



# Agricultural and Seasonal Workforce Services Advisory Committee

## Meeting details

**Date:** Wednesday, March 20, 2024

**Time:** 1:00 p.m. – 3:00 p.m.

**Location:** Employment Security Department

212 Maple Park Ave SE, Olympia, WA 98501 | Maple Leaf Conference Room

### Committee members present

- Delia Peña – In person
- Elizabeth Strater (Proxy for Victoria Ruddy) – Virtual
- Edgar Franks – Virtual
- Jeff Perrault – Virtual
- Michele Besso – In person
- Michael Gempler – In person
- Rosalinda Guillen – In person
- Jon DeVaney- Virtual

### ESD staff (all in person)

- Joy Adams
- Bertha J. Clayton
- Vickie Carlson
- Petra Meraz
- Carlos Sandoval-Larios
- Caitlyn Jekel
- Josh Dye

### Non-voting agency representatives

- Uriel Iñiguez (LNI) – In person
- Juan Gamez (DOH) – In person
- Ignacio Marquez (WSDA) – In person

## Summary

### Meeting Recorded

This meeting was recorded and is available on <https://esd.wa.gov/newsroom/Ag-committee>

### Welcome, Housekeeping and Introductions

Employment Security Department (ESD) Policy Director, Joy Adams, welcomed everyone, addressed housekeeping items.

### Committee Business, Agenda Review and Roll Call

Recording timestamp **00:1:20**

Joy Adams reviewed the agenda for the meeting and asked if anyone had any questions. (See Addendum I.) Employment Security Department (ESD) Policy Director, Joy Adams, asked Vickie Carlson to take roll. Eight voting members were present, in person and virtually. (Quorum)

### ASWS Office Update – ASWS Office, ESD (See Addendum II.)

Recording timestamp **00:05:33**

Bertha J. Clayton, Director, ASWS Office

### Processing and Adjudicating FLC Applications

Petra Meraz, Supervisor, FLC Program

Recording timestamp **00:11:36**

### **Agency Updates and Discussion** (See Addendum III.)

Recording timestamp **01:40:52**

**LNI** – Uriel Iñiguez, Director, Community Relations

**DOH** – Juan Gamez, Supervisor, Lodging Program, Office of Environmental Health and Safety

**WSDA** – Ignacio Marquez, Regional Assistant to the Director - Eastern/Central WA

### **2024 WA State Legislative Wrap-Up and Discussion** (See Addendum IV.)

Recording timestamp **02:13:28**

Caitlyn Jekel, Government Relations Director, Executive Programs, ESD

Josh Dye, Legislative Affairs Manager, Executive Programs, ESD

### **February 21, 2024 ASWS Advisory Committee Meeting Minutes - Joy Adams**

Recording timestamp **02:27:10**

- Motion to approve the February 21<sup>st</sup> meeting minutes – Elizabeth Strater..
- 2nd from Mike Gempler.
- Motion carries unanimously.

### **Good of the Order – Joy Adams**

Future Agenda Items

- Status update requested on the State Monitor Advocate position vacancy
- Request for basic Standard Occupation Classification (SOC) orientation for the committee
- Request for categorization of Apparent Violations (Uriel Iñiguez)

### **Public Comments**

None

### **Adjourned\***

Joy Adams thanked everyone for their continued active participation and for their commitment to this work. Meeting adjourned: 3:00 PM.

\*The public meeting was adjourned at 3:00 PM. Committee members then engaged in a work session related to the 2024 ASWS Advisory Committee legislative report.

## **2024 Meetings**


The next Agricultural and Seasonal Workforce Services Advisory Committee meeting is on:

- **April 17, 2024 – 1:00 p.m. to 3:00 p.m.** – Zoom, 212 Maple Park Ave SE, Olympia, WA

## **Addendums**

ADDENDUM I.

