



New York Farm Bureau • 159 Wolf Road P.O. Box 5330 • Albany, New York 12205 • (518) 436-8495 Fax: (518) 431-5656 • www.nyfb.org

July 15, 2016

Mr. Michael Paglialonga
New York State Department of Labor
Building 12, Room 509
State Office Campus
Albany, New York 12240

RE: Revised Rule Making: Chapter II of 12 NYCRR, Part 192, Methods of Payment of Wages, LAB-21-15-00009-RP

Dear Mr. Paglialonga;

New York Farm Bureau (NYFB), the State's largest general agricultural advocacy organization, appreciates the opportunity to comment on the Department of Labor's revised rules on the Methods of Payment of Wages that would provide clarity on the payment of wages to employees. NYFB in general supports the regulations and offers the following suggestions and recommendations on the proposed rule.

In Section 192.1.2 (e), an employee is defined using Section 190 of Labor Law and does not include any person employed in a bona fide executive, administrative, or professional capacity whose earnings are in excess of the dollar threshold contained in Section 192(2) of the Labor Law, *or an employee working on a farm not connected with a factory*. NYFB has grave concerns about the exclusion of farm workers from being able to receive their wages via a payroll debit card. During the Governor's SILO Task Force and Business Regulation Council, farmers and NYFB expressed the importance of this issue not only to the Governor's office but the Department of Labor. The ability to pay farm employees with payroll debit cards has been requested at length within the agricultural community.

NYFB believes that farm employers and employees should have the ability to utilize a payroll debit card because at times, it is much easier for employees to utilize a payroll debit card than a check or direct deposit. Payroll debit cards would give farm employees a safe and reliable means to receive wages, by allowing them to access their wages at ATMs, banks, and merchant locations without having to incur fees for check cashing or carry large amounts of cash. The regulation would also provide financial institutions with a manner to deliver services to traditionally "unbanked" people. Payroll debit cards also provide employers with a less expensive way to deliver wages than paper checks, which is particularly useful when an employee does not have access to direct deposit services.

NYFB requests that the following changes be made to the regulation to ensure that farm workers are able to receive their wages by means of a payroll debit card. Section 192.1.2 (e) should be amended to read: "Employee shall be as it is defined in Section 190 **or Section 671** of the Labor Law and shall not include any person employed in a bona fide executive, administrative, or

professional capacity whose earnings are in excess of the dollar threshold contained in Section 192(2) of the Labor Law, ~~or an employee working on a farm not connected with a factory.~~”

In addition, NYFB urges the Department of Labor not to mandate that employers execute a new and administratively burdensome employee consent requirement for direct deposit authorization where an existing payment authorization is already in place. Employers should notify employees of the opportunity to switch payment methods, but not require them to complete an authorization form if there will be no change in the method of payments.

NYFB would like to acknowledge the Department of Labor’s six-month phase-in period after the proposed regulations have been finalized. This time will give employers time to examine the rule and determine the actions they need to take to comply.

In summary, NYFB would like to reiterate that it strongly supports the availability of payroll debit cards to pay farm employees if an employer and an employee agree to authorize the employer to issue a debit card to the employee for the payment of wages. The employee should be able to use the card with no fee for withdrawals and the employee should be able to choose what method of payment they would like their wages paid in.

NYFB thanks the Department of Labor for the opportunity to submit these comments on the proposed regulations on Methods of Payment of Wages.

Sincerely,

A handwritten signature in cursive script that reads "Lauren Williams".

Lauren Williams
Assistant Director of Public Policy