



*The New Jersey Department of Health is partnering with its sister agencies New Jersey Department of Agriculture and New Jersey Department of Labor and Workforce Development to assist agricultural businesses and farm workers during the COVID-19 pandemic.*

## **Interim Coronavirus Disease 2019 (COVID-19) Guidance for Migrant and Seasonal Farmworkers, Their Employers, and Housing Providers**

**May 20, 2020**

### **I. Context**

- New Jersey's Health Commissioner is responsible for executing public health emergency evaluation, prevention, and response for the State.
- Every person conducting business in New Jersey must cooperate fully with the Commissioner of Health in all matters concerning the state of emergency.
- Complications of COVID-19 infection may include the need to be hospitalized, receive mechanical ventilation, and death.
- Blacks and Hispanics, individuals who are over 65 years of age, and people with pre-existing medical conditions, such as diabetes, chronic lung or heart disease, or who have a compromised immune system (e.g., cancer or taking immunosuppressant medications), are at greater risk of severe COVID-19 complications.
- New Jersey's farm operators and seasonal farm workers continue to provide a vital service to the public by fueling New Jersey's food supply chain.
- Seasonal farm workers are at risk of exposure to COVID-19 because the harvest and processing of crops requires close contact with coworkers and because seasonal farm workers rely on group transportation and camp-style housing.
- Seasonal farm workers are at greater risk of contracting serious forms of COVID-19.
- Agricultural workers with chronic lung problems associated with exposure to pesticides and fungi found in crops may also be at higher risk of severe COVID-19 complications.

### **II. Definitions**

- Coronaviruses are a large family of viruses that are common among people and many different species of animals.
- COVID-19 (coronavirus disease 2019) is the disease caused by novel (new) coronavirus that was first detected in humans in December 2019.
- Cohorting is the practice of isolating multiple laboratory-confirmed COVID-19 cases together as a group or quarantining close contacts of a particular case together as a group. Ideally, cases should be isolated individually and close contacts should be quarantined individually. However, some work and housing facilities do not have enough individual rooms to do so and must consider cohorting as an alternative.
- Isolation is the practice of keeping an ill person away from others.

**Trained healthcare professionals are available 24 hours a day, 7 days a week at 1-800-222-1222 to answer questions about COVID-19 in multiple languages. Visit: [covid19.nj.gov](https://covid19.nj.gov)**

- Quarantine is the practice of keeping those who are exposed and potentially harboring the illness away from those who are not exposed.
- Camp means any employer-provided housing, including a tent, trailer, house, townhouse or any other place housing seasonal farm workers.
- Transportation means any employer-provided vehicle used to transport seasonal farm workers.
- Employer means any individual, family member, corporation, partnership, joint venture, firm, company, or other legal entity, or any officers or agents, in immediate possession of any farm as owner or lessee, who is responsible for its management and conditions. This includes farm labor contractors also known as crew leaders.
- Seasonal farm worker means any person who is engaged in seasonal or temporary farm work and can be used interchangeably with the term “employee”, “worker”, “migrant seasonal farm worker” and “temporary farm worker.”

### III. Guidance

- This guidance outlines best practices to maintain the health and safety of seasonal farm workers and the health of the agricultural economy and New Jersey’s food supply chain.
- Implementation of these guidelines is essential for any employer and owner or operator of a seasonal farm labor camp to minimize the risk and potential exposure of COVID-19 throughout New Jersey.
- Please note that this guidance does not exempt any person from complying with any applicable laws.
- Please note the laws that serve to protect the health of seasonal farm workers:
  - Migrant and Seasonal Agricultural Worker Protection Act
  - Occupational Safety and Health Act of 1970 (OSHAAct)
  - New Jersey State Seasonal Farm Labor Act, Drinking Water & Toilet Facilities Act, Crew Leader Registration Act & Seasonal Farm Workers Regulation
- **Employers should cooperate with the Local Health Department for infection control guidance and outbreak response, including additional transportation and housing needs, and should contact them with any questions or concerns.**
- All links to referenced guidance and resources are provided at the end of the document.

The following steps are to be taken to minimize the spread of COVID-19 during harvesting, picking, packing, and distribution of agricultural products as well as to minimize the spread of COVID-19 in shared housing and transportation.

