

RECRUITING, HIRING AND TERMINATION

Critical Standards for All Certifications

- Ensure that the pay of all workers (including for temporary, piece rates, seasonal, and migrant workers) meet, at a minimum, national and state minimum wage requirements or adverse effect wage if H2A workers²³
- Complete and maintain a Form I-9 for each worker. Once the work commitment has terminated, grower keeps the Form I-9 for either three years after the date of hire, or one year after the date the work commitment is terminated or whichever is longer²⁴
- Workers shall be allowed to terminate their work commitment at any time, without the threat of intimidation, coercion, blacklisting, or any other type of discrimination or retaliation

Critical Standards for U.S. Certification

- If you hire more than 500 man-days of hired labor in any of calendar quarters of last year, at the time of recruitment of migrant workers the following must be provided in writing in the worker's preferred language, to include:
 - o place of work (with specifics, such as the name and address of the Company or the association)
 - o pay rates (including piece rates) to be paid
 - o crops and kinds of activities for which the worker may be assigned
 - o period of work commitment
 - o transportation, housing, and any other worker benefits to be provided, if any, and any costs to be charged for each
 - o whether state workers' compensation or state unemployment insurance is provided

- If you hire more than 500 man-days of hired labor in any of calendar quarters of last year, at the time of hire of seasonal workers the following must be provided verbally and if requested in writing in the worker's preferred language, to include:
 - o place of work (with specifics, such as the name and address of the Company or the association)
 - o pay rates (including piece rates) to be paid
 - o crops and kinds of activities for which the worker may be assigned,
 - o period of work commitment
 - o transportation, housing, and any other worker benefits to be provided, if any, and any costs to be charged for each
 - o whether state workers' compensation or state unemployment insurance is provided

²³See Resource #22 on page 10

²⁴See Resource #23 on page 10

Labor Management Standards

Critical Standards for International Certification

- At the time of recruitment and at the time of hire, provide all hired workers a written disclosure describing the terms and conditions of their work commitment written in the worker's preferred language, to include:²⁵
 - o place of work (with specifics, such as the name and address of the Company or the association)
 - o pay rates (including piece rates) to be paid
 - o crops and kinds of activities for which the worker may be assigned
 - o period of work commitment
 - o transportation, housing, and any other worker benefits to be provided, if any, and any costs to be charged for each
 - o whether state workers' compensation or state unemployment insurance is provided

Additional Standards

High Risk

- Maintain records concerning any worker who was terminated and the reason for such termination.
- Maintain documentation of the number of permanent local, seasonal, migrant, H2A, and family workers.

WAGE, BENEFITS, AND WORKING HOURS

Critical Standards for All Certifications

- Ensure that workers are paid in a timely manner
- Provide workers with written wage statements for each pay period that include total pay, hours worked, daily start/stop times, piece rate and units produced if applicable, and any deductions from pay. (NOTE: If subject to MSPA, H2A or FLSA, a more detailed statement may be required)²⁶
 - o Compensation must include all time under the grower's direction and control once worker initiates any work activity including short breaks (15 minutes or less) and time used to conduct training. This does not include transportation from housing to field to start and from the field to housing when work is complete.
 - o All over contract work hours are voluntary and paid in accordance with applicable laws related to wage and working hour requirements.
 - o All deductions must be in accordance with applicable law.
 - o Workers must not be subject to any illegal wage withholdings, such as deposits or deductions, for the purpose of recruitment or retention.

²⁵See Resource #21 on page 10

²⁶See Resource #24 on page 10

Labor Management Standards

- Post all legally required labor standards posters where they will be visible to all workers, in a language common to the workers, which sets forth the rights and protections of the workers.²⁷ Including but not limited to:
 - Notice of Migrant and Seasonal Agricultural Workers Protection Act (MSPA)
 - Notice of Employee Rights under the Fair Labor Standards Act
 - Employee Rights under the H-2A Program
 - OSHA Occupational Safety and Health Poster
- A Worker Rights and Responsibilities poster must be posted in their native language where workers can access and read it on or near the job site, including information on how to voice worker concerns.

