabeth Higgins, Jason Karszes, Bradley Rickard, and Christopher Wolf

INTRODUCTION

New York state government passed the Farm Laborer Fair Labor Practices Act (FLFLPA) in 2019, which took effect on January 1, 2020. FLFLPA required overtime pay at 1.5 times the regular rate of pay for any hours worked more than 60 hours per week. It also required a weekly day of rest and mandated overtime pay for any employees who voluntarily worked on their day of rest.

These overtime rules applied to most farm employees who were not in management positions or members of the owner's immediate family. These state employment changes occurred in the context of significant, long-term changes in the farm labor market driven by a declining supply of willing and available farm labor, and overall upward pressure on farm wages.

As part of a multi-year research project, Cornell Agricultural Workforce Development is studying how farm employers are adapting to rapidly changing labor markets and regulations. The research objectives are to help farmers adapt in ways that will support farm profitability, increase employee productivity, and encourage employee retention. This report focuses on how New York farm employers adapted to the overtime requirements under FLFLPA.

METHODS

We used a mail survey, with optional online completion, to reach a broad group of New York (NY) farm businesses. About 30 of the farms received farm visits from project researchers to complete the survey.

These farm businesses can be categorized into two broad groups:

- specialty crop farms, including fruit, vegetable, and greenhouse operations
- dairy, livestock, and field crop operations

These farm types were chosen because they represent the largest farm employers in the state by total number of employees (NASS, 2019). The vast majority of respondents in the latter group were from dairy farms, so "dairy" is used to refer to this group.

Lists of farm businesses were assembled from multiple sources: farm organization memberships, extension contacts, participating farms in the H-2A seasonal worker program, and from commercially available business lists. The lists were merged and checked for duplicates.

This survey was conducted during the COVID-19 pandemic, and multiple COVID challenges forced delays. Ultimately, the survey was distributed in the fall of 2021, during the busy harvest season for all types of New York farms. This circumstance undoubtedly depressed the survey response rate. Further, none of the farm employer lists used included an accurate way to select for larger farms that were more likely to have employees, so farms of all sizes were included in the survey. It is possible that most small farms without employees simply discarded the survey concluding it was irrelevant to them.

A total of 3,119 surveys were mailed, 110 were undeliverable, 62 responded that they had no employees, 27 indicated they were not a farm, and 21 others refused to respond to questions on this topic, leaving 2,899 farms from the initial mailing. Out of this initial group of 2,899, 162 valid survey responses were received, yielding an overall response rate of 5.6 percent.

Farmers were asked to provide information about the years 2019 and 2020 because January 1, 2020 represented the beginning of significant changes to NY farm employment regulations. This report is focused on the overtime-related questions from the survey. Response categories for these questions were based on earlier analysis by Eiholzer et al. (2019) who articulated the requirements of FLFLPA and possible management strategies that farms could use to adapt.

How did farm employers adapt to overtime?

One of our survey questions asked farm employers: "How did your farm adapt to the new overtime requirement for farm laborers implemented by New York State in 2020? This is the requirement that overtime (1.5 times regular pay) must be paid for any hours worked more than 60 hours per week." Table 1 summarizes the responses of specialty crop and dairy farms to this question, and the results are described below.

SPECIALTY CROP FARMS

By far the most frequent response from over 70 percent of specialty crop employers was that they "implemented tighter control of employee performance and hours worked." The next most common response, at 43 percent, was from farms that continued employment as usual and just paid for any overtime hours worked. It's important to note here that most specialty crop employers, even before the new overtime regulations, rarely had employees work more than 60 hours per week, so overtime pay was not typical under normal conditions (Wolf et al., 2021).

Other common responses indicated that farms invested in machinery or equipment to boost labor productivity (38 percent), or simply eliminated certain production tasks that were nonessential (31 percent). An "other" option was provided so that employers could write in any other strategies they used that the survey did not specifically list. Multiple specialty crop growers responded that they eliminated crops or left them in the field, and that they used "hard stops" to work to avoid paying any overtime. In other words, work stopped regardless if it was complete.