Roll Call  
&  
Agenda



AGENDA

Agricultural and Seasonal Workforce Services (ASWS) Advisory Committee  
Wednesday, March 20, 2024 | 1:00 pm - 5:00 pm | 112 Maple Park Ave SE Olympia WA 98501 | 3rd floor, Maple Leaf Conference Room

| TIME    | TOPIC  |
|---------|--|
| 1:00 pm | Joy Adams, Policy Director, ESD Operations System Policy & Integrity Division<br><ul style="list-style-type: none"> <li>Roll Call &amp; Committee Member Sharing – Vicki Carlson, Management Analyst, ASWS Office, ESD</li> <li>Agenda Review – Joy Adams</li> <li>Approval of the February 2024 Meeting Minutes</li> <li>Review of committee charter and protocols</li> </ul> |
| 1:30 pm | ASWS Office Update – Bertha J. Clayton, Director, ASWS Office, ESD, Petra Meraz, Supervisor, Foreign Labor Certification Program<br><ul style="list-style-type: none"> <li>ASWS Office Update</li> <li>Common application issues in 2024 – Petra Meraz</li> </ul>  |
| 2:00 pm | Break  |
| 2:15 pm | Advisory Committee Agency Members: Updates & Introduction<br><ul style="list-style-type: none"> <li>EW – Steve Minkin, Director, Community Relations</li> <li>DCM – Juan Gamero, Supervisor, Lodging Program, Office of Environmental Health and Safety</li> <li>WSSA – Ignacio Manager, Regional Assistant to the Director, Factory/Control WA</li> </ul>                     |
| 2:40 pm | 2024 ASWS State Legislative Session Wrap-Up and Discussion<br><ul style="list-style-type: none"> <li>Josh Dye, Legislative Affairs Manager, Executive Programs, ESD</li> <li>Carlynn Bell, Government Relations Director, Executive Programs, ESD</li> </ul>   |
| 3:00 pm | Call of the Order  |
| 3:05 pm | Public Comment   |
| 3:10 pm | Adjourn  |
|         | Next meeting: Wednesday, April 17, 2024, 1-3 pm, 200M  |
| 3:15 pm | 2024 ASWS Advisory Committee Legislative Report – Bertha Clayton<br><ul style="list-style-type: none"> <li>Review of H-52-34 (H-04)</li> <li>Presentation of Draft Outline</li> </ul>  |
| 3:40 pm | Facilitated Small Group Exercise<br><ul style="list-style-type: none"> <li>Employer Perspectives</li> <li>Labour Perspectives</li> <li>Agency Group (Inter-agency coordination)</li> </ul>   |

GROUND RULES  
 No cell phone use | No social media | All participants will be recorded | Do not be late or absent | Do not talk on the phone | Open your notes | If you have an agenda item please present it to the committee in advance | All items on agenda will be discussed | If you have any questions, please contact the committee chair or the facilitator | Thank you for your participation!

ADDENDUM II.

ASWS Office Update - March 2024



Bertha J. Clayton, ASWS Director, ESD

## ASWS Office Duties: RCW 50.75.020



- **Processing and adjudicating** foreign **labor certification applications** from employers;
- **Processing complaints** consistent with 20 CFR 658, Subpart E;
- Conducting **Field Visits** (AKA “Site Visits”)
- Conducting **Field Checks**
  - When conducting a field check, the official **shall coordinate**, to the extent possible, with the **LNI, DOH, and WSDA** in order to limit disruption to agricultural employers and efficiently use government resources;
- Administering **Discontinuation of Services** per 20 CFR 658, Subpart F
- Conducting **training and outreach** to employers H2A employers

## Processing and Adjudicating Foreign Labor Certification Applications

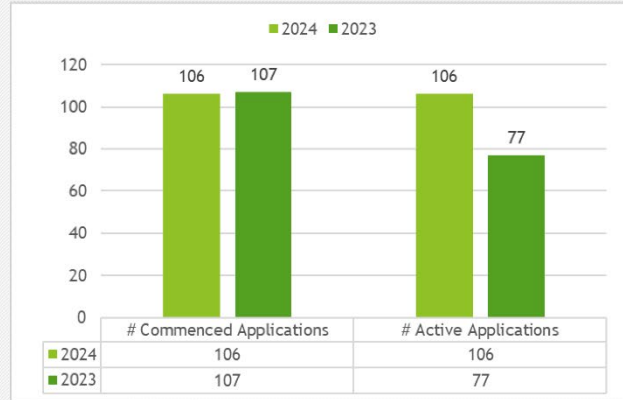
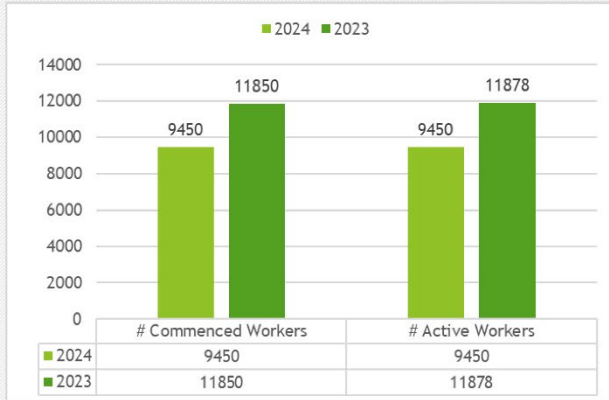


