



# Agricultural and Seasonal Workforce Services ADVISORY COMMITTEE

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**Employment Security Department**  
WASHINGTON STATE

## **ASWS Advisory Committee Meeting**

*Thursday, September 18, 2025*

*9:00 am – 1:00 pm*

# Housekeeping



## **RECORDING ANNOUNCEMENT:**

This meeting is being recorded. Please be advised that your image and voice will be captured and recorded during the videoconference. Your participation in this videoconference equals consent to be recorded.

## **ANUNCIO GRABADO:**

Esta junta está siendo grabada. Por favor tenga en cuenta que su imagen y voz serán capturados y grabados durante la video-conferencia. Su participación en esta video-conferencia significa dar consentimiento de ser grabado.

# Agenda



## AGENDA

Agricultural and Seasonal Workforce Services (ASWS) Advisory Committee  
Thursday, September 18, 2025 | 9 am – 1 pm | 4th Floor - Perkins Conference Room, 212 Maple Park Ave SE  
Olympia, WA 98501

TIME	TOPIC	SPEAKER
9:00 am	Call to Order; Welcome	Dan Zeitlin, Chief of Staff, Executive Programs, ESD
9:10 am	Roll call of committee members	Vickie Carlson, Management Analyst, ASWS Office, ESD
9:15 am	Agenda review, meeting minute approval	Dan Zeitlin, Chief of Staff, Executive Programs, ESD
9:25 am	ASWS Office update	Bertha J. Clayton, Director, ASWS Office, ESD Petra Meraz, Supervisor, Foreign Labor Certification Program, ASWS Office, ESD Susana Rodriguez, Supervisor, Compliance Team, ASWS Office, ESD
9:50 am	Workforce Services Division update	Alberto Isiordia, Assistant Director, WSD, ESD Maria Maravilla, Wagner Peyser/MSFW Program Support, WSD, ESD
10:20 am	Overview of federal rule changes	Bertha J. Clayton, Director, ASWS Office, ESD Petra Meraz, Supervisor, FLC Program, ASWS Office, ESD
11:15 am	Break	
11:30 am	<b>Committee information &amp; feedback:</b> <ul style="list-style-type: none"><li>HB 2226 data collection and reporting</li><li>Update: H-2A Temporary Worker Housing inspections</li></ul>	Bertha J. Clayton, Director, ASWS Office, ESD
12:15 pm	Potential changes to Field Checks	Arturo Espinoza, MSFW Monitor, Executive Programs, ESD
12:30 pm	Public Comment	Dan Zeitlin, Chief of Staff, Executive Programs, ESD
12:50 pm	Good of the Order Adjournment	Dan Zeitlin, Chief of Staff, Executive Programs, ESD
1:00 pm	Next meeting: Thursday, November 20, 2025, 9 am – 12 pm, Virtually held on Zoom	

## 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 |

# ASWS Office Update – *September 2025*



**Employment  
Security  
Department**  
WASHINGTON STATE

Bertha J. Clayton, ASWS Director, ESD

# Discontinuation of Services



Discontinuation of Services – 20 CFR 658, Subpart F, initiated  
from 10/1/24-9/1/25

2

# Interagency Coordination



Inter-agency agreement	Agencies	Status
ESD & National Farmworker Jobs Program Grantee	ESD SMA, ESD WSD – Opportunities Industrialization Center of WA (OIC)	Complete (03/2025)
Field Check Coordination	ESD-LNI-DOH-WSDA	Complete (09/2025)
H-2A Temporary Worker Housing Inspections, Licensing & Certification	ESD-DOH-LNI	Paused- Pending operational changes
H-2A Complaint Data Sharing Agreement (Statement of Work)	ESD-LNI	ESD SOW Complete (04/2025)

# H-2A litigation & federal rule changes



## FUJ litigation\*

June 19, 2025:

- Washington state's updated prevailing piece rates wages published.
- Updated prevailing piece rate wages available on WorkSource's [agricultural services webpage](#).

Type	Prevailing Piece Rate
Cherries, Bing, Harvesting	\$0.24 Per Pound
Cherries, Dark Red, Harvesting	\$0.27 Per Pound
Pears, Bartlett, Harvesting	\$25.90 per bin (47"x47"x24.5")
Pears, Harvesting	\$26.42 per bin (47"x47"x24.5")

Source: Agricultural Online Wage Library | U.S. Department of Labor

\*ESD is not a party to FUJ litigation.

7

As a result of *FUJ* litigation, Washington State employers must offer and pay the prevailing piece rates on AEWR only job orders as of the date they are published. This order precludes the employer from paying hourly for these crops and tasks. The current prevailing piece rates are above and were published on 6/19/25.

# Update on “old business”



- ASWS webpage status
- Written resources for employers and workers
- ASWS "in the news":
  - [\*Immigration policies and labor: A look at the growing reliance on H-2A workers in the Pacific NW\*](#) (9/7/25, NWPB)
- USDOL WHD coordination



# Winding up PY 2025 and looking forward to 2026



- ASWS PY 2025 ends 9/30/25.
- Data "round-up" at November 2025 meeting
- PY 2026 begins 2026. As of 10/1/25:
  - Improved data collection and reporting
  - Changes to field checks (compliance team)
- 2026 ASWS Focus Areas
  - Intra-agency domestic recruitment processes
  - Inter-agency coordination and alignment regarding H-2A TWH inspections and housing certification
  - Employer education and technical assistance regarding federal rule changes
  - Employer supervisor training
  - Improving HB2226 data collection and reporting processes