FORCED LABOR AND HUMAN TRAFFICKING

Critical Standards for All Certifications

- All work must be voluntary and shall not be carried out under threat or duress. Growers must not recruit, transport or receive workers using threats, force, coercion, abduction, fraud, deceit or other abuse of their power, or the vulnerability of workers
- Workers shall not be charged any fees for their recruitment or transport to their place of work, by the grower
- Growers are prohibited from retaining workers' personal identity documents, visas, money, valuables, paychecks, debit or credit cards, or return tickets. Growers may provide, upon request, workers with a safe place to store these items, but these items must be accessible to the workers upon request
- There shall be no restrictions on workers freedom of movement and workers shall be permitted to enter and exit their place of work
- Growers are prohibited from engaging in compulsory or prison labor

SANITATION, HOUSING AND TRANSPORTATION

Critical Standards for All Certifications

- Growers must provide workers easy access to the following:
 - Cool, potable water available during work hours
 - Clean and sanitary bathroom facilities during work hours
 - Hand washing facilities with soap at close proximity to bathrooms
 - Grower operations with eleven (11) or more workers during the past twelve months, at any one time, engaged in hand-labor operations must provide clean and sanitary bathroom facilities during work hours and hand washing facilities with soap at close proximity within a quarter-mile walking distance from workers' place of work in the field. One toilet facility and one handwashing facility shall be provided for each (20) employees or fraction thereof. Toilet and handwashing facilities are not required within a quarter-mile for workers who perform field work for a period of three (3) hours or less (including transportation time to and from the field) during the day.
- Growers must offer workers sufficient rest breaks during the day, including lunch, without unreasonably compromising their ability to earn wages.

²⁷See Resource #25 on page 11

Labor Management Standards

- If the grower provides housing directly to seasonal workers, the grower must:
 - Ensure that the facility complies with all federal and state safety and health standards, including up-to-date certification from DOL (US-based) or other appropriate governmental agencies²⁸
 - Inspect housing prior to occupancy and at mid-season, using the OSHA Housing Safety and Health Checklist provided in Agricultural Labor Management Guide.²⁹
 - Post or present to each worker, in their native language a statement of the terms and conditions of occupancy which must include:³⁰
 - name and address and contact information of the individual in charge of the housing
 - Emergency contact information
 - physical address and mailing address of the housing facility
 - who may live at the housing facility
 - charges to be made for housing
 - meals to be provided and any associated cost for them
 - charges for utilities
 - any other charges or conditions of occupancy
 - If transportation is provided, growers must ensure that vehicles meet legally required safety standards and that drivers are properly insured and licensed. Vehicles must be inspected when required by law, and person supplying the transportation must maintain inspection records.³¹

WORKER RIGHTS AND RESPONSIBILITIES AND WORKER CONCERN PROCESS

Critical Standards for All Certifications

- A Worker Rights and Responsibilities poster must be posted in their native language where workers can access and read it on or near the job site.
- The GAPC worker concern helpline poster or other approved third-party worker concern phone number must be posted in their native language where workers can access and read it on or near the job site.
- In an effort to identify and resolve workplace issues before they progress, each Grower must implement a worker concern process. This is a documented program that is discussed AND given to or posted for all workers. The policy must be written in a language common to the workers and set forth the terms of the available worker concern process to include statements stating the following (growers may use the posters and template documentation provided by GAPC):
 - The Grower is committed to providing a safe working environment for all workers and satisfy all legal rights of workers while they are on their farm
 - A method is available for workers to notify the Grower, orally and in writing, of any concern related to the terms or conditions of work

²⁸See Resource #26 on page 11

²⁹See Resource #27 on page 11

³⁰See Resource #28 on page 12

³¹See Resource #29 on page 12

Labor Management Standards

- o The Grower will investigate concerns brought forth by workers and provide notice to the workers, if known, of how the concern will be or was addressed. At the request of the workers, an informal meeting between the grower and workers will be held to address the concern
- o If a worker raises a concern with grower and is not satisfied with the resolution or handling of the issue, they are encouraged to call the GAPCs' Worker Concern Helpline or to an alternative approved third-party helpline to voice and address the concern
- o The Grower nor any of its employees or agents will retaliate against workers for using the worker concern process.
- Other approved third-party worker concern helplines or processes:
If you wish to use an alternative worker concern process currently in place by a third-party on your operation such as the grievance mechanism provided by North Carolina Growers Association you must provide the following with your certification application:
 - o Documentation that describes the procedures and policies used
 - o Documentation on how this is shared with your workers
 - o Visual evidence of it being displayed or shared on a daily basis with the workers (i.e. poster, sign, wallet card, etc.)