#### 1. Work Time

- a. Employer is to promote social distancing by requiring workers to remain at least six feet away from one another while working in the fields or any food farming production, processing, and cultivation.
- b. Employer is encouraged to stagger shifts, including staggering start times, to minimize the density of the workers in the fields and other work locations at the same time.

- c. If safe social distancing is not possible, the use of partition between work spaces (cloth, plastic, etc.) is recommended between each worker.

## 2. Housing

- a. Employer must protect their workers by following these CDC recommendations for congregate living if workers are provided housing by employer:
  - Beds are to be placed at least six feet apart.
    - If 6-feet apart is not possible, position beds at least 3 feet apart with a partition between beds – e.g., nailing string from wall-to-wall and hanging sheet, blanket, or shower curtain, or using appropriately sized dressers or cardboard boxes that can function as a barrier).
  - Bunkbeds are not recommended but if unavoidable, position bunk beds at least 6-feet apart with workers laying head to toe on each separate bunk bed.
    - If 6-feet apart is not possible, position beds at least 3 feet apart with a partition between beds – e.g., nailing string from wall-to-wall and hanging sheet, blanket, or shower curtain, or using appropriately sized dressers or cardboard boxes that can function as a barrier).
  - For all rooms, adequate ventilation must be provided in sleeping and living quarters with openable windows or door with properly fitted screens or a device supplying ventilation.
  - Employer is to also:
    - Provide tissues and trash bins.
    - Create a staggered bathing schedule to reduce the number of workers using bath facilities at the same time.
    - Ensure bathrooms and sinks always have soap, alcohol-based hand sanitizers, and disposable towels.
    - Create staggered mealtimes to reduce crowding in shared eating facilities.
    - Consider providing prepackaged meals with staggered pick-up times to limit large groups congregating in shared spaces.
    - Limit large group gatherings in congregate areas of the facilities so that they comply with current Executive and Administrative Orders.
- b. Housing must be regularly and thoroughly disinfected.
- c. Social distancing in housing is encouraged.
- d. Information about housing individuals who test positive for COVID-19 can be found in section 9.

## 3. Transportation

- a. Employer must implement social distancing while transporting workers to and from their residency and place of work.
  - Vehicles should be limited to 50% capacity, which may require additional trips to and from the worksite.

- b. If employer provides additional transportation, such as trips to town centers for personal errands, trips must be scheduled in advance and vehicles should be limited to 50% capacity.

#### **4. Cleaning**

- a. Employer is to ensure disinfection of high-touch areas, such as in communal areas and working and transportation vehicles, and frequently used equipment and supplies, in accordance with guidance from the U.S. Centers for Disease Control and Prevention (CDC).
- b. Employer is to use household cleaners and EPA-registered disinfectants as instructed.

#### **5. Wearing Protective Gear**

- a. Employer is to provide face coverings or masks for employees.
  - If such face covering is reusable, the employer is to provide workers access to regular washing of face covering.
  - If face masks are disposable, a regular supply must be made available and replaced as needed based on condition of mask.
- b. Employer is to educate workers on the mandatory requirement to wear face coverings for their protection and the protection of others.
- c. Workers must wear face coverings at all times, including during transportation, while working, and when in the presence of others.
- d. The only exception to face covering use is when an employee is eating or drinking, or where the employee's use of a face covering/mask is contraindicated for health reasons.

#### **6. Handwashing and Personal Hygiene Practices**

- a. Employer is to provide clean, private toilet facilities near working areas. Toilets must be supplied with adequate toilet paper.
- b. Employer is to provide hand-washing stations with soap and disposable drying materials for adequate handwashing near working areas.
  - In addition to hand washing stations, employer is to provide hand sanitizers with at least 60%-95% alcohol in various locations, such as in the field or in other farming operation centers, cooking and eating facilities, and sleeping areas.
- c. Employer is to schedule handwashing breaks every hour.
  - If soap and water are not available, an alcohol-based hand sanitizer that contains 60%-95% alcohol may be used.

#### **7. COVID-19 Education on Infection Reduction**

- a. Education material will be provided by local and state agencies, such as the New Jersey Department of Health, local public health departments and local Federally Qualified Health Centers.
  - Employer is to collaborate with these agencies, to identify culturally, linguistically, and literacy-level appropriate posters and education materials for workers.
  - Employer should also make available information for those who are unable to read or write to ensure that all workers are aware of this information.