# Processing and adjudicating Foreign Labor Certification applications

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



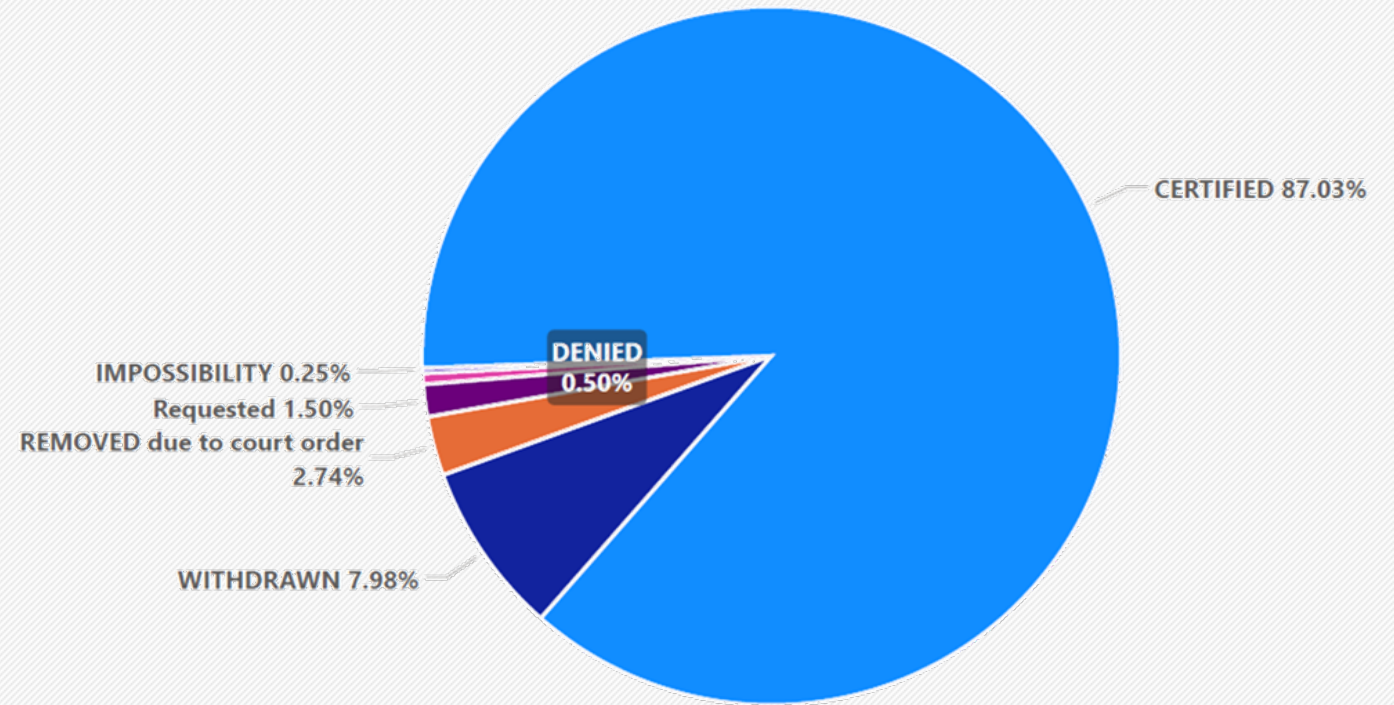
**Employment  
Security  
Department**  
WASHINGTON STATE

# Application status report

October 1, 2024 – August 31, 2025



Status ▲	Applications	Workers
CERTIFIED	397	34186
DENIED	2	9
IMPOSSIBILITY	1	100
REMOVED due to court order	17	1346
Requested	13	526
WITHDRAWN	38	2540
<b>Total</b>	<b>468</b>	<b>38707</b>



Status ● CERTIFIED ● WITHDRAWN ● REMOVED due to court order ● Requested ● DENIED ● IMPOSSIBILITY

# Number of active contracts & workers

Started by and ended after August 31, 2025.



## Active contracts & number of workers

Started by and ended after August 31, 2025.