**Employment  
Security  
Department**  
WASHINGTON STATE

Petra Meraz, Foreign Labor Certification Program Supervisor, ASWS, ESD



## Commenced & Active: PY24/PY23 to Date



## Monthly Comparison: January/February



|                                | JAN  | FEB  |
|--------------------------------|------|------|
| # Applications                 | 60   | 49   |
| # Workers Requested            | 2387 | 4234 |
| # Withdrawn Applications       | 6    | 1    |
| # Withdrawn Workers            | 42   | 227  |
| # DOL Denied Applications      | 1    | 1    |
| # DOL Denied Workers           | 0    | 0    |
| # Commenced Applications       | 22   | 73   |
| # Commenced Workers            | 1337 | 7521 |
| # Impossibilities Applications | 0    | 0    |
| # Impossibilities Workers      | 0    | 0    |
| # Active Applications          | 22   | 73   |
| # Active Workers               | 1337 | 7521 |

# Year to Date Comparison



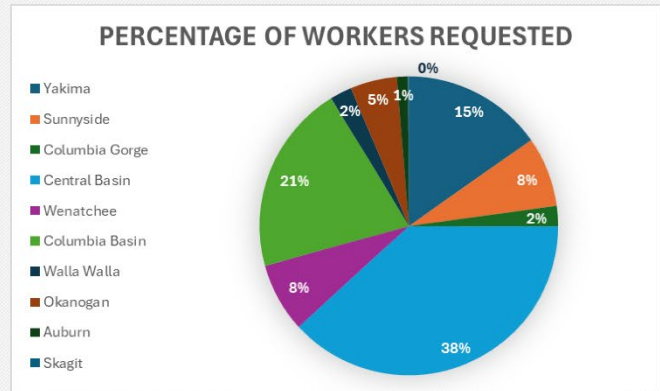
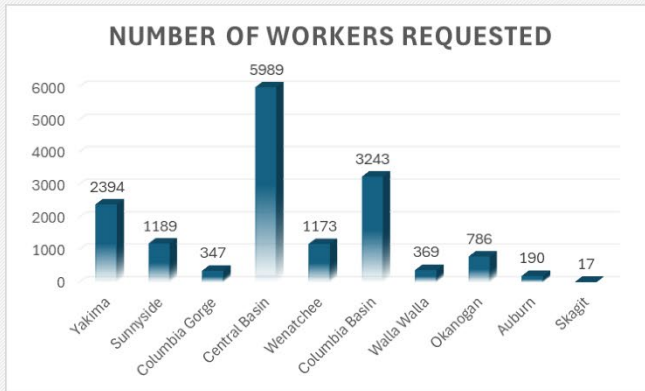
|                                | 2024  | 2023  |
|--------------------------------|-------|-------|
| # Applications                 | 235   | 236   |
| # Workers Requested            | 15871 | 23955 |
| # Withdrawn Applications       | 8     | 17    |
| # Withdrawn Workers            | 289   | 2361  |
| # DOL Denied Applications      | 2     | 3     |
| # DOL Denied Workers           | 0     | 6     |
| # Commenced Applications       | 106   | 107   |
| # Commenced Workers            | 9450  | 11850 |
| # Impossibilities Applications | 0     | 0     |
| # Impossibilities Workers      | 0     | 0     |
| # Active Applications          | 106   | 77    |
| # Active Workers               | 9450  | 11878 |

# Current Active Contracts/Workers



| As of 2/29/2024                              |      |
|--|------|
| Current Active Contracts                     | 106  |
| Current Workers requested on those contracts | 9450 |

## Number & Percentage of Workers Requested by AHO to date



## Common Application/NOD Issues



- SOC code - Employer using wrong soc code/wrong rate of pay
- Productivity Standard – Applications indicate the number of bins to be completed per hour
- Housing –TWH facilities are not ready for inspections. Employers not correcting violations and providing updates to DOH/LNI in the timely manner
- Employer not providing requested information in the timely manner
- Missing the guarantee language or current AEWR
- Non-functional employer information provided in recruitment instructions (email that is not responded to or phone number for a former worker/no longer in service).



