

Child Labor Prevention and Youth Employment

Proposed Best Practices for U.S. Leaf Tobacco Purchasers, Growers, and Farm Labor Contractors

PREAMBLE

Recognizing (a) the importance of identifying and eliminating the illegal employment of minors and (b) the risks that may be associated with legal employment of minors in the United States, the Farm Labor Practice Group (FLPG) undertook the task of identifying certain best practices for consideration by leaf tobacco purchasers, growers and farm labor contractors. (See addendum for more information about the FLPG.)

“Child labor” in this document refers to employment of minors that is unlawful under federal or state law. “Youth employment” refers to the employment of workers under the age of 18¹ that are legally permitted to work in agriculture.

The Fair Labor Standards Act sets standards and restrictions for agricultural employment primarily based on the following age groups:

Youth 16 Years of Age and Older - not subject to the Federal agricultural youth employment provisions and may perform any farm job, including agricultural occupations declared hazardous by the Secretary of Labor at any time, including during school hours.

Youth 14 and 15 Years of Age – may work outside of school hours in any agricultural occupation except those declared hazardous by the Secretary of Labor.

12 and 13 Years of Age – may work outside of school hours in any non-hazardous agricultural job with written parental consent or on a farm that also employs their parent(s) or person standing in place of the parent(s).

The FLPG recognizes that there may be confusion surrounding rules related to child labor and youth employment in agriculture. This is likely caused by two key facts:

- The Fair Labor Standards Act has a different set of rules for agricultural employment of minors than it does for non-agricultural employment of minors.
- Members of the agricultural industry may individually have stricter policies regarding employment of minors than those set forth under Federal or state law.

Farmworkers are excluded from the National Labor Relations Act, and identifying and addressing the underlying causes of child labor is beyond the scope of the FLPG. The FLPG notes that economic conditions of workers and families contribute to why some parents permit their children to work.

¹ For additional information on the federal child labor requirements, please see www.dol.gov/whd/childlabor.htm.

Regardless of the root cause, the basic recommendations below can be used by purchasers, growers, and farm labor contractors in an effort to reduce incidences of illegal employment of minors in tobacco production. These “best practices” also promote improved insight into legal, permissible youth employment in tobacco production and help ensure that any concerns that may be associated with youth employment are better identified, monitored and addressed.

This document is not intended to provide a rigid, “one-size-fits-all” set of policies or practices. Instead, the FLPG has identified key decision points and elements that purchasers, growers, and farm labor contractors may consider in drafting their own individual policies.

BEST PRACTICES

With this background in mind, the FLPG sets forth the following best practices:

Growers are encouraged to communicate:

- The minimum age requirements for employment of workers under U.S. law and applicable contract policy;
- Age restrictions on hazardous tasks of workers under 18 years of age;²
- Permissible hours of work during and outside of school; and
- Other grower policies, if any, that address labor and employment issues, such as education and training for FLCs and supervisors, specific safety training and safety precautions for minors, wage and hour compliance, and recognition of freedom of association and the right to bargain collectively.

Growers are encouraged to communicate this information to their workers, parents of their youth workers, and their farm labor contractors (and FLC workers). Growers are urged to:

- Provide such information to their managers, farm labor contractors, and employees as may be required to ensure understanding of and compliance with the policies the grower abides by;
- Maintain appropriate records for their workers to demonstrate compliance with policy and U.S. law;
- Require a signed parental consent form from the parent or guardian of any worker under 18 years of age;
- Place signage pertaining to age thresholds prominently in a central location on growers’ premises where it is readily visible to their workers and farm labor contractors; and

² Such restrictions in Federal law can be found at:

- Subpart E-1—Occupations in Agriculture Particularly Hazardous for the Employment of Children Below the Age of 16: <https://www.ecfr.gov/cgi-bin/text-idx?c=ecfr&sid=48d6ee3b99d3b3a97b1bf189e1757786&rgn=div5&view=text&node=29:3.1.1.1.3.1&idno=29>.
- Child Labor Bulletin 101: <https://www.dol.gov/whd/regs/compliance/childlabor101.pdf>
- Child Labor Bulletin 102: <https://www.dol.gov/whd/regs/compliance/childlabor102.pdf>.

- Take action to make sure that the workers coming on their farms through FLCs are aware of the grower they are working for.

Farm labor contractors (“FLCs”) should ensure that they are aware of legal and grower requirements with respect to youth employment and prevention of child labor on the farms where they provide services and take appropriate steps to ensure and demonstrate compliance with such policies. FLCs should communicate:

- The FLC’s minimum age requirements for employment for their workers under U.S. law and applicable contract policy;
- Age restrictions for their workers on hazardous tasks for persons under 18 years of age;²
- Permissible hours of work during and outside of school;
- Other U.S. laws and policies, if any, for their workers that address labor and employment issues, such as education and training for FLCs and supervisors, specific safety training and safety precautions for minors, wage and hour compliance, and recognition of freedom of association and the right to bargain collectively; and
- To their workers, the name and address of the growers for whom they are working.