- b. Employer is to educate workers on hand hygiene, respiratory etiquette, and emergency response.
  - Workers should wash hands with soap and water for at least 20 seconds, and should similarly apply hand sanitizer for at least 20 seconds when hand washing is not possible.
  - Workers should not touch their eyes, noses, or mouths and should cover coughs and sneezes with elbow.
- c. Worksites are to display CDC hand hygiene posters and other “How to Protect Yourself and Others” materials in English, Spanish, and other languages as needed.

#### **8. Health Screening for COVID-19 symptoms**

- a. Employer is to screen workers for symptoms, including temperature and symptom checks prior to work shifts.
- b. Symptoms of COVID-19 include cough, shortness of breath or difficulty breathing, OR at least two of these symptoms:
  - Fever
  - Chills
  - Repeated shaking with chills
  - Muscle pain
  - Headache
  - Sore throat
  - Loss of taste or smell
- c. **If any symptoms are shown, worker must immediately be connected to a physician. The physician will determine if a test is needed.**
- d. Pending medical attention and testing, employer is to confine workers with symptoms consistent with COVID-19 infection to individual rooms and have them avoid common areas.
- e. Employer is to contact FQHC directly to inquire about COVID-19 testing (including-mobile testing) and primary care services, including telehealth.

#### **9. Worker with Suspected or Confirmed COVID-19**

- a. Employer is to ensure that worker(s) who exhibit COVID-19 symptoms are transported separately from other workers.
  - Once worker(s) are suspected or diagnosed with COVID-19, the priority is to prevent the further spread to other workers.
- b. Employer or housing provider is to contact the local public health department in the jurisdiction where the individual’s current housing is located with any suspected case.
- c. Worker is to be immediately assigned a separate bathroom or, if not possible, a separate toilet.
- d. Employer is to provide a separate living space, accessible kitchen, and bathroom that are away from others in the setting.
  - **If unable to effectively isolate the workers within the current living setting, alternate housing must be provided.**

- e. Employer is to identify any workers who were in close contact with infected worker and screen and watch for symptoms.
- f. Employer is to ensure quarantined workers have enough food, supplies, and transportation to medical care.

#### **10. Cohorting of Workers**

- a. Employers should cohort or group workers by their health status. This will reduce the spread of COVID-19 to healthy workers. Three cohorts or groupings based on COVID-19 test results are:
  - Group 1: Workers that are COVID-19 positive, whether they have symptoms or not, can be isolated together.
  - Group 2: Workers exposed to COVID-19, but do not show symptoms, tested negative or have not yet been tested, can be quarantined together away from positive cases.
  - Group 3: Workers not exposed to COVID-19 and not showing symptoms can remain together with no need of isolation or quarantine.
- b. Additional cohorting can be instituted to limit impacts of potential infections:
  - Employer may create groups of workers that house, transport, and work together, but stay apart from other groups of workers. Employers are encouraged, where feasible, to create these groups and encourage groups to remain separated during non-working hours.
  - Employers are also encouraged to keep migrant farm workers who live on the farm's labor camp, migrant workers who live in off-farm housing, and local workers separate from one another to limit potential spread to and from the farm and community.

#### **11. Communication Plan between Healthcare Provider and Confirmed Patient**

- a. Once a worker is confirmed to have COVID-19 by a healthcare provider, that worker is considered a patient of that healthcare provider.
- b. Employer is to allow frequent communication between healthcare provider and patient until the patient/worker fully recovers or has a negative COVID-19 testing.
- c. If needed, employer is to provide a phone or computer to allow for patient-healthcare provider communication.
- d. Patient/worker or employer is to notify healthcare provider immediately of any change in the patient's clinical status.
- e. Healthcare provider may also conduct remote telephone assessment to assure the living setting is appropriate for patient self-isolation.
- f. **Costs related to testing and treatment for COVID-19 will not be charged to employer or worker.**
- g. **Any hospitalization or isolation housing provided by the State of New Jersey will not be charged to employers or workers.**
- h. **Temporary isolation housing for workers who test positive is available at the Field Medical Station located at Atlantic City Convention Center, 1 Convention Blvd, Atlantic City, NJ 08401. Referral from a healthcare provider is required.**