TABLE 1Farm employer strategies to adapt to overtime

	Specialty Crop (n=65)		D (n	Dairy (n=74)	
	Count	Percent*	Count	Percent*	
Implemented tighter control of employee performance and hours worked	46	71%	49	66%	
Continued employment as usual and just paid for overtime hours worked as required	28	43%	25	34%	
Invested in machinery or equipment to improve labor productivity	25	38%	34	46%	
Eliminated or reduced non-essential production tasks	20	31%	13	18%	
Hired additional employees to reduce or eliminate overtime hours worked	19	29%	19	26%	
Other	13	20%	27	37%	
Outsourced existing tasks to reduce labor needs	7	11%	17	23%	
Reduced employee benefits to offset the cost of overtime	4	6%	6	8%	
Reduced base employee pay to offset the cost of overtime	3	5%	5	7%	

* Respondents could choose more than one strategy, so column adds to more than 100. Percent indicates the percent of respondents who chose that strategy.

DAIRY FARMS

Dairy crop farmers also implemented tighter management of employee performance and hours worked, with about 66 percent using that strategy, with results from 74 farms presented in Table 1. Almost half of dairy employers were able to invest in machinery or equipment to improve productivity. This is considerably more than specialty crop employers and may reflect more opportunity to use this strategy for dairy employers. Also, for both employer groups, investments in labor saving machinery and equipment may take some time to plan and implement. This survey covering the first two years of overtime may have occurred before employers could make these types of investments.

Several strategies were written in by dairy respondents with the following two appearing multiple times:

- No change was required as the farm already paid overtime or overtime was not required due to family labor
- Owners, salaried, and part-time workers picked up more work so that hourly employees could stay below the 60-hour threshold

It is important to note that a significant number of both farm employer groups (specialty crop 29 percent, dairy 26 percent) indicated that they "hired additional employees to reduce or eliminate overtime hours worked." This is the time-honored employer strategy to minimize the cost of overtime by spreading total work hours from a smaller group of employees working many hours, to a larger group working a reduced number of hours intended to stay under the overtime threshold.

Also notable is that relatively few employers attempted to offset the cost of overtime by reducing employee pay or benefits. This strategy, of course, would likely cause serious employee dissatisfaction and possibly workforce disruption.

How did overtime affect recruiting new employees?

On our survey we asked farm employers: "How has overtime affected your ability to recruit new employees for your farm?" The response options for this question included: "made it easier, made it harder, or no noticeable difference." Respondents were also asked to share any other comments about how overtime at the 60-hour threshold affected their ability to recruit new employees.

Among the 65 specialty crop employers, none indicated that overtime made recruiting easier, while 32 percent said it made it harder, and 68 percent said it made no noticeable difference. Among the 72 dairy employers, about three percent said overtime made recruiting easier, 26 percent said it made it harder, and 72 percent said it made no noticeable difference.

Specialty crop employers wrote a great number of comments about the effects of overtime on recruiting employees. The overwhelming message was that employees expect and demand to work more hours than the 60-hour overtime threshold enables. This theme was followed in frequency by comments about how farms lack the financial ability to pay overtime. One employer noted "We are not able to provide the extra hours for extra pay anymore. We must also be careful with hourly wages so we can afford the unavoidable overtime in the busy season." Another wrote "We are under extreme competition for employees with industries that can afford to pay higher base wages than farmers can."

Dairy employers also had much to write about 60-hour overtime's effect on recruiting. Their most frequent comment was that overtime had not affected recruiting because they have little turnover and little need to recruit. This was followed by comments about how employees demand to work more hours. Others noted specifically that overtime at 60 hours has little effect on recruiting, but they expected overtime at a lower threshold to make recruiting much more difficult.

How did overtime affect retaining current employees?

Another interesting question that we included asked farm employers to indicate "How has overtime affected your ability to retain current employees on your farm?" Again, respondents could choose: "made it easier, made it harder, or no noticeable difference," and they could write in other comments.