**349**

Contracts

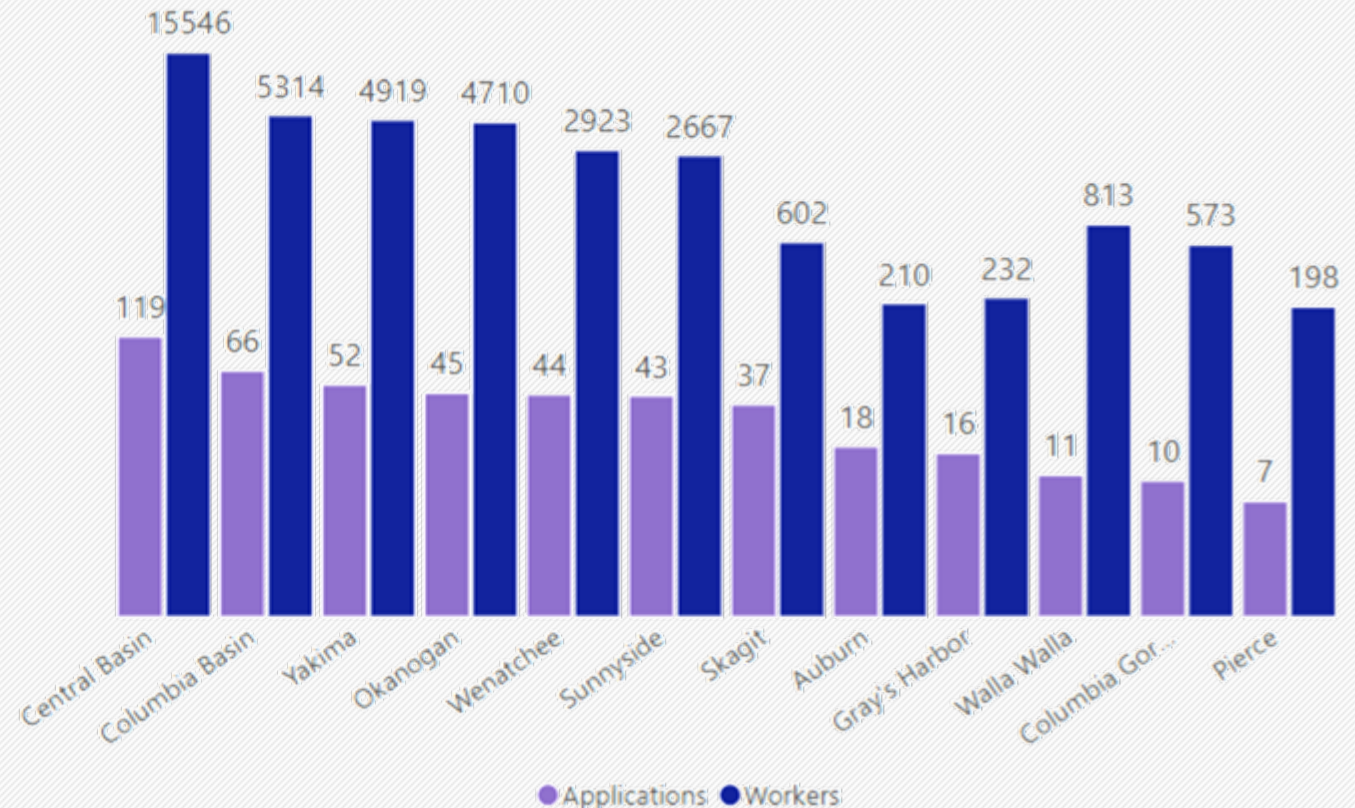
**31275**

Workers

# Number of applications & workers requested by AHO



AHO	Applications	Workers
Central Basin	119	15546
Columbia Basin	66	5314
Yakima	52	4919
Okanogan	45	4710
Wenatchee	44	2923
Sunnyside	43	2667
Skagit	37	602
Auburn	18	210
Gray's Harbor	16	232
Walla Walla	11	813
Columbia Gorge	10	573
Pierce	7	198
<b>Total</b>	<b>468</b>	<b>38707</b>



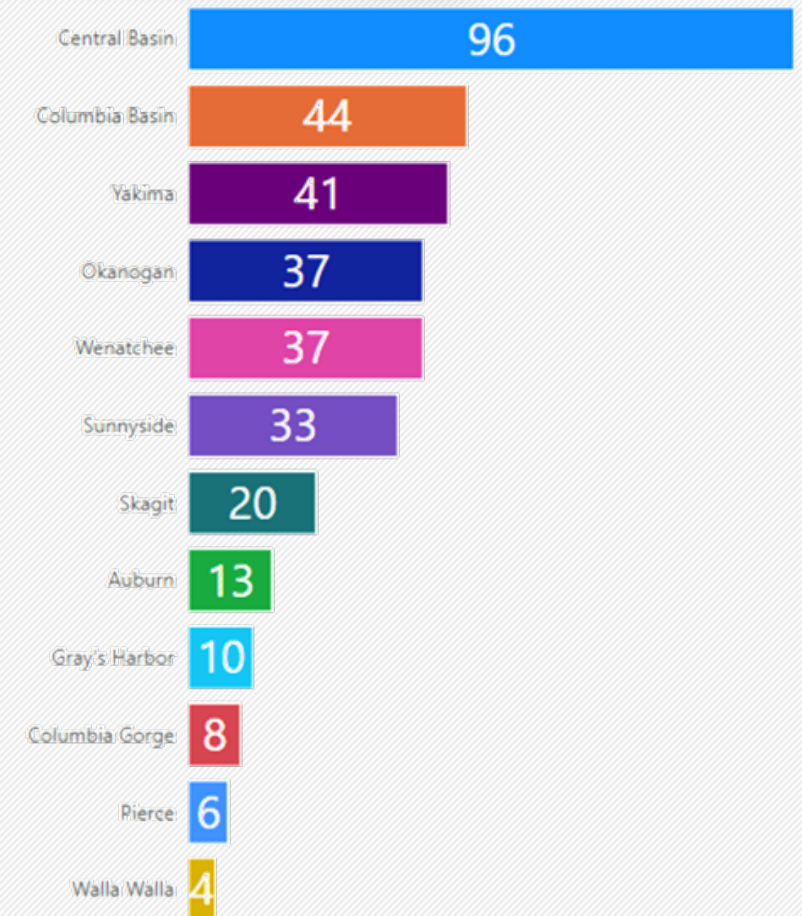
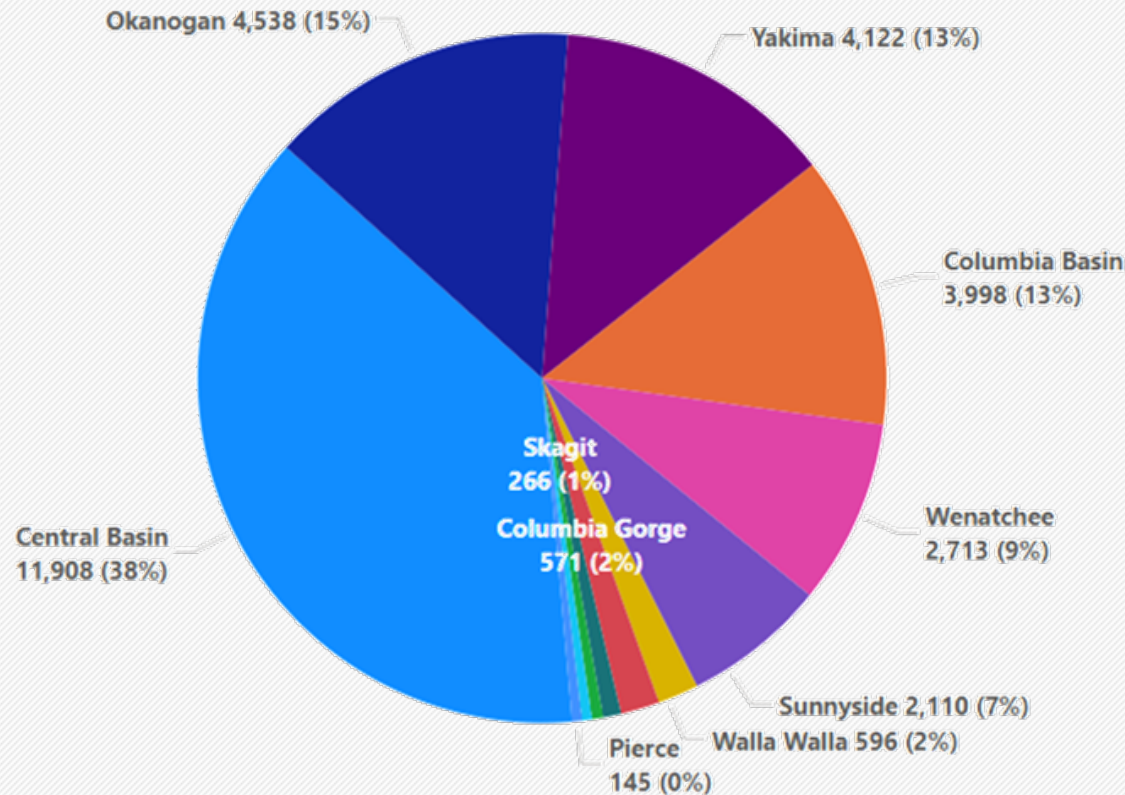
# Number of active contracts & workers; by AHO

Started by and ended after August 31, 2025.