## 12. Return to Work

- a. **Worker who had COVID-19 symptoms in isolation can be released from isolation and return to work only under the following circumstances:**
- Workers with symptoms who test positive for COVID-19 must remain in isolation until after:
    - at least 3 full days (or 72 hours) have passed without a fever, without the use of fever-reducing medications AND
    - other symptoms are greatly improved AND
    - at least 10 days have passed since symptoms first started.
  - Workers with laboratory-confirmed COVID-19 who have not had ANY symptoms may discontinue isolation when at least 10 days have passed since the date of their first positive COVID-19 diagnostic test and if they continue to have no symptoms.
  - If circumstances present where farm operations cannot be maintained due to the large number of positive workers, the following could be considered, however only as a last resort:
    - Allow asymptomatic positive staff to return to work as long as they can wear a face covering while conducting their assigned duties or they can remain socially distanced (6 feet or more) from others while performing their tasks.
      - A face covering must be worn any time interactions with other people occur.
      - The only exception to face covering use is when an employee is eating or drinking, or where the employee's use of a mask is contraindicated for health reasons.
    - If a large number of asymptomatic positive workers are present, consider having this group work together, if possible, and independent from those who are negative or not yet tested.
    - While not working, all isolation measures should be in place. This means they should not be sharing living quarters with others who are not positive.
    - **Those with symptoms should be excluded from work without exception.**
- b. After returning to work, employees must continue to maintain good personal hygiene including washing their hands frequently and for at least 20 seconds each time.

## 13. Employment-based protections for workers

- a. **Once a worker is hired and put on payroll, that worker is considered to be an employee. Workers arriving to a farm are considered hired and reporting to work.**
- Eligibility for New Jersey Earned Sick Leave and/or earned sick leave under the Family First Coronavirus Response Act, referenced under c. and d. below, begins with the first moment of employment.
    - **This applies to all employees regardless of immigration/documentation status. I.e., H-2A employees and undocumented employees are equally covered.**
  - H-2A employers have additional obligations under federal law: H-2A employers must guarantee to offer each covered worker employment for a total number of hours equal to at least 75% of the workdays in the contract period – called the “three-fourths

guarantee.” If during the total work contract period the employer does not offer sufficient workdays to the H-2A or corresponding workers to reach the total amount required to meet the three-fourths guarantee, the employer must pay such workers the amount they would have earned had they actually worked for the guaranteed number of workdays. Wages for the guaranteed 75% period will be calculated at no less than the rate stated in the work contract.

**b. All workers in NJ are protected against COVID-19 Employment-Related Retaliation**

- An employer is prohibited from firing or otherwise punishing an employee who requests time off or takes time off from work, based on a medical professional’s determination that the employee has, or is likely to have, COVID-19.
- The law applies to all types of employees and regardless of documentation/immigration status.
- Email [farms@dol.nj.gov](mailto:farms@dol.nj.gov) with your questions about this law or if you think you have been retaliated against.

**c. Most workers will be eligible for Paid Sick Time if they contract COVID-19:**

- Under state law, all full-time, part-time and temporary NJ employees have the right to up to 40 hours of paid sick leave, earned at a rate of one hour for every 30 hours worked.
  - Employer can give the 40 hours upfront or let it accrue per 30 hours worked.
  - **Employer is encouraged to give the full 40 hours upfront and ensure that workers have access to the paid sick time if they contract with COVID-19.**
- In addition, under the federal Families First Coronavirus Response Act, employers with fewer than 500 employees must provide up to 80 hours of job-protected emergency paid sick leave for employees to care for themselves or a loved one for coronavirus illness, symptoms, or quarantine. Full-time, part-time, and temporary workers, including day laborers, are covered under the law.
  - **Employers who have more than 50 employees must provide up to 80 hours of paid sick leave. Farms with fewer than 50 employees can, but are encouraged not to, waive this requirement.**

**d. Workers may be eligible for Workers Compensation if they get COVID-19 while working:**

- If a person contracts the virus because he/she worked with someone who had the virus, or contracted the virus for any other work-related reason, that person could be eligible for workers’ compensation and would file through their employer.

**14. Guidance Education:**

- Employer is to place guidance in a visible place on a farm operation and in employer-provided housing.
- Along with posting the guidance, employer is to provide:
  - a list of local community-based and county-based COVID-19 testing sites to employees.
  - a list of local FQHCs that provide primary care services and COVID-19.
  - printed CDC guidance “If You Are Sick” for sick workers to follow.

- Employer is to discuss guidance completely with any seasonal farm worker employed by the farm operation in a language that employee can adequately comprehend.
- The guidance is available in English, Spanish, Haitian Creole, French, Cambodian, and simplified Chinese.