No specialty crop employers said that overtime at 60 hours made retention easier, 26 percent said it was harder, and 74 percent said it made no difference. Among dairy employers we saw a similar pattern: three percent said easier, 26 percent said harder, and 72 percent said it made no noticeable difference.

Specialty crop growers noted that overtime at 60 hours has little impact on retaining current employees, but they expect any lower thresholds to make it harder to retain employees. Another often repeated comment was that employees want and need more hours. One employer put it this way: "The H2A workers who work for us from May to November want and need to work as many hours as possible to care for their families back home. If we limit their hours, they will leave our farm and NY state to seek employment in a state without overtime restrictions." Another farmer wrote: "Two employees I've had for 20 plus years are not returning this year because they want and need more hours. Small farms like mine don't have the ability to increase wages as other fixed costs keep us strapped down."

Dairy employers had similar comments to share about employees wanting more hours: "Employees just want to know how many hours they will get before coming to work for us." Another shared this anecdote: "We attempted to slightly reduce milker's hours in 2021 and had several employees leave. We heard feedback from potential recruits that we couldn't offer enough hours. Current schedule for milkers is 66 hours per week. We had tried changing to average of 58 hours per week and met with resistance."

DISCUSSION

FLFLPA initiated the 60-hour overtime threshold for most farm employees in NY. That same 60-hour threshold was maintained from 2020 until the time of this report in 2022. Farm employers were able to adapt in a variety of ways to the new 60-hour overtime requirement. By far the most common strategy to adapt, used by both specialty crop and dairy farms, was to simply adjust management practices to tighten up control of employee performance and hours worked. In this and previous research (Wolf et al., 2021), employers mentioned a variety of methods to tighten management approaches: stricter scheduling, hard stops for daily work, increased supervision, additional training, etc. Some managers also mentioned that owners and other overtime-exempt employees worked more hours to be sure that overtime-eligible employees did not exceed 60 hours per week. Despite these efforts to control labor costs, Karszes and Wolf (2021) found that labor costs per worker hour for NY farms increased by 5.7 percent from 2019 to 2020, the fastest increase they found over a seven-year period from 2014 to 2020.

Regarding the recruitment of new employees and the retention of current employees, most farm employers said that overtime at 60 hours did not make a noticeable difference. It is not surprising that most farms could adapt to 60-hour overtime without making radical changes because most farm employees already worked close to 60 hours per week. Farm employee compensation studies conducted in 2017 and 2020 (Stup, 2019; Stup, Smith, and Karszes, 2022) found that farm managers worked on average about 54 hours per week in 2017, while frontline employees worked about 56 hours per week in 2017, and 58 hours per week in 2020. A notable exception to this was some dairy farm employees who frequently worked from 60 to as much as 80 hours per week. Maloney et al. (2016) focused specifically on Hispanic dairy farm workers in NY. They found that 38 percent of this group worked 61 to 70 hours per week, 39 percent worked 71 or more hours per week, and the remainder worked less than 60 hours per week. The 60-hour overtime threshold, then, was higher than what farm employees worked on average, and not much lower than what even the group with the highest weekly hours typically worked.

The 60-hour overtime threshold had no significant impact on recruiting and retention of farm employees according to about three quarters of employers who responded to this survey. About one quarter of respondents said overtime made recruiting and retention harder. Again, this is an understandable finding given that the 60-hour threshold was close to the weekly hours that most farm employees already worked. Employers were quite clear, however, that an overtime threshold below 60 hours would be received very differently. Assuming that employers used strategies to minimize overtime use, effectively capping employee hours at the overtime threshold, overtime thresholds lower than 60 hours would have a meaningful effect of reducing employee earning potential. Employers frequently commented that "employees want more hours." This is in reference to employers who already had problems with recruiting and retention at the 60-hour overtime threshold, and from employers who predicted such problems at lower threshold levels.

