



Agricultural and Seasonal Workforce Services Advisory Committee

Meeting details

Date: Thursday, February 17, 2022

Time: 8:30 a.m. – 11:30 a.m.

Location: Virtual meeting due to COVID-19

Committee members present

- Jonathan DeVaney
- Michael Gempler
- Edgar Franks
- Michele Besso
- Rosalinda Guillen
- Victoria Ruddy

Non-voting agency representatives

- Todd Phillips
- Ignacio Marquez
- Uriel Iniguez

Committee members absent

- Jeff Perrault
- Delia Peña

Guests

- Rudy Mondaca

ESD staff

- Dan Zeitlin
- Bertha Clayton
- Tamara Johnson
- Gustavo Aviles
- Craig Carroll
- Rene Maldonado
- Juan Martinez
- Ana Alcala-Rodriguez
- Petra Meraz
- Matt Kline

Summary

Meeting Recorded

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

Welcome and Introductions

Employment Security Department (ESD) Policy Director, Dan Zeitlin, welcomed everyone and asked Tamara Johnson to take roll. Six voting members were present and 2 were absent.

Agenda

Recording timestamp **00:03:00**

Dan Zeitlin reviewed the agenda for the meeting and asked if anyone had any questions. (See Addendum I.)

Meeting Minutes

Recording timestamp **00:04:45**

Dan Zeitlin requested that everyone review the meeting minutes for January 20, 2022 and provide their feedback. Jon DeVaney made a motion to approve the January 20, 2022 minutes. Michele Besso seconded the motion. The January 20, 2022 meeting minutes were approved.

H-2A Application Data Report - Petra MerazRecording timestamp **00:07:10**

Petra Meraz reported on H-2A application data. (See Addendum II.)

ASWS Office Update – Bertha Clayton (See Addendum III.)Recording timestamp **00:20:05**

- Compliance specialists positions are completely staffed as of January 18, 2022.
- Compliance specialists have made 13 field visits and contacted 468 workers.
- Field visit notification and ASWS introduction letter
- Proposal to use “Site visit” instead of Field visit to eliminate confusion Recording timestamp **00:31:36**
 - Mike Gempler (WGL): Could we put mandatory in front of the Field Check to make it clear?
 - Rosalinda Guillen (CTC): I agree with the change and use of the word mandatory as Mike suggests.
- Jon DeVaney (WSTFA): Referrals to other agencies – Would your staff always be the first responder to investigate a worker complaint? For example a safety issue or housing issue would you investigate first or make immediate referral to the appropriate enforcement agency?
 - Bertha Clayton (ASWS Director): We are having internal conversations about how and when we will engage with a complaint since we now have a dedicated compliance office. For example if MSFW comes to the WS office and makes a complaint we have staff at the office trained to log the complaint and investigate and attempt to solve at the lowest level possible.
- Mike Gempler (WGL): Recording timestamp **00:46:42**

In the RCW 50.75.010 definitions – (5) *“Field visit” means a scheduled visit to an employer’s premises where H-2A workers work, live, and gather to discuss employment services and other employment-related programs with workers, as required by the United States department of labor.* That is all it says and this is more than that.
- Uriel Iniguez (LNI): Complaints
 - Rene Maldonado (ESD SMA): We notify the Chicago processing center about complaints.
- Victoria Ruddy (UFW): If LNI gets the complaint does it send the info to ASWS office?
 - Rene Maldonado (ESD SMA): LNI will give us a report. We contact employer to ensure that the issues have been resolved and workers are safe.
- What’s happening during a site visit - Sample questions & what to expect. Recording timestamp **01:04:52**
 - Memo (See Addendum III.)

Customer Experience Study – Gustavo Aviles (See Addendum IV.)Recording timestamp **01:30:50****Disaster Unemployment Assistance – Joy Adams** (See Addendum V.)Recording timestamp **01:48:15****Future Agenda Items**

- DOH COVID updates
- 2022 Report timeline

Public Comments

None

Adjourned

Dan Zeitlin thanked everyone for their continued active participation and for their commitment to this work, then ended the meeting at 11:16 a.m.