## SOC Codes



| SOC Code | Occupation  | Hourly mean wage |
|----------|---|------------------|
| 45-1011  | First-Line Supervisors of Farming, Fishing, and Forestry Workers (451011) | 26.90            |
| 45-2041  | Graders and Sorters, Agricultural Products (452041)                       | \$19.25          |
| 45-2091  | Agricultural Equipment Operators (452091)                                 | \$19.25          |
| 45-2092  | Farmworkers and Laborers, Crop, Nursery, and Greenhouse (452092)          | \$19.25          |
| 45-2093  | Farmworkers, Farm, Ranch, and Aquacultural Animals (452093)               | \$19.25          |
| 45-2099  | Agricultural Workers, All Other (452099)                                  | \$19.25          |
| 53-7064  | Packers and Packagers, Hand   | \$19.25          |

## SOC Codes



|         |  |         |
|---------|--|---------|
| 45-4011 | Forest and Conservation Workers (454011)   | \$21.59 |
| 53-3032 | Heavy and Tractor-Trailer Truck Drivers (533032)   | \$28.95 |
| 49-3041 | Farm equipment mechanic and service technicians  | \$26.53 |
| 53-3053 | Shuttle Drivers and Chauffeurs   | \$19.48 |
| 37-3012 | Pesticide Handlers, and Applicators, Vegetation (373012)   | \$24.14 |
| 53-2011 | Airline Pilots, Copilots, and Flight Engineers (532011)  | - -     |
| 47-4031 | Fence Erectors   | \$20.33 |
| 53-3052 | Bus Drivers  | \$32.02 |
|         | SOC code: Standard Occupational Classification code -- see <a href="http://www.bls.gov/soc/home.htm">http://www.bls.gov/soc/home.htm</a> |         |
|         | Date extracted on: Sep 19, 2023  |         |