**349**  
Contracts

**31275**  
Workers



# Compliance Reporting: Site visits (field visits), field checks & complaints

Susana Rodriguez, Compliance Unit Supervisor, ASWS, ESD



**Employment  
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Department**  
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# ASWS Compliance updates



## Site visits conducted

**401**

Site Visits

**21,938**

Workers Contacted

## Total field checks and workers Completed

Field Checks

**15**

Workers

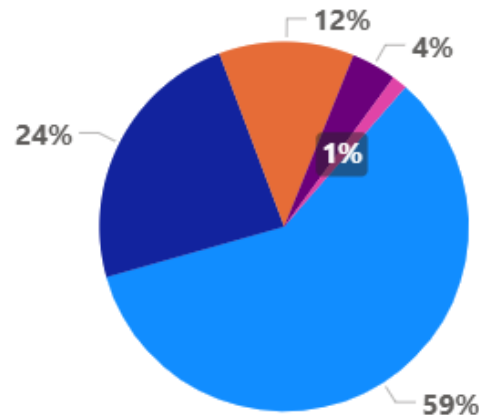
**31**

## Number of workers per field check

3 3 4 1 1 4 1 1 1 2 2 4 1 1 2

## Complaint status

● Informally ... ● Referred t... ● Failure to ... ● Referred ... ● In Process (...)



## Total complaints

**76**

### Complaint status

In process

**1**

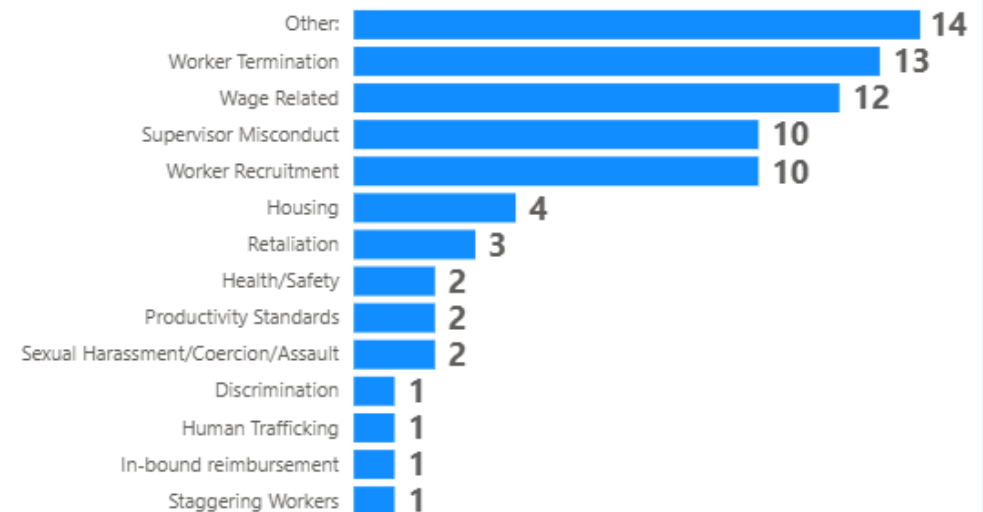
Informally resolved

**45**

Referred to other agency

**18**

## Complaints/apparent violations





# ASWS quarterly report – 3<sup>rd</sup> Qtr. PY2025



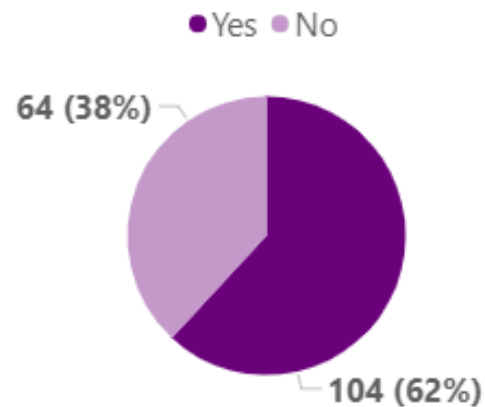
## 2. Total Workers Requested

**21,911**

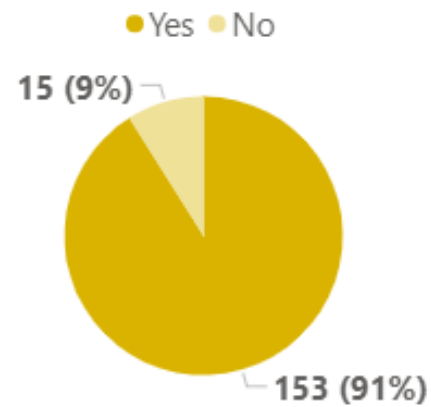
## 3. Total Workers Received

**15,915**

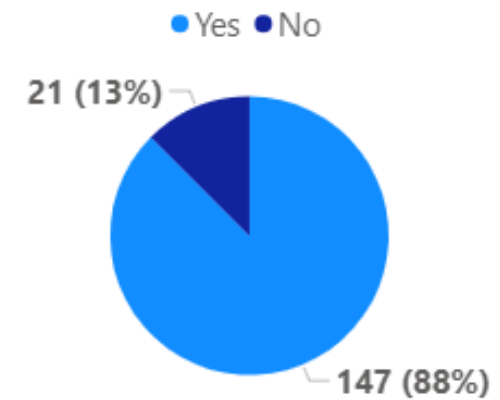
### 1. Number workers requested match?



