

WE ARE YOUR DOL



Roberta Reardon, Commissioner
Building 12, Harriman State Office Campus, Albany, NY 12240

December 31, 2020

Hon. Andrew M. Cuomo
Governor of New York State
NYS State Capitol Building
Albany, NY 12224

Hon. Andrea Stewart-Cousins
Majority Leader
New York State Senate
Legislative Office Building Room 907
Albany, NY 12247

Hon. Carl E. Heastie
Speaker of the Assembly
New York State Assembly
Legislative Office Building Room 932
Albany, NY 12248

Governor Cuomo, Majority Leader Stewart-Cousins and Speaker Heastie,

In accordance with Farm Laborers Fair Labor Practices Act, I write to inform you of the recent actions by the Farm Laborers Wage Board. Below is the report and recommendation that was adopted today by the Wage Board:

The Farm Laborers Wage Board has held four, virtual, public hearings and one, in-person hearing. We have heard from farm workers about the importance of their work and the need to continue to assure for pay and benefits that reflect their important contribution to society and we have considered overtime rates in similarly situated industries in New York State. We have also heard from many farmers that their markets have been disrupted; they don't know how to plan for next year's harvest and there is tremendous uncertainty in their world and in daily lives.

Looking closely at the charge of this Wage Board, looking at the preponderance of testimony, we find that more time is needed before the overtime threshold can be reduced below its current level.

Commissioner Reardon's charge to this Board was as follows:

"The task of this Farm Laborers Wage Board is narrowly focused on the issue of overtime and, specifically, your charge is as follows:

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- The board shall make recommendations for overtime work for farm laborers that shall not be in excess of sixty hours.
- The board shall consider the extent to which overtime hours can be lowered below the 60 hours set in the law, and
- The board may provide for a series of successively lower overtime work thresholds and phase-in dates as part of its determinations.

“Your task is to engage in a meaningful inquiry focused on these workers, on this industry, and the underlying state policy and legislative purpose. As you receive public testimony, I encourage you to take the opportunity to ask questions and engage those who testify to identify what you can about these workers, this industry, and about overtime standards more generally.”

In order to fulfill this charge, this Board finds it requires more information that will help support a sound decision that does not cause disruption in the production of our food and assures that farm worker wages and other conditions continue to reflect those in similarly situated industries. Given the importance of food production in New York State and the extenuating circumstances and market disruption caused by the COVID-19 pandemic on our State’s food system, we find that additional data are needed to understand the impact of a lowering of the overtime threshold for farm laborers.

Towards that end, the board adopts the following: In light of the COVID-19 pandemic and the unprecedented challenges impacting both the agriculture industry and the global economy, and taking into consideration overtime rates in similarly situated industries in New York State, nearly all of which are currently set at 40 hours for non-residential workers, I move that this Board recommend and report that the overtime rates for farm laborers remain at 60 hours for at least one year and that the Commissioner reconvene further wage board proceedings, in accordance with the labor law, no sooner than November 1, 2021, and no later than December 15, 2021.

Sincerely,

A handwritten signature in black ink that reads "Roberta Reardon". The signature is written in a cursive style.

Roberta Reardon
Commissioner