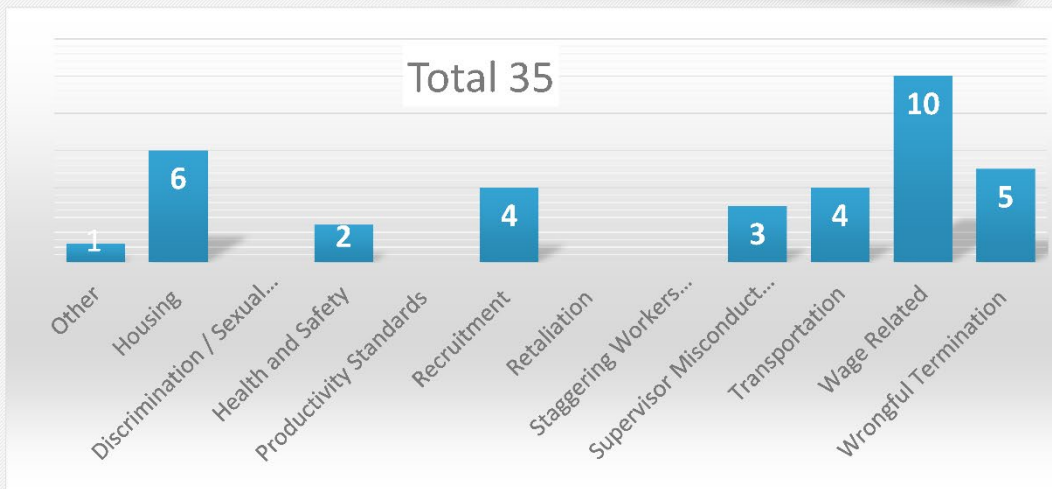


## TWH Inspections for SWA housing compliance certification



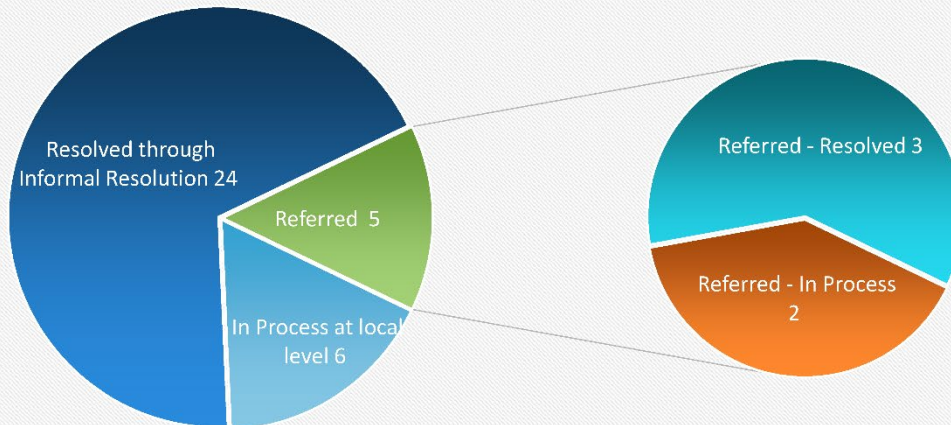
- Inter-agency agreement: work has begun to create a replacement inter-agency agreement for inspections of temporary worker housing for SWA housing compliance certification.
  - Roles and responsibilities
  - Protocol and communication
  - Training
  - Funding sources
  - Performance assessments
  
- Future state will include LNI transitioning out of performing TWH inspections for units with 9 or less occupants.
  - To prepare for the transition: Each ASWS staff member will receive training and guidance from LNI's TWH inspector. ASWS will assist with performing some of these inspections until a final plan is agreed upon by ESD and DOH.
  - Tool kits purchased with FLC funds

## Processing complaints consistent with 20 CFR 658, Subpart E *Reporting Period: 10/01/23-3/01/24*



## Status of Complaints / Apparent Violations

Reporting Period: 10/01/23 - 3/01/24



## Conducting Field Checks

Review period: 10/01/23-3/01/24



### 20 CFR 653.503 Field Checks

(a) If a worker is placed on a clearance order, the SWA must notify the employer in writing that the SWA, through its ES offices, and/or Federal staff, must conduct random, unannounced field checks to determine and document whether wages, hours, and working and housing conditions are being provided as specified in the clearance order.

(c) Field checks must include visit(s) to the worksite at a time when workers are present. When conducting field checks, ES staff must consult both the employees and the employer to ensure compliance with the full terms and conditions of employment.

|   |          |
|---|----------|
| <b>Number of Placements</b><br><i>(seeker referred by ESD to job order and started working)</i> | <b>5</b> |
| <b>Number of Field Checks Performed by ASWS</b>   | <b>5</b> |



## Conducting Field Checks: Inter-agency Coordination *Review period: 10/01/23-3/01/24*



- Final JLARC report and JLARC hearing in April 2024
- ESD has coordinated one field check with LNI DOSH during this review period.
- Current action:
  - ESD engaging with LNI DOSH and DOH for inter-agency agreements for field check coordination in 2024.
  - Agreement with WSDA will likely be communication, only, from ESD regarding field check scheduling and outcomes.
  - ESD writing first draft of these agreements. First draft target date: 4/1/24.

## Field Check Findings *Review period: 10/01/23-3/01/24*



- Workers performing duties that are not listed on the job order
- Water not provided by the employer in the field
- “Hours offered” during pay period not indicated to worker
- No lids on trash cans in housing (very common)
- Smoke detector batteries in housing

## Conducting Field Visits (Site Visits)

Review period: 10/01/23-3/01/24



Site Visits: The ASWS **compliance team** conducts site visits (aka field visits) to H-2A workers to **inform workers** of their **rights** and **contract assurances** under the H-2A regulations. Additionally, **employers** are provided with **education** regarding program requirements and given **compliance resources** and **technical support**.

| Site Visit Goal:  | 100% of job orders |
|---|--------------------|
| Number of Site Visits Performed by ASWS Compliance Staff                        | 93                 |
| Approximate number of workers who attended Site Visits and received information | 7,049              |

## Administering Discontinuation of Services per 20 CFR 658, Subpart F

Reporting period: 10/1/2023-3/1/2024



|                              |     |
|------------------------------|-----|
| Initiated by ESD             | 0   |
| Pending Initiation by ESD    | 1*  |
| Pending Investigation by ESD | 1** |

\*Final debarment determination made by USDOL WHD. ESD must initiate per 20 CFR 658.501(a)(4).