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

- **March 17, 2022 – 8:30 a.m. to 11:30 a.m. – Zoom Meeting**

Addendums**ADDENDUM I.****AGENDA**

Agricultural and Seasonal Workforce Services (ASWS) Advisory Committee
Thursday, February 17, 2022 | 8:30 am – 11:30 am | Zoom

TIME	TOPIC
8:30 am	Welcome – Dan Zeitlin, Director, ESD Employment System Policy & Integrity Division <ul style="list-style-type: none">• Roll Call – Tamara Johnson• Agenda Review – Dan Zeitlin
8:40 am	Approval of Meeting Minutes – Dan Zeitlin <ul style="list-style-type: none">• January 20, 2022
8:45 am	FLC Applications Update – Petra Meraz
8:55 am	ASWS Compliance Update – Bertha Clayton
9:25 am	Break
9:40 am	Customer Experience Study – Gustavo Aviles
9:55 am	Disaster Unemployment Assistance – Joy Adams Clallam, Skagit, and Whatcom counties
10:10 am	Closing Discussion <ul style="list-style-type: none">• Agenda items
10:20 am	Public Comments
10:30 am	Adjourn

GROUND RULES

No side conversations | Phones on silent | Let people speak without interruption | Respect the opinion of others | Strive for understanding | Speak your mind | Strive for common ground | Assume good intent | Stay focused on task at hand and be willing to come back to the topic | Make sure everyone understands | Look out for each other | Take care of your own comfort | Ask for what you need

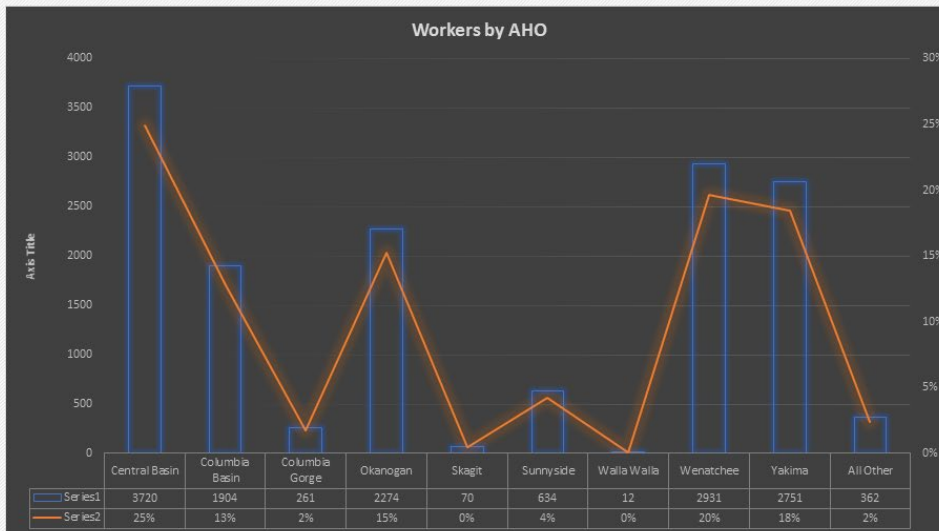
ADDENDUM II.

FLC Applications Update



2022 H-2A Program Data (10/1/2021-1/12/2022)	2022				2021			
	Applications processed	Workers Requested	Active	Active Workers	Applications processed	Workers Requested	Active	Active Workers
Total Applications Received/Processed:	184	14,757	Active	Active Workers	146	11369	Active	Active Workers
Number of Applications Withdrawn/Not Processed by DOL:	11	569			6	547		
Contract Impossibility:	0							
Total Number of Contracts Commenced:	71	5603	71	5610	41	4701	44	4719

*The numbers reported are not reflective of the number of foreign workers that actually arrive in Washington State.



ADDENDUM III.

ASWS Compliance Update



- Compliance unit is fully staffed with seven compliance specialists!
 - Auburn, Central Basin, Columbia Bain, Okanogan, Wenatchee, Walla Walla, Yakima
 - Mireya Prieto – Compliance Supervisor 1/18/2022

- Compliance Supervisor – Interviews complete
 - Recruitment is pending.