FREEDOM OF ASSOCIATION

Critical Standards for All Certifications

- Respect the legal rights of workers to, or not to, associate, organize and bargain collectively.
- Do not interfere in union activities.
- Do not discriminate nor retaliate against workers for such activities.

HARRASSMENT AND DISCRIMINATION

Critical Standards for All Certifications

- All workers must be treated with dignity and respect and not be threatened with or subjected to verbal, physical, sexual or mental harassment or abuse, coercion, or corporal punishment during work commitment or recruitment.
- Workers must not be subject to discrimination based on race, color, age, gender, sexual orientation, gender identity and expression, ethnicity or national origin, disability, pregnancy, religion, political affiliation, union membership, veteran status, or marital status.

Additional Standards

High Risk

- Have a documented anti-discrimination policy.

Labor Management Standards

FARM LABOR CONTRACTORS (FLCs)

A Farm Labor Contractor (FLC) is someone who, for money or other valuable consideration, recruits, solicits, hires, employs, furnishes or transports migrant and/or seasonal agricultural workers or provides housing to migrant agricultural workers. They are often called crew leaders or crew bosses. Anyone in the US who meets this definition of a Farm Labor Contractor as defined by the US Department of Labor must be registered with the US Department of Labor.³²

Critical Standards for U.S. Certification

Growers who employ FLC workers must:

- Ensure all workers provided by the FLC are 16 years of age or older. Verify age of workers by reviewing the worker's Form I-9
- Ensure no worker under 18 provided by the FLC is assigned DOL hazardous tasks (Appendix 1 - List A).³³
- Obtain and keep a copy of the contractor's Certificate of Registration³⁴
- Obtain and keep a copy of the housing inspection if FLC is authorized to house
- Obtain and keep a copy of insurance if FLC is authorized to transport
- Ensure that workers are properly paid by either:
 - o Paying workers directly rather than through an FLC or third-party labor provider
- Or
- o Ensure the FLC provides wage statements to workers as legally required and grower must obtain and keep copies.

Critical Standards for International Certification

- Obtain and keep a copy of the contractor's Certificate of Registration³⁵
- Obtain and keep a copy of the housing inspection if FLC is authorized to house
- Obtain and keep a copy of insurance if FLC is authorized to transport
- Ensure that workers are properly paid by either:
 - o Paying workers directly rather than through an FLC or third-party labor provider
- Or
- o Ensure the FLC provides wage statements to workers as legally required and grower must obtain and keep copies
- Ensure all workers provided by the FLC are 18 years of age or older. Verify age of workers by reviewing the worker's Form I-9

FAMILY WORKING ON THE FARM

Family members include only: (1) A spouse; (2) Children, stepchildren, and foster children; (3) Parents, stepparents, and foster parents; and (4) Brothers and sisters. If the worker does not fall into one of the four categories listed here then the worker is considered a hired employee per the US DOL definition.

³²See Resource #30 on page 11

³³See Resource List A on page 3

³⁴See Resource #31 on page 12

³⁵See Resource #31 on page 12

Labor Management Standards

Critical Standards for U.S. Certification

- Comply with all federal and state child labor laws pertaining to immediate family labor.

Critical Standards for International Certification

- Family members ages 15 years of age or younger may only be assigned light, nonhazardous work only if does not interfere with compulsory school
- Family members ages 16 – 17 cannot be assigned any DOL hazardous tasks (Appendix 1- List A)³⁶ or other restricted tasks (Appendix 1 – List B) ³⁷
- Ensure that a responsible adult is always present and supervising the child’s work, and that you follow regulations on the number of hours a child is permitted to work.³⁸ Furthermore, children are not permitted to work at night