## 15. Additional Resources:

### Testing and Treatment Resources:

- List of Federally Qualified Health Centers (FQHCs): <https://nj.gov/health/fhs/primarycare/fqhc/index.shtml>
- COVID-19 testing sites: <https://covid19.nj.gov>
- Phone calls for general COVID-19 questions: 211 – multi-lingual staff will assist
- Phone calls for clinical COVID-19 questions: 1-800-962-1253 – multi-lingual staff will assist
- CDC guidance “If you are sick”: <https://www.cdc.gov/coronavirus/2019-ncov/if-you-are-sick/steps-when-sick.html>

### General COVID-19 Resources from the State of New Jersey

- State of NJ COVID-19 Information Hub: [covid19.nj.gov](https://covid19.nj.gov)
- COVID-19 Fact Sheet in English and Spanish: [https://nj.gov/health/cd/topics/covid2019\\_community.shtml](https://nj.gov/health/cd/topics/covid2019_community.shtml)
- New Jersey Department of Health Communicable Disease Services, Information for Communities and General Public: [https://nj.gov/health/cd/topics/covid2019\\_community.shtml](https://nj.gov/health/cd/topics/covid2019_community.shtml)
- Resources for Undocumented/Uninsured Individuals: [https://nj.gov/health/cd/topics/covid2019\\_community.shtml](https://nj.gov/health/cd/topics/covid2019_community.shtml)

### Prevention Resources

- CDC guidance for congregate living: <https://www.cdc.gov/coronavirus/2019-ncov/community/shared-congregate-house/guidance-shared-congregate-housing.html>
- CDC hand hygiene posters and other “How to Protect Yourself and Others” materials: <https://www.cdc.gov/coronavirus/2019-ncov/prevent-getting-sick/prevention.html>
- Do The 5 Help Stop COVID-19: [https://www.nj.gov/health/cd/documents/topics/NCOV/COVID19\\_infographic\\_do\\_the\\_5.pdf](https://www.nj.gov/health/cd/documents/topics/NCOV/COVID19_infographic_do_the_5.pdf)
- The Benefits of Cloth Masks to Stop the Spread (CDC): <https://www.cdc.gov/coronavirus/2019-ncov/downloads/DIY-cloth-face-covering-instructions.pdf>

### Cleaning and Disinfecting Resources

- CDC Guidance on Cleaning and Disinfecting: <https://www.cdc.gov/coronavirus/2019-ncov/community/organizations/cleaning-disinfection.html> and <https://www.cdc.gov/coronavirus/2019-ncov/downloads/disinfecting-your-home.pdf>

- EPA-registered disinfectants: <https://www.epa.gov/pesticide-registration/list-n-disinfectants-use-against-sars-cov-2>

### **Worker Protection Resources**

- COVID-19 Employment-Related Retaliation Prohibition: [www.myworkrights.nj.gov](http://www.myworkrights.nj.gov) or email [farms@dol.nj.gov](mailto:farms@dol.nj.gov)
- Family First Coronavirus Response Act: <https://www.dol.gov/agencies/whd/pandemic>
- New Jersey Earned Sick Leave: [www.mysickdays.nj.gov](http://www.mysickdays.nj.gov)
- Federal H-2A requirements for the agricultural industry: <https://www.dol.gov/agencies/whd/fact-sheets/26-H2A>
- Migrant and Seasonal Agricultural Worker Protection Act (MSPA): <https://www.dol.gov/sites/dolgov/files/WHD/legacy/files/whdfs49.pdf>
- Occupational Safety and Health Act of 1970 (OSHAct): <https://www.dol.gov/sites/dolgov/files/WHD/legacy/files/whdfs51.pdf>
- New Jersey State Seasonal Farm Labor Act, Drinking Water & Toilet Facilities Act, Crew Leader Registration Act & Seasonal Farm Workers Regulation: [https://www.nj.gov/labor/forms\\_pdfs/lse/mw-126.pdf](https://www.nj.gov/labor/forms_pdfs/lse/mw-126.pdf)

### **Returning to Essential Work**

- Recovering from COVID-19 - Returning to essential work: [https://www.nj.gov/health/cd/documents/topics/NCOV/COVID\\_infographic\\_recovery.pdf](https://www.nj.gov/health/cd/documents/topics/NCOV/COVID_infographic_recovery.pdf)