### 4. Housing Locations Match?



### 5. Worksite Locations Match?



# Workforce Services Division Updates September 2025



**Employment  
Security  
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WASHINGTON STATE

Alberto Isiordia, Assistant Director of Operations, ESD  
Maria Maravilla, Wagner-Peyser Program Support Specialist, ESD

# MSFW Outreach Performance



## Workforce Services Division (WSD)

October 1, 2024, through August 31, 2025

Program Year	2023	2024
Total FTEs *	11	11
Total Outreach Days	1,470	1,455
Total Number of MSFWs Contacted	25,564	24,644

*\*9 dedicated FTEs (MSFW Staff) and 2 FTEs allocated to non-Ag. significant areas. MSFW staffing changes to be reflected in PY 2025.*

# Complaints and Apparent Violations



## Workforce Services Division (WSD)

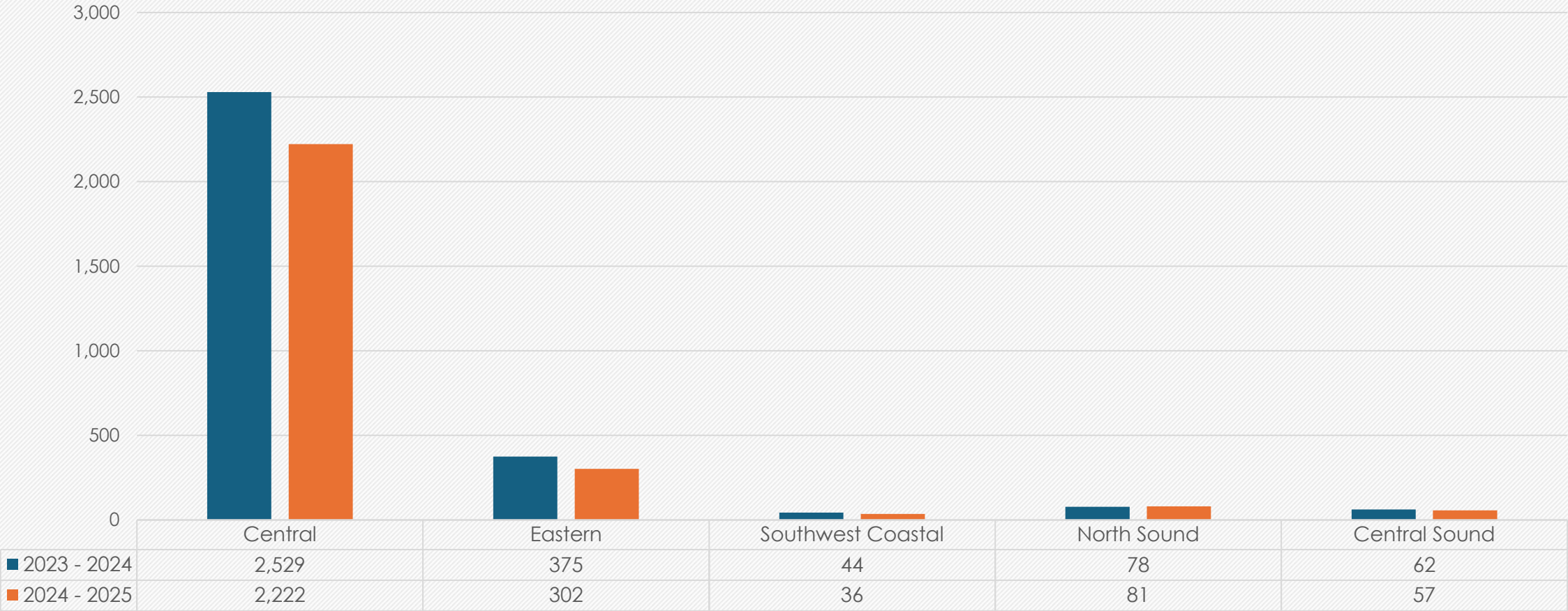
October 1, 2024, through August 31, 2025

Total Number of Complaints	45
Total Number of Apparent Violations	3
Total Referred (14 H-2A related)	44
Total Resolved (at local level)	4

# MSFWs Served by Region



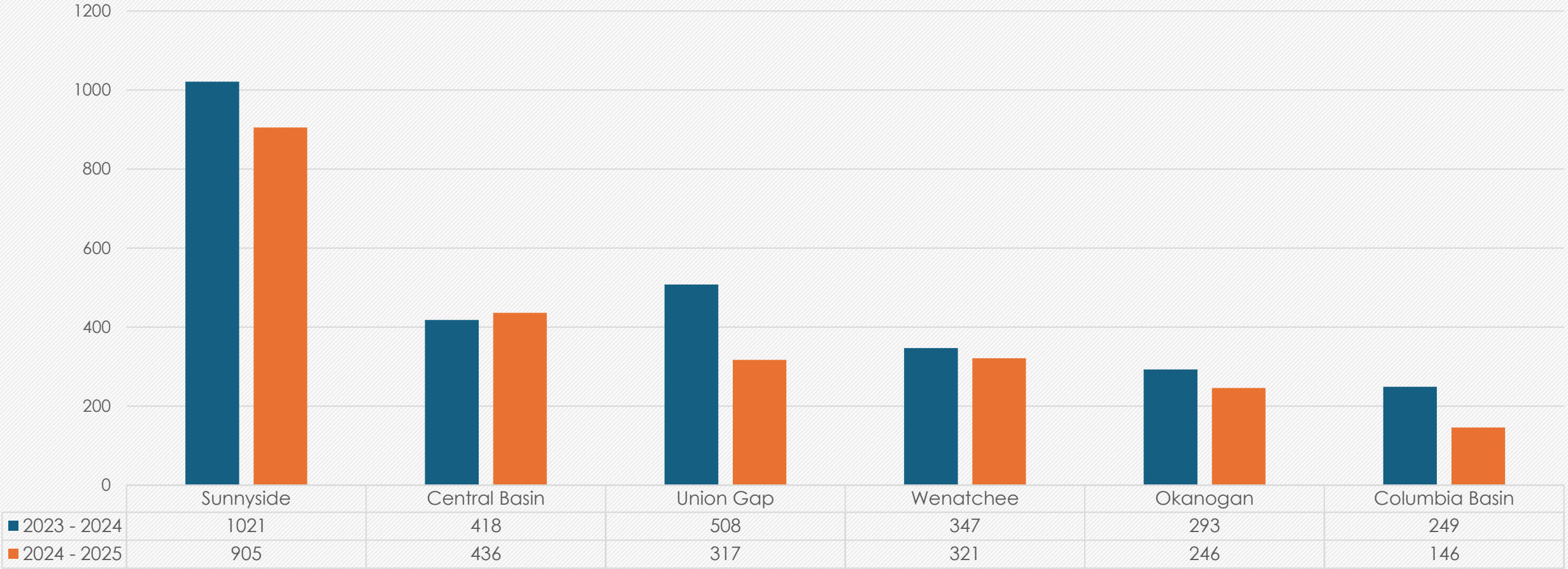
October 1 through August 31



# MSFWs Served by Significant Office



October 1 through August 31



# Ag Clearance Order Waiver Update



## ▶ Submitted: Clearance Order Waiver to Department of Labor

### **Request:**

On August 18, 2025, the Employment Security Department (ESD) submitted a request to waive subsection (b)(2) of the Wagner-Peyser Act regulation at 20 CFR 653.50.