HIRED WORKERS

Critical Standards for U.S. Certification

- The grower must obtain the written consent of a youth worker’s parent or legal guardian prior to work commitment commencing.
- Growers must not engage or obtain services from any person who is younger than 16 years of age. Exceptions for utilizing a person under 16 years of age include the following:
 - Youth excused from compulsory school attendance by applicable law
 - Youth involved in accredited learning programs (such as 4-H and school programs) can be assigned work tasks as long as the tasks relate directly to the learning experiences of the program and are in compliance with law
- No hired worker under 18 may be assigned DOL hazardous tasks (Appendix 1 - List A)³⁹

Critical Standards for International Certification

- Growers must not engage or obtain services from any person who has not reached the age for the completion of compulsory schooling (depending on state law between 16 – 18) and, in any case, is not less than 16 years of age
- No hired worker under 18 may be assigned DOL hazardous tasks (Appendix 1 - List A)⁴⁰ or Other Restricted Tasks (Appendix 1 - List B) ⁴¹

Additional Standards

- If minors are engaged on the farm, records that include, at minimum:
 - Name in full
 - Place where the minor lives while engaged
 - Permanent address (if different from current residence)
 - Date of birth

³⁶See Resource List A on page 3

³⁷See Resource List B on page 3

³⁸See Resource #32 on page 12

³⁹See Resource List A on page 3

⁴⁰See Resource List A on page 3

⁴¹See Resource List B on page 3

Labor Management Standards

FARM SAFETY

Critical Standards for All Certifications

Growers should provide a safe and healthy workplace by complying with the standards below and all applicable safety, health and environmental laws and regulations. Growers must:

- Identify risks on the farm such as those involved in operating machinery/equipment, adverse weather conditions, agrochemical applications, etc., and train workers on how to avoid and protect themselves from such risks.
- Maintain records of all work-related accidents and illnesses serious enough to interfere with the workers' ability to perform their job and/or otherwise required by occupational safety and health laws.
- Review accident records periodically for guidance on avoiding future injuries.
- Follow Occupational Safety and Health Administration (OSHA) guidelines with respect to addressing GTS and heat stress risks.
- Take precautions to limit worker exposure to wet tobacco and ensure adequate measures are in place to prevent GTS
- Follow the legal requirements that restrict workers from entering an area where agrochemicals have been used, and as legally required, post signs designating re-entry times for specific fields after agrochemical application.
- Have a dedicated emergency contact person for all workers
- Provide access to Emergency Medical Services (EMS)
- Provide workers with an emergency plan for medical emergencies, fires, or weather events.

Additional Standards

High Risk

- Have a staff member (or grower) certified in First Aid/CPR/AED training.⁴²

TRAINING

Critical Standards for All Certifications

- Grower or a staff representative, must attend annual GAP Training meeting or completed approved online training
- Grower documents training to farm workers on the hazards and risks associated with agrochemicals, safe working practices, emergency response and health surveillance including:
 - o Heat Stress
 - o Farm Safety, including Farm Equipment Safety
 - o Carbon Monoxide Poisoning Prevention (if applicable)
 - o Pesticide Safety and Personal Protective Equipment (PPE)
 - o Green Tobacco Sickness (GTS)
 - o Emergency response procedures
 - o Recognition of REI
 - o Storage, handling, application, and disposal of agrochemicals
 - o NTRM Prevention

⁴²See Resource #33 on page 12

Labor Management Standards

- Grower follows all requirements of state and national regulations and training requirements related to worker protection and agrochemical use.

Additional Standards

High Risk

- Grower documents training to farm workers on:
 - o Proper baling and market separation of tobacco
 - o For air-cured and fire-cured operations only, grade separation

SAFETY EQUIPMENT

Critical Standards for All Certifications

A grower is required to:

- As required by applicable law, provide Personal Protective Equipment (PPE), including but not limited to safety gloves, hearing protection, safety hats and/or helmets, safety footwear, and dust masks.

Additional Standards

High Risk

A grower is required to:

- Have adequately maintained farm vehicles, machinery and tools with the originally installed guards, shields or other protections as per manual/guidance provided by manufacturer or dealer of equipment.
- Have adequate First-aid equipment for the number of their workers for the grower's tobacco production operation.
- Have fire extinguishers available within two hundred feet of curing barns and market preparation facilities when workers are present.