LOOKING AHEAD

The survey research discussed here took place between August 2021 and February 2022. Since that time a few important policy changes have occurred. First, NY state created a refundable tax rebate to enable farm employers to seek reimbursement from the state for the cost of farm employee overtime premiums between the state-required overtime threshold level and 60 hours per week (Stup, April 18, 2022). Second, the NY Commissioner of Labor accepted a farm laborer wage board report recommending the reduction of the farm worker overtime threshold incrementally to 40 hours per week by 2032. This will now be required employment regulation in the state. The net effect of these policy changes is that the overtime threshold will decline, requiring more overtime payments for farm employees, but farm employers will be able to claim reimbursement from the state to offset the cost of these overtime payments (Stup, October 3, 2022).

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2023 LERGP Winter Grape Grower Conference Series

It is that time of year again! And we are starting it off in December.

December 9, 2022-

Virtual Event- "Spray Program-What's Your Plan?" 9:00am- Noon

February 9, 2023- Virtual Event- 10:00am- Noon

March 16, 2023 - In Person at SUNY Fredonia - 8:00am - 4:00pm

<u>Register online</u> or with the form on next page.

LAKE ERIE REGIONAL GRAPE PROGRAM 2023 GRAPE GROWERS' Winter Series CONFERENCE REGISTRATION FORM

SUNY Fredonia Williams Center Thursday, March 16, 2023 Deadline for registration is Friday, March 10, 2023.

Name (1 st attendee)		\$
Farm Name		
Address, City, State, Zip Code		
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Are you enrolled in Lake Erie Regional Grape Program (LERGP)? Yes_____No____

MEMBER	REGISTRATION FE	ES NON M	EMBER
2 Virtual Sessions Only	\$25.00 (\$20.00 addl attendee)	2 Virtual Sessions Only	\$50.00
In Person Conf. Only	\$90.00 (\$60.00 addl attendee)	In Person Conf. Only	\$125.00
All 3 events	\$100.00 (\$75.00 addl attendee)	All 3 events	\$150.00

Additional Attendees:

*Please add a **\$25.00 late fee** for each reservation made after March 10, 2023

TOTAL \$_____

Please make check payable (US funds only) to LERGP (Lake Erie Regional Grape Program) and mail to: Kate Robinson LERGP 6592 W Main Rd Portland NY 14769

Date Ck. Rec'd	<u>Amount</u>

Viticulture Jennifer Russo, Viticulture Extension Specialist, LERGP

In the Vineyard

The winter research projects are underway at the Lake Erie Regional Grape Program and I would like to take a moment to thank all of the grower collaborators that graciously agreed to allow on-farm experiments. There are many! Our research efforts are a direct result of discussion with our advisory committee. Our advisory committee meets twice a year to discuss topics of grower interests that help to direct our research and educational outreach efforts. Another thank you to all of you who are on the committee. It is wonderful to know that our work, is a direct response to grower concerns and that those of you who welcome on-farm experiments support those efforts. The current winter research involves cold hardiness. Dr. Jason Londo and I collaborate on three separate projects for our industry.

Each fall and winter, our vines go through the process of acclimation, maximum hardiness, and deacclination (Figure 1). Winter low temperatures that fall below a critical value can damage grapevine buds. The critical temperature for bud injury varies over the dormant season, and responds to daily changes in temperature. We can measure this critical temperature through a procedure called differential thermal analysis (DTA), which involves controlled freezing of a sample of buds collected from vineyards. We are continuing to monitor several local varieties including Concord, Niagara, Gewurztraminer, Vincent, Ives, Aurore, Riesling, Seyval, Elivra, Traminette, Vignole, Cabernet Franc, and Pinot Gris. Our team collects buds weekly and puts them through the Tenney 2 Freezer to monitor the lethal temperatures as a guide to our growers. This season's data will be posted to our website shortly.

Figure 1. Grapevine buds gradually gain and lose cold-hardiness as temperatures fall and rise during the dormant season (figure from Zabadal et al. 2007)

Dr. Londo and I also have two other projects that we started this year as well, one that we informally call Spray and Pray, because we found that certain (secret sauce) formulations sprayed in other commodities has had some success in increasing cold hardiness and we sprayed this fall and

are monitoring vines this winter. In our region, those varieties are Chardonnay, Gewurztraminer, Cabernet Sauvignon, Riesling, and Concord. This is a two-year project.