ASWS Compliance Update



Compliance Unit Goal:

At least one field visit to each H-2A employer.

- Off to a great start - 13 field visits, 468 workers.
- We are tracking number of requested workers vs. actual workers present at sites.
- Discrepancy between “requested” and “actual” figures including – tested Positive for Covid while in Mexico, awaiting COVID results in Mexico, denial of visa (1), family emergency (1), “pending approval” immigration cases.
- Foreman training delivered

ASWS Compliance Update



- Field visit notification letter
 - Notification is emailed to employer.
 - To date, we have not received a lot of employer feedback.

- Proposed name change to avoid confusion
 - Field Visit to “Site Visit”
 - Proposed to avoid confusion with “Field Check”

 **Employment Security Department**
 WASHINGTON STATE
 P.O. Box 9046 • Olympia WA 98507-9046

<<DATE>>

John Doe Owner
 Example Employer Inc
 1234 State Hwy
 Wenatchee WA 98801

Notice of H-2A contract field visit
Please respond within 10 days to schedule a visit
H-2A Case #:

Dear Mr. Doe:

I am writing to you regarding your H-2A contract with a start date of << DATE >>. I am contacting you to pre-arrange a visit to your farm. The purpose of this visit is to perform outreach to your employees, provide education and resources to you, the employer, and to verify compliance with the terms of the H-2A regulations.

The Employment Security Department has specific management and oversight responsibilities in the H-2A program. The assurances provided in the ETA-790 include guarantee ESD staff reasonable access to meet with H-2A workers (assurance 17.F of H-2A contract). ESD's function is to conduct field visits on each H-2A and H-2B contract. **Please contact me at my contact information below within 10 days so that we can schedule your visit.**

What to Expect During the Field Visit:

ESD Staff Will:

- Present information to your workers regarding the terms of the ETA-790
- Interview workers regarding their wages and working conditions
- Provide information regarding filing complaints with the State of Washington (Ex: wage and hour, working conditions, etc.)
- Answer questions that workers may have about the H-2A program
- Provide you with a copy of the informational materials provided to your workers (e.g., brochures, business cards, complaint forms, fact sheets, fliers, etc.)
- Meet with you or your designee after the field visit to discuss the visit and communicate any potential issues.

Notification Letter



What to Expect After the Field Visit

ESD will send you a letter after the visit describing any potential violations (if any), as discussed with you during the visit. If an apparent violation(s) is found during the visit, or if a complaint is received by a worker, ESD will work with you to resolve the issue. If issues are not resolved within five business days after you have been notified, ESD refers the violation to the appropriate enforcement agency, or may initiate discontinuation of services to you.

Please contact me within 10 days to schedule a visit. My goal is a smooth and efficient field visit with minimal interruption to your operation. I look forward to working with you. Please feel free to email me <<EMAIL>> or call me at <<PHONE NUMBER>> to schedule the visit, or if you have any questions.

Sincerely,

<<NAME>> | Compliance Specialist
 Washington State Employment Security Department
 Office of Agricultural & Seasonal Workforce Services
 Employment System Policy & Integrity

ASWS Compliance Update



- Sample of questions compliance staff are asking in the field
 - See Memo
- Compliance Specialist introduction/purpose of visit/what to expect during the visit
- Role and responsibility – distinguish our role from that of L&I, DOH, etc.
- Compliance specialists bring copy of ETA-790 to visit

To: ASWS COMMITTEE MEMBERS
 From: Bertha Clayton, Director, ASWS
 Re: Field visit notification letter & Sample of questions asked by compliance specialists during field visits
 Date: 2/11/2022

I. PURPOSE & BACKGROUND

The purpose of this memo is to respond to the ASWS Committee members' requests at the January 20, 2022 committee meeting to the ASWS Director as follows:

1. Request for copy of Field Visit Notification letter to be used by ASWS Compliance staff when pre-arranging a visit to H-2A employer sites; and
2. Sample of questions ASWS compliance specialists are using during field visits to H-2A employer sites.