*“(if) the job order for the ES office incorporates offices beyond the local office commuting area, the ES Office **must suppress the employer information** in order to facilitate the orderly movement of workers within the ES.”*

### **Change:**

If approved, this waiver would allow ESD to disclose the employer's name and location—while continuing to withhold direct contact information—to facilitate a more informed and orderly referral process.

# Overview of selected federal rule changes



**Employment  
Security  
Department**  
WASHINGTON STATE

Bertha J. Clayton, ASWS Director, ESD

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



**July 8, 2025. Department of Labor Publishes Notice of Proposed Rulemaking to Rescind the Final Rule, *Improving Protections for Workers in Temporary Agricultural Employment in the United States***



**July 11, 2025. Office of Foreign Labor Certification Provides Additional Information on New 2025 H-2A Hourly Adverse Effect Wage Rates (AEWR) for Non-Range Occupations Using the Occupational Employment and Statistics Survey (OEWS)**

**August 25, 2025. Office of Foreign Labor Certification Announces Rescission of 2011 Frequently Asked Question Prohibiting the Staggered Entry of H-2A Workers**

**August 28, 2025. OFLC Announces Update to Implementation of the 2023 H-2A AEWR Final Rule; District Court's Order Vacating the Final Rule**

**September 10, 2025. Office of Foreign Labor Certification Announces 60-Day Public Comment Period on Proposed Revisions to H-2A Temporary Agricultural Labor Certification Program (OMB 1205-0466)**

July 8, 2025. Department of Labor Publishes Notice of Proposed Rulemaking to Rescind the Final Rule, *Improving Protections for Workers in Temporary Agricultural Employment in the United States*



- Multiple suits in numerous states asking to enjoin parts or all of 2024 Worker Protection rule
- 6/20/25: USDOL announces it will no longer enforce the 2024 Worker Protection Rule
- 7/8/25: USDOL rescinds final rule and gives NPRM
- 8/27/25: ESD submits comments to USDOL

### ASWS Response

- Awaiting final outcome from USDOL
- Staff training
- Technical guidance to employers
- Shift from presenting rule as "requirements" to "best practices"

# August 28, 2025. OFLC Announces Update to Implementation of the 2023 H-2A AEWR Final Rule; District Court's Order Vacating the Final Rule



## 2023 AEWR Rule No longer in effect

2023 AEWR Rule required:

1. Bifurcating certain job codes out of traditional "Big 6" farmworker SOC's which are paid at AEWR
2. Filing separate applications to separate higher paying duties
3. Example: Farmworker + Shuttle driver duties.

1. [Farmworker](#) (45-2092): \$19.82
2. [Shuttle Driver](#) (53-3053): \$22.20

Employer obligated to pay the higher SOC to all workers in the job order, *even when those duties were not being performed.*

## USDOL implements the District Court's vacation of rule in all states

Impact:

1. USDOL can no longer require employers to separate out job duties and offer and pay the higher rate;
2. All farmwork tasks described can be paid the AEWR (or applicable prevailing wage (WA)).
3. Employers can include all job duties in one application and pay the highest applicable wage.
4. Description of duties does not as critical to determine wage.

## Applicability

- Does not apply to contracts certified before 8/28/25 and employers must still pay the wages certified in the job order.
- New job orders filed – SWA must process according to pre-2023 AEWR rule.

### What doesn't change:

Employer still must pay the *highest of* the AEWR, the prevailing hourly wage rate, the prevailing piece rate, the agreed-upon collective bargaining rate, or the Federal or State minimum wage rate.

August 25, 2025. Office of Foreign Labor Certification Announces Rescission of 2011 Frequently Asked Question Prohibiting the Staggered Entry of H-2A Workers



- USDOL FAQ guidance rescinded. [Federal Register :: Notification of Rescission of Frequently Asked Question Issued on July 22, 2011](#)
- **Action:** Rescinds informal guidance requiring a separate application(s) when the only difference among positions was the start "date of need" (same crops, duties, areas of intended employment).
- **Impact:** Employers can file one application indicating different dates of need and stagger worker arrival dates.

Agricultural Clearance Order  
Form ETA-790  
U.S. Department of Labor



**IMPORTANT:** In accordance with 20 CFR 653.500, all employers seeking U.S. workers to perform agricultural services or labor on a temporary, less than year-round basis through the Agricultural Recruitment System for U.S. Workers, must submit a completed job clearance order (Form ETA-790) to the State Workforce Agency (SWA) for placement on its intrastate and interstate job clearance systems. Employers submitting a job order in connection with an H-2A Application for Temporary Employment Certification (Form ETA-9142A) must complete the Form ETA-790 and attach a completed 790A. All other employers submitting agricultural clearance orders must complete the Form ETA-790 and attach a completed 790B. Employers and authorized preparers must read the general instructions carefully, complete ALL required fields/items containing an asterisk ( \* ), and any fields/items where a response is conditional as indicated by the section ( § ) symbol.