Our third project is to monitor microclimates with temperature sensors across 15 Concord vineyard sites and collect wood to test the bud cold hardiness. There are five sites located near the lake, five sites along the bench, and another five sites on the escarpment. Two sensors are deployed at each site; one on the fruiting wire and the other approximately 12 inches above the ground (see photo 1).

I truly appreciate all of the support from our grower stakeholders across the region; together we can be a force.

photo 1. Temperature sensors deployed in fifteen vineyards across Lake Erie Region

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Eastern Viticulture and Enology Forum

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December 13th 2022

H-2A labor program fundamentals from perspectives of vineyard owners and Cornell's Agricultural Workforce Development Program

-Richard Stup - Agriculture Workforce Specialist, Cornell University; rstup@cornell.edu

-Galen Troxell, Vineyard Manager and Co-owner, Galen Glen Vineyards, sarah@galenglen.com

-Tom Higgins – Owner, Heart & Hands Vineyards, tom@heartandhandswine.com

-Andrew Knight, Owner, Knight Vineyards, knightvineyards@gmail.com

Registration: https://extension.psu.edu/h2-a-temporary-agricultural-program-the-vineyards-perspective

January 10th 2023

Corrective measures to the top 10 dormant pruning mistakes in commercial vineyards

Fritz Westover, Viticulturist and Founder, Westover Vineyard Advising, <u>fritz@vineyardadvising.com</u> Registration: <u>https://extension.psu.edu/top-10-dormant-pruning-mistakes-in-your-vineyard</u>

February 7th 2023

Academic and industry perspectives on biofungicide use in vineyards

-Kaitlin Gold, Assistant Professor of Grape Pathology, Cornell AgriTech, <u>kg577@cornell.edu</u> Mizhuo Nita, Associate Professor of Grape Pathology, Virginia Tech, <u>nita24@vt.edu</u> Karl Hambsch, Co-owner and Vineyard Manager, Loving Cup Vineyard and Winery, <u>info@</u> <u>lovingcupwine.com</u>

Paul Brock, Co-owner - Silver Thread Vineyards, paul@silverthreadwine.com

John Santos – Vineyard Manager, Hazlitt 1852 Vineyards, john@hazlitt1852.com Registration: <u>https://extension.psu.edu/academic-and-industry-perspectives-on-biofungicide-use-in-vineyards</u>

March 7th 2023

Climate change implications for grapevine production in wine regions of the United States

-Greg Jones – CEO, Abacela Winery, <u>climateofwine@gmail.com</u> Registration: coming soon

Updates and Information

Kimberly Knappenberger, Viticulture Assistant, LERGP

NEWA

November was certainly an exciting weather month! Big changes appear to be tending toward the wintery side of things now, as expected. Across the belt our NEWA stations have had a couple of issues through the month. The Brant station is still offline, but we have received a datalogger to replace the original one and it will be installed in the near future. Truth be told, we are waiting for a little break in the weather to put it up.

The Ripley station continues to have issues with measuring precipitation. As a rule, the precipitation reported once it starts getting colder is less reliable, but hopefully this issue will be resolved once we start relying on that data again in the next growing season. Stay tuned! The Portland station recorded 4.52" of rain on Wednesday, November 30th. It was obviously a very intense rainstorm, but not quite that intense. Our other station, Portland (LERGP West), recorded "just" 0.9" which was in line with the other stations nearby. In spite of repeated efforts to secure this station, if we have strong winds gusting, we often get extra precipitation readings as it shakes the station.

the station. A reminder to take a look at nearby stations if you notice something that seems a bit off. Feel free to report those findings to Kim at <u>ksk76@cornell.</u> <u>edu</u> just in case it is something that can be remedied.

Figure 1 Portland station on a sunny summer day