II. FIELD VISIT NOTIFICATION LETTER

As discussed at the 1/20/22 meeting, the ASWS has created a standard "Field Visit Notification" letter to notify the employer of the intended visit, give instructions for pre-arranging the visits, state the ASWS's authority for the visit, and provide the employer with information about what to expect during the visit.

Per your request, please see attached a copy of the final draft of this letter.

III. SAMPLE OF QUESTIONS

Our compliance staff was asked to provide examples of the questions that each are currently using during field visits. Among them are:

- Compliance Specialist introduction/purpose of visit/what to expect during the visit;
- Role and responsibility – distinguish our role from that of L&I, DOH, etc.;
- Compliance specialists bring copy of ETA-790 to visit;
- Sample of Questions to Workers:
 - o Do you have any issues or problems with your housing conditions?
 - o Are you being transported to a store to purchase food for cooking?
 - o Have you been charged any fees for transportation to or from your work site and/or to the store to buy food?
 - o Where have you been working?
 - o Have you received a copy of your contract?
 - o How many hours have you been working each day?
 - o What type of working have you been doing?
 - o Do you know how much you being paid for the work that you are doing? How much?

Memo

- o Questions regarding safety issues: are you being provided with safety equipment and/or tools (if required)? Fresh drinking water?
- o How are you being treated by your supervisor? (screening for harassment);
- o (If injured) – has your employer offered you medical treatment? Do you have future medical treatment scheduled? Are you being provided transportation by the employer to that medical treatment?
- o Are you being provided with a paystub explaining your hours and earnings?
- o How often do you get paid?
- o Do you have your passport in your possession (to confirm that the employer is not in possession of the passport).

This is not an exhaustive list, however it generally covers the areas covered by compliance specialists' questions. The goal of interviews with workers is to confirm that the employer is in compliance with the conditions and assurances of their H-2A clearance orders. Information obtained by workers is also used to provide technical assistance and educational consulting to employers. Additionally, conditions observed by compliance staff and information obtained by workers may serve as the basis for an apparent violation. Additionally, compliance specialists are also trained to intake worker complaints and investigate the facts. All issues arising from the visit are discussed with the employer prior to the compliance specialist leaving the site.

IV. STAFFING AND FUTURE TRAINING

As of the date of this memo, ASWS has seven compliance specialists actively conducting field visits. There are no position vacancies. ASWS is in active recruitment for the Compliance Unit Supervisor position and completed interviews the week of February 7, 2022. The Compliance Unit is operating under the 100% field visit goal, meaning that our unit's goal is to conduct at least one field visit to every H-2A employer. This goal was set during Craig Carroll's interim directorship. ASWS unit-wide training is planned once the Compliance Supervisor position is filed, likely by late March to early April. In the meantime, compliance specialists are meeting weekly to discuss work and field visit best practices.

V. CONCLUSION

If you have further questions regarding this memo, please contact Bertha Clayton at bertha.clayton@esd.wa.gov, or at 509-715-4486.



Sample Questions to Workers



Sample of Questions to Workers:

- Do you have any issues or problems with your housing conditions?
- Are you being transported to a store to purchase food for cooking?
- Have you been charged any fees for transportation to or from your work site and/or to the store to buy food?
- Where have you been working?
- Have you received a copy of your contract?
- How many hours have you been working each day?
- What type of working have you been doing?
- Do you know how much you being paid for the work that you are doing? How much?
- Questions regarding safety issues: are you being provided with safety equipment and/or tools (if required)? Fresh drinking water?
- How are you being treated by your supervisor? (screening for harassment);
- (If injured) – has your employer offered you medical treatment? Do you have future medical treatment scheduled? Are you being provided transportation by the employer to that medical treatment?
- Are you being provided with a paystub explaining your hours and earnings?
- How often do you get paid?
- Do you have your passport in your possession (to confirm that the employer is not in possession of the passport).