\*\* Pending investigation for 20 CFR 658.501(a)(3) (failure to comply with assurances in job order)



## Conducting training and outreach to employers H2A employers *Reporting period: 10/01/23-3/01/24*



### Support for new H-2A employers

- “Orientations” for new employers
- “101” tools for new employers
- Domestic recruitment orientation (HR staff, field supervisors)
- Mock field checks
- Technical support, as needed

### H-2A employer support and resources

- Domestic recruitment orientation at supervisor onboarding
- Site visit presentations during employer onboarding
- Employer technical assistance
- “Domestic worker is king”



### Agricultural and Seasonal Workforce Services ADVISORY COMMITTEE



Employment Security Department  
WASHINGTON STATE

**On Break until 2:55 p.m.**

ADDENDUM III.

Committee Agency Members:  
Updates & Discussion



Uriel Iñiguez, Director, Community Relations, LNI  
Juan Gamez, Supervisor, Lodging Program, Environmental Health and Safety, DOH  
Ignacio Marquez, Regional Assistant to the Director, Directors Office, WSDA

ADDENDUM IV.

2024 WA State Legislative Session:  
Wrap-Up and Discussion



Caitlyn Jekel, Government Relations Director  
Josh Dye, Legislative Affairs Manager  
Employment Security Department



## Legislative update



### Substitute House Bill 2226 - H-2A and Fruit Harvester Survey

- Directs the Employment Security to survey H-2A workers during field checks and field visits and report the results to the ASWS committee.
- Directs the Department to conduct a comprehensive wage survey of workers hand harvesting (in person and phone):
  - Apples
  - Cherries
  - Pears
  - Blueberries
- The bill was passed by the Legislature and sent to the Governor on March 7
- The survey prescribed in the bill will replace the current worker survey conducted by the Department
- The Department is preparing to integrate implementation into the agency's strategic portfolio

## Good of the Order



- Summary of Meeting
- Future Agenda Items
- Public Comment

## Public Comment

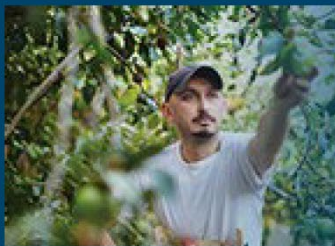


### **PUBLIC COMMENT:**

If you would like to make public comment, including any suggested future agenda items, please state your name and spell it so we can capture it correctly for the minutes, as well as the organization you represent if any. Your comments are being recorded. However, if you would like your comments to be included in the meeting minutes, please submit them in writing via email to Vickie Carlson at [Vickie.Carlson@esd.wa.gov](mailto:Vickie.Carlson@esd.wa.gov). Please limit your comments to two minutes.

### **COMENTARIO PUBLICO:**

Si desea hacer un comentario público, incluyendo temas ó elementos de seguridad para agendas futuras, por favor indique su nombre y deletreelo para poder capturarlo correctamente en los apuntes de la junta, también indique la organización a la que representa si hay alguna. Sus comentarios estan siendo grabados. Sin embargo, si desea que sus comentarios sean incluidos en los apuntes de la junta, por favor envíelos por escrito por correo electrónico a Vickie Carlson a [vickie.carlson@esd.wa.gov](mailto:vickie.carlson@esd.wa.gov). Por favor limite sus comentarios a dos minutos.



## Agricultural and Seasonal Workforce Services ADVISORY COMMITTEE



**Employment Security Department**  
WASHINGTON STATE

### *Adjourn*

## **ASWS Advisory Committee Meeting**

Wednesday, April 17, 2024

1:00 p.m. – 3:00 p.m.

**Zoom**

### **Contact information**

Joy Adams, Director of Employment System Policy & Integrity Division [joy.adams@esd.wa.gov](mailto:joy.adams@esd.wa.gov)

*Employment Security Department • Employment System Policy & Integrity*