FLC’s are encouraged to:

- Provide such information to their employees to ensure understanding of and compliance with U.S. laws and policies;
- Maintain appropriate records for their workers to demonstrate compliance with policy and U.S. law; and
- Require a signed parental consent form from the parent or guardian of any worker under 18 years of age

Purchasers of US tobacco leaf should establish policies stating the requirements that their contracted growers must follow for any workers on their farm with respect to youth employment and the prevention of child labor in connection with the production of the tobacco leaf the Purchaser buys.

Such policies should address:

- The purchaser’s minimum age requirements for employment of workers based upon U.S. law and company/purchaser policy for their leaf supply chain;
- Age restrictions on hazardous tasks for persons under 18 years of age within their leaf supply chain;²
- Permissible hours of work during and outside of school; and
- Other relevant company policies that address labor and employment issues, such as education and training, specific safety training and safety precautions for minors, wage and hour compliance, and recognition of freedom of association and the right to bargain collectively.

The purchaser's policy should be communicated externally, including to their contract growers, and monitored and enforced throughout the leaf supply chain. Purchasers should assess and/or audit policy compliance and remediate policy violations (for example, incremental steps up to and including termination of the contract, when required remediation is not met). Engagement with farmworker and other organizations with insights into the worker experience can augment assessments.

STAKEHOLDER ENGAGEMENT

Parties should consider engaging with interested stakeholders in building all-around awareness and to identify or provide support services for youth farmworkers.³ Such stakeholders include:

- a) Community organizations and schools (consider also using training aids to foster youth awareness of additional opportunities)
- b) Health departments (migrant clinics)
- c) Faith-based organizations involvement (churches, Episcopal Farmworker Ministry, etc.)
- d) State and federal agencies (US Department of Labor, state-level departments of commerce, state-level departments of labor, state-level department of public instruction-migrant education, etc.)
- e) Grower associations, farm bureaus, agribusiness councils, etc.
- f) Worker associations (Farm Labor Organizing Committee, others)

Parties are encouraged to engage with FLOC, USDOL-Wage and Hour Division, and other relevant stakeholders regarding data (where publicly available) and known violations of worker age requirements to assist with monitoring and policy development.

Inquiries about the Fair Labor Standards Act or any other law administered by the Wage and Hour Division may be addressed to any local office of the Wage and Hour Division. To locate the Wage and Hour Division office nearest to you, call the toll-free information and helpline at 1-866-487-9243.

CONCLUSION

These recommendations are best used in connection with communicating, monitoring and documenting compliance with individual written policies and procedures. At a minimum, the FLPG recommends that, as applicable:

- a) policies be developed on minimum age requirements, limitations on the types of work persons under 18 are permitted to perform, and related policies on worker rights;

³ Youth workers who do not possess social security cards (and stakeholders who engage them) would be particularly appropriate targets of engagement and services.

- b) performance against those policies be assessed, not only through auditing but also through cooperation with farmworker and other organizations that have insights into the worker experience;
- c) policy violations be addressed and remediated (for example, consider incremental steps up to and including termination of the contract when required remediation is not met); and
- d) policies, and the communication, assessment and remediation of those policies be transparent.

ADDENDUM: ABOUT THE FARM LABOR PRACTICES GROUP

The Farm Labor Practices Group (FLPG) is a multi-stakeholder initiative committed to improving farm labor practices on farms and thereby enhancing the farm worker's experience. The FLPG brings together key industry stakeholders, including growers/farmers, farm worker member organizations, manufacturers and others who sell agricultural products, U.S. Department of Labor, North Carolina Department of Labor, and non-governmental organizations. The work of the FLPG is facilitated by a third-party, the Keystone Policy Center.

Members include:

- Alliance One International, Inc.
- Altria Client Services LLC
- Consulate General of Mexico in Raleigh (*Advisory Member*)⁴
- Farm Labor Organizing Committee
- Interfaith Center on Corporate Responsibility
- JTI Leaf Services
- North Carolina Agribusiness Council, Inc. (*Advisory Member*)^{4,5}
- North Carolina Department of Labor – Bureau of Agricultural Safety and Health (*Advisory Member*)^{4,6}
- North Carolina Farm Bureau (*Advisory Member*)^{4,5}
- RAI Service Company
- PMI Global Services, Inc.
- Tobacco Growers Association of North Carolina
- Universal Leaf Tobacco Company, Inc.
- U.S. Department of Labor – Wage and Hour Division⁶

⁴ Advisory members have full voice in FLPG discussions but do not participate in voting on formal decisions.

⁵ The NC Agribusiness Council and North Carolina Farm Bureau are active members of the FLPG. Their role in the FLPG's discussion of child labor has been to provide technical assistance. Since their mandate is to represent the interests of their respective members, and to carry out the policies adopted by their members, they cannot endorse or take a position with respect to any recommended practices – or the rationales for those recommendations – that go beyond current relevant law.

⁶ The U.S. Department of Labor's Wage and Hour Division and the North Carolina Department of Labor's Bureau of Agricultural Safety and Health are active members of the FLPG. Their role in the FLPG's discussion of child labor has been to provide technical assistance on existing Federal and North Carolina state child labor standards. Since their mandate is to enforce standards set by Federal law and North Carolina State law, respectively, they cannot endorse or take a position with respect to any recommended practices – or the rationales for those recommendations – that go beyond current relevant law.