Collaboration with other agencies regarding complaints



- Meeting with Uriel Iniguez 2/9/2022
 - Spoke about increasing coordination between ASWS and L&I regarding complaints.
 - Developing ideas about how to better communicate and monitor complaints.
- Need to address internal roles and responsibilities regarding MSFW complaint handling
 - ESD – meeting internally to define roles and responsibilities (ASWS, Wagner-Peyser, State Monitor Advocate)
 - Once roles and responsibilities clearly defined, we can proceed with collaboration improvement as to L&I, DOH, etc.

ASWS Compliance Update



- Feedback requested from ASWS Committee
 - What ideas do you have about improving the delivery of information to workers about employer assurances and worker rights?
 - What ideas do you have about establishing and strengthening relationships with employers?

Customer Experience Study



- Grant approval
- Review next steps
- Who is willing to review the draft for the second phase of customer experience study proposal?
- Need two letters of recommendation
 - Two (2) letters of support from **Industry** are **required**. The letters should be from the specialty crop industry members that are benefiting from these project funds.

ADDENDUM V.

Disaster Unemployment Assistance for Northwest WA flooding



Joy Adams, Unemployment Insurance Quality Assurance Manager

November disaster



- On January 5, President Biden declared a major disaster for the November floods and mudslides in the northwest corner of Washington.
- Affected areas include:
 - Clallam County
 - Whatcom County
 - Skagit County
 - Lummi Nation
 - Nooksack Indian Tribe
 - Quileute Tribe
- Workers who live or work in these areas and are unemployed as a direct result of the disaster may be eligible for Disaster Unemployment Assistance or DUA.
- DUA launches on Monday, February 7, 2022.

What is Disaster Unemployment Assistance?



- DUA provides income support to workers who do not qualify for regular unemployment insurance.
- This can include workers who do not have enough **covered employment** to qualify for a claim, those who have exhausted their regular UI eligibility, or other reasons related to the disaster.
- This program is very similar to Pandemic Unemployment Assistance, which expanded eligibility for income support benefits during the height of the COVID-19 pandemic.

Please help us spread the word!

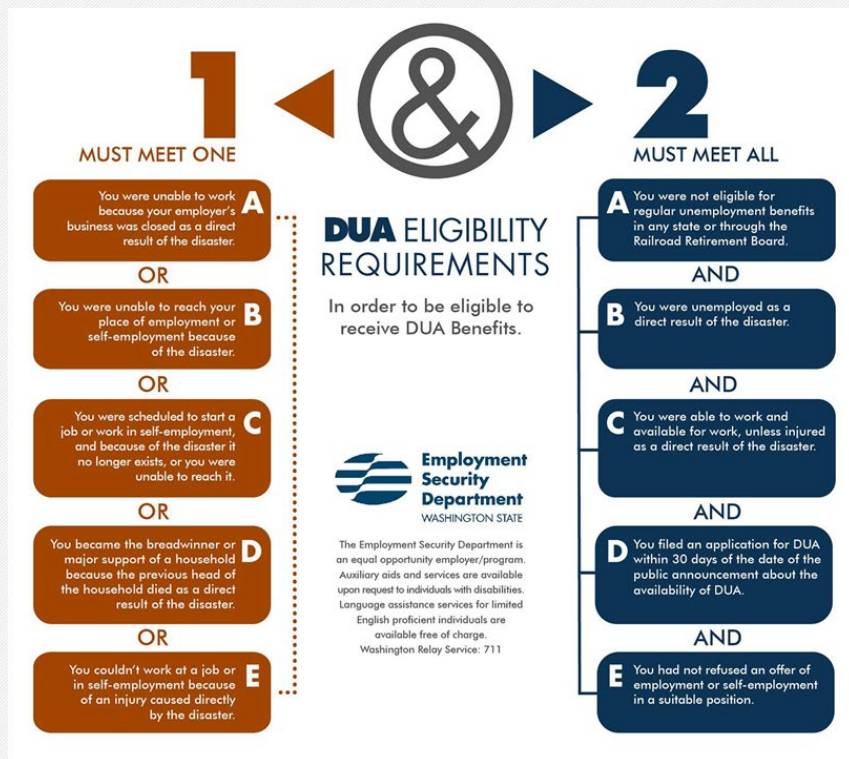


- ESD will accept DUA applications from Feb. 7-March 9, 2022. Applications submitted after March 9 will require a good cause reason.
- As we begin to implement this program and provide communications, we will be asking you to help amplify our message to reach everyone who may need this assistance. Updated DUA information can be found on our website at <https://esd.wa.gov/unemployment/dua>.
- We also would appreciate your feedback on specific needs and outreach we can provide to ensure everyone has equitable access to the benefits. Please email ESDGPGovRelations@esd.wa.gov.