I. Clearance Order Information

FOR STATE WORKFORCE AGENCY (SWA) USE ONLY		
Questions 1 through 17		
1. Clearance Order Number *	2. Clearance Order Issue Date *	3. Clearance Order Expiration Date *
4. SOC Occupation Code *	5. SOC Occupation Title *	

Area: Washington

Period: May 2024

Occupation (SOC code)	Hourly mean wage
Pesticide Handlers, Sprayers, and Applicators, Vegetation (37-3012)	\$24.58
First-Line Supervisors of Farming, Fishing, and Forestry Workers (45-1011)	\$31.14
Graders and Sorters, Agricultural Products (45-2041)	\$17.29
Agricultural Equipment Operators (45-2091)	\$21.13
Farmworkers and Laborers, Crop, Nursery, and Greenhouse (45-2092)	\$19.38
Farmworkers, Farm, Ranch, and Aquacultural Animals (45-2093)	\$22.01
Forest and Conservation Workers (45-4011)	\$21.68
Fence Erectors (47-4031)	\$28.03
Farm Equipment Mechanics and Service Technicians (49-3041)	\$28.46
Airline Pilots, Copilots, and Flight Engineers (53-2011)	(4) -
Heavy and Tractor-Trailer Truck Drivers (53-3032)	\$32.24
Light Truck Drivers (53-3033)	\$25.44
Bus Drivers, Transit and Intercity (53-3052)	\$34.46
Shuttle Drivers and Chauffeurs (53-3053)	\$22.20
Packers and Packagers, Hand (53-7064)	\$18.94

Example of how rule changes impact ETA-790 processing:

1. Vacation of 2023 AEWR Rule
2. "Staggering" of worker arrivals





1. Job Title *			
2. Workers Needed *		a. Total	b. H-2A
3. Begin Date *		4. End Date *	
5. Will this job generally require the worker to be on-call 24 hours a day and 7 days a week? *		<input type="checkbox"/> Yes <input type="checkbox"/> No If "Yes", proceed to question 8. If "No", complete questions 6 and 7 below.	
6. Anticipated days and hours of work per week *		7. Hourly work schedule	
	a. Total Hours	c. Monday	e. Wednesday
	b. Sunday	d. Tuesday	f. Thursday
			g. Friday
			h. Saturday
8a. Job Duties - Description of the specific services or labor to be performed. *		a. ____ : ____ <input type="checkbox"/> AM <input type="checkbox"/> PM b. ____ : ____ <input type="checkbox"/> AM <input type="checkbox"/> PM	
(Please begin response on this form and use Addendum C if additional space is needed.)			
8b. Wage Offer *		8c. Per *	8d. Piece Rate Offer \$
\$ _____.____ <input type="checkbox"/> HOUR <input type="checkbox"/> MONTH		<input type="checkbox"/> HOUR <input type="checkbox"/> MONTH	\$ _____.____ 8e. Piece Rate Units/Special Pay Information \$
9. Is a completed <b>Addendum A</b> providing additional information on the crops or agricultural activities and wage offers attached to this job offer? *		<input type="checkbox"/> Yes <input type="checkbox"/> No	
10. Frequency of Pay. *		Other (specify):	
<input type="checkbox"/> Weekly <input type="checkbox"/> Biweekly <input type="checkbox"/> Monthly <input type="checkbox"/> Other (specify):			
11. State all deduction(s) from pay and, if known, the amount(s). *			
(Please begin response on this form and use Addendum C if additional space is needed.)			





## Agricultural and Seasonal Workforce Services ADVISORY COMMITTEE

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**Employment Security Department**  
WASHINGTON STATE

**On Break until 11:15 am**

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# Committee information & feedback:



**Employment  
Security  
Department**  
WASHINGTON STATE

Bertha J. Clayton, ASWS Director, ESD

# Committee information & feedback:



## HB 2226 data collection and reporting

- [RCW 50.75.060](#)
- Using standard form developed by ESD ASWS and Communications
- Quarterly reporting obligation to ASWS Committee
  - Number of workers arrived on farm – their worker location and housing location as of date of site visit or field check

**Issues:** Inconsistency in capturing data for multiple visits to one job order.

- ☐ How we "count" site visits/how many forms are required
- ☐ How does committee want to see this data?

25-081 - Saved

Data Collection (HB2226)

### Data Collection Form

SV or FC # \* 25-081

Date Data Collection Form  
Received 6/27/2025

1. Workers Requested: Does  
ETA790 match # report No

2. What is reported for #  
Workers REQUESTED? 25

3. What is reported for #  
Workers RECEIVED? 19

4. Do HOUSING Locations  
match? Yes

5. Do WORKSITE Locations  
match? Yes

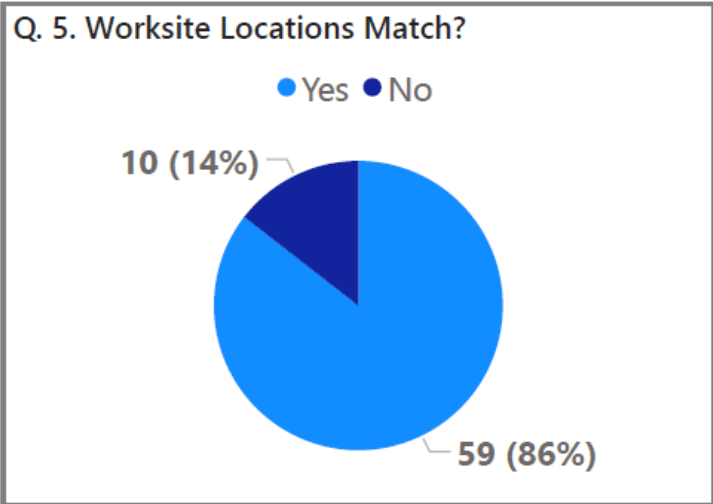
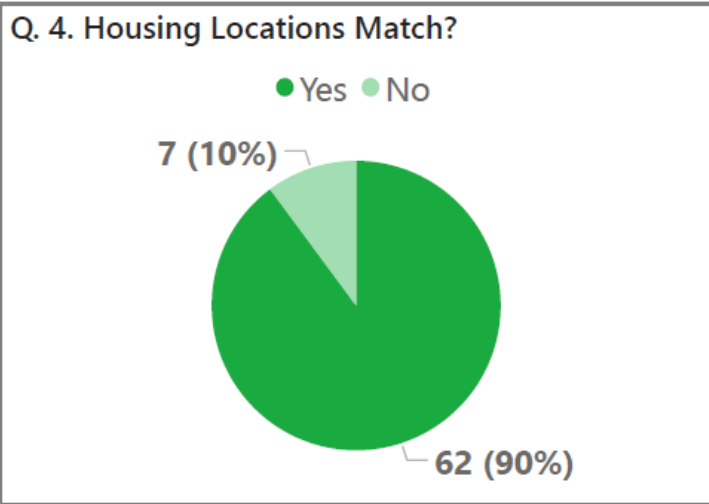
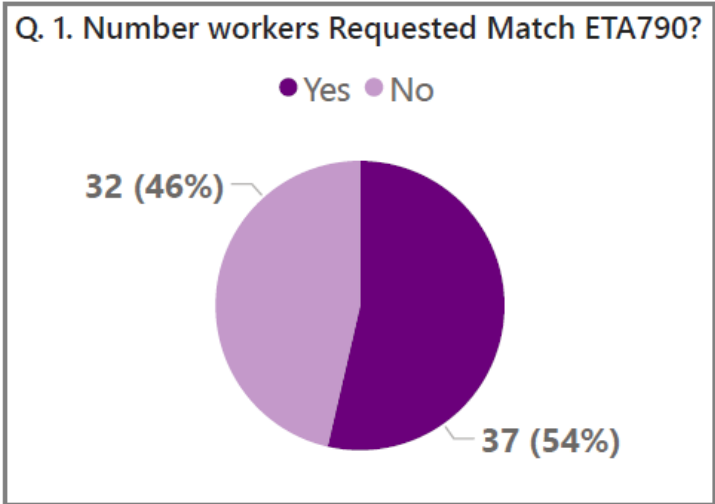
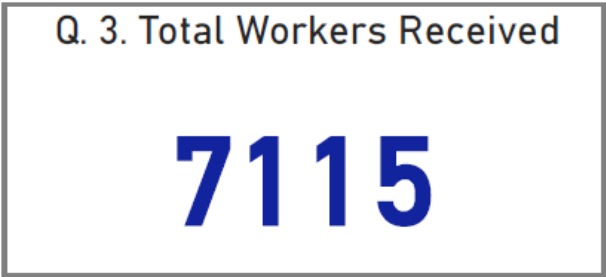
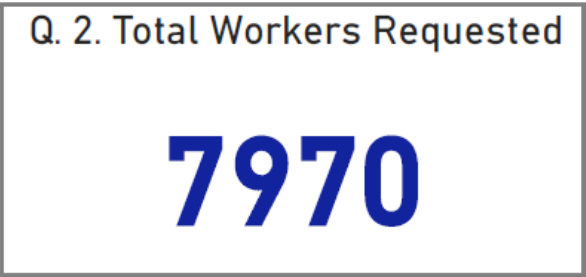
6. Data Collection Notes: ---