Help for impacted businesses



- You can ask for relief of benefit charges if your employees received unemployment insurance as a direct result of the disaster. Information at esd.wa.gov/about-employees/relief-of-benefit-charges
- Laws passed in 2021 affected your tax rates to help with recovery from the pandemic. More information available at esd.wa.gov/newsroom/covid-19-employer-information
- This page has information on programs that can affect your employees' benefits and your bottom line: esd.wa.gov/unemployment/temporary-layoffs
 - SharedWork
 - Standby
 - Partial employment



Applying for DUA



Regular Unemployment Application

- Online: esd.wa.gov/unemployment
- Phone: 800-318-6022

Submit DUA application packet concurrently

- Online: esd.wa.gov/dua
- Phone: 855-952-9988

DUA Monetary Determination Letter

- Rapid launch means that constituents may only receive mailed letters. Constituents may call the DUA line to check status if postal mail is a challenge.

Submit DUA weekly claim

- Online: esd.wa.gov/dua
- Phone 855-952-9988

Payment

- Paper check mailed to claimant, no electronic payment at this time.

Application Support



- Online <https://esd.wa.gov/unemployment/dua>
 - Application packet
 - Secure upload tool
- Phone
 - Claims center phone line: 800-318-6022
 - DUA Phone Line: 855-952-9988
 - LEP Phone Line: 800-410-0758
- In person: support at WorkSource Offices
 - WorkSource Skagit (in Mount Vernon)
 - WorkSource Whatcom (in Bellingham)
 - WorkSource Clallam (in Sequim)
- If you have barriers to using digital tools, we also accept applications by fax or mail
 - Fax: 844-395-6712
 - Mail:
 - Employment Security Department
 - Disaster Unemployment Assistance
 - PO Box 19019
 - Olympia, WA 98507-0019

Language Access Support



- English and Spanish application materials
 - English application packet available online on Monday, Feb. 7
 - Spanish application packet available online on Tuesday, Feb. 8
 - Weekly claim form available Wednesday, Feb. 9
- English and Spanish support through DUA Phone line
- Other language support can be found through the LEP Phone Line
 - Menu available in more than 15 languages
- WorkSource offices open in impacted areas for in-person support, with some bilingual staff

Accessibility Plan



- Paper application available for claimants without digital access, can be submitted through postal mail or fax, in addition to secure upload on esd.wa.gov/dua
- Reasonable accommodation is available for claimants with a disability or unusual circumstance
 - [Web: https://esd.wa.gov/newsroom/equal-opportunity/reasonable-accommodation](https://esd.wa.gov/newsroom/equal-opportunity/reasonable-accommodation)
 - Phone: 844-395-6698 (WA relay 711)
 - Email: ESDGPUIAccomms@esd.wa.gov
- WorkSource offices open in impacted areas for in-person support
 - Print and scan available for paper application materials

Key Takeaways



- Please help ESD spread the word!
- Applications are open Feb. 7 – March 9
- Customers must have applied and been denied UI before DUA is approved
- Customers are encouraged to expediate the process by applying for both **concurrently** and online.
- Customers also may receive additional help through WorkSource, language phone lines, and reasonable accommodations.
- The best place for updated DUA information is via the website at esd.wa.gov/dua
- Please email questions to ESDGPGovRelations@esd.wa.gov

Questions?

Joy Adams, Unemployment Insurance Quality Assurance Manager



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Contact information

Dan Zeitlin, Director of Employment System Policy & Integrity Division DZeitlin@ESD.WA.GOV

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