7. Who completed the form,  
Employer or Compliance Employer



# Prior Reporting Example:

Quarterly Report of HB2226 Data: 2<sup>nd</sup> Qtr. Jan 1, 2025 - March 31, 2025



# RCW 50.75.060 Data collection



(1) Whenever the department conducts a field check or field visit of an employer, the department must collect the following information:

- (a) The number of H-2A workers the employer has at each work site; and
- (b) The actual geographic location of where the H-2A workers are living during their employment with the employer.

(2) The department must compile the information and compare the number of workers sought by an employer on the employer's H-2A application with the number of H-2A workers actually working for the employer.

(3) The department must make the information available to the advisory committee appointed under RCW 50.75.040 on a quarterly basis.

**1. Does the data as presented by ESD answer the committee's questions?**

**2. Does it meet the legislative intent of HB2226?**



# H-2A Temporary Worker Housing



Mobile Range  
(herders, beekeepers)



"9 and Under" TWH



Temporary Worker Housing  
(10+ occupants)



# Changes to H-2A TWH



- "9 and under", <60
  - As of 2024, L&I no longer performing pre-occupancy inspections for purpose of ESD housing certification
  - DOH assumed these (H-2A TWH, only) inspections for purpose of ESD's housing certification
  - ESD will require all H-2A TWH to have a DOH TWH license to certify (approve to USDOL) "9 and under" H-2A TWH housing
    - State regulations do not require DOH to inspect "9 and under" H-2A TWH
    - DOH licensing processes
      - ☐ Application/Fee
      - ☐ Construction Review Services (CRS) approval
      - ☐ DOH license – pre-occupancy inspections
      - ☐ DOH Grace period for CRS approval letter: 2/28/2026
- Exception: Mobile range housing (herders); <15
  - ESD will inspect according to federal mobile range housing standards.



# H-2A Temporary Worker Housing 2026 inspecting agencies



## Mobile Range (herders, beekeepers)



H-2A Inspection: ESD (federal  
range housing standards)  
License: None

## "9 and Under" TWH



H-2A Inspection: DOH  
License: DOH TWH (req. By ESD)

## Temporary Worker Housing (10+ occupants)



Inspection: DOH  
License: DOH TWH (Req. By RCW)



# H-2A Temporary Worker Housing information for TWH operators and H-2A employers



[About Us](#) | [Contact Us](#) | [Newsroom](#)



[You & Your Family](#) ▼

[Community & Environment](#) ▼

[Licenses, Permits, & Certificates](#) ▼

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## Temporary Worker Housing (TWH) for Agricultural Employees



We work to protect the health and safety of migrant farmworkers and their family in their living environment and our communities through ongoing education, on-site technical assistance, and regulatory enforcement.

### What's Happening

- [Rulemaking to Amend Fees](#)
- [Announcement: TWHs with 9 or Fewer H-2A Occupants](#)
- [Notice: TWH Sites Connected to a Private Well](#)

### Key Resources

- [TWH Search Portals](#)
- [Start-Up Guide \(PDF\)](#)
- [Applications and Forms](#)
- [Frequently Asked Questions](#)
- [Complaint Reporting](#)

- Department of Health Temporary Worker Housing [webpage](#)

# Potential changes to field checks:



**Employment  
Security  
Department**  
WASHINGTON STATE

Arturo Espinoza, MSFW Monitor, Executive Programs, ESD

# What is happening?



- Why Art and not Bertha?
- Change in field check process concern.

# Possible result



*If placement is not working as of the date of field check, USDOL suggests ESD may lose the connection to the employer*

## **Potential Impact - less field checks conducted:**

- Contract abandonment
- Turn around time

## **Next Steps:**

- ESD plans to send a letter seeking to confirm whether we could still perform the field check
- We may know more next week after our NMA office meeting

# 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 deletreéelo 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.

# Good of the Order



- Future Agenda Items
- Adjournment



# Agricultural and Seasonal Workforce Services ADVISORY COMMITTEE

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**Employment Security Department**  
WASHINGTON STATE

## **ASWS Advisory Committee Meeting**

Thursday, November 20, 2025

9:00 am – 12:00 pm

*Zoom*