



# Agricultural and Seasonal Workforce Services ADVISORY COMMITTEE

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**Employment Security Department**  
WASHINGTON STATE

## **ASWS Advisory Committee Meeting**

*Thursday, November 14, 2025*

*9:00 am – 11:30 am*

# 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.

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# Agenda



## AGENDA

Agricultural and Seasonal Workforce Services (ASWS) Advisory Committee  
Friday, November 14, 2025 | 9 am – 11:30 am | 212 Maple Park Ave SE Olympia, WA 98501 | Zoom

TIME	TOPIC	SPEAKER
9:00 am	Call to Order; Welcome	Joy Adams, Director, Employment System Policy & Integrity Division, ESD
9:10 am	Roll call of committee members	Vickie Carlson, Management Analyst, ASWS Office, ESD
9:15 am	Agenda review, meeting minute approval	Joy Adams, Director, Employment System Policy & Integrity Division, ESD
9:20 am	ASWS Office update	Bertha J. Clayton, Director, ASWS Office, ESD Olivia Gutierrez, FLC Coordinator, Foreign Labor Certification Program, ASWS Office, ESD Susana Rodriguez, Supervisor, Compliance Team, ASWS Office, ESD
9:40 am	Workforce Services Division update	Alberto Isiordia, Assistant Director, WSD, ESD, Wagner Peyser/MSFW Program Support, WSD, ESD
10:00 am	H-2A Program Updates	Bertha J. Clayton, Director, ASWS Office, ESD
10:30 am	<u>Committee Discussion/Feedback:</u> <ul style="list-style-type: none"><li>• 2026 Meeting Scheduling</li><li>• 2026 Preview</li></ul>	Bertha J. Clayton, Director, ASWS Office, ESD
11:15 am	Public Comment	Joy Adams, Director, Employment System Policy & Integrity Division, ESD
11:20 am	Good of the Order Adjournment	Joy Adams, Director, Employment System Policy & Integrity Division, ESD
11:30 am	Next meeting: Thursday, January 15, 2026, 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 – *November 2025*



**Employment  
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Bertha J. Clayton, ASWS Director, ESD

# Federal FY 2026: “SHUTDOWN MODE”



- Government shutdown started 9/30/25
- Impact
  - FLAG portal closed – no applications filed, 10/1/25-11/3/25
  - No federal communication/guidance
  - ESD expects above average “emergency filings”
  - Growers may not obtain workers at their date of need
  - Employers who filed an ETA-790 could not withdraw it → had to continue recruiting domestic workers.
- Partial Office of Foreign Labor Certification (OFLC) operations started 11/3/25
- No impact on Foreign Labor Certification (FLC) federal funding

# 2025 USDOL AEWB Rule: ROLL OUT



Rule announced: 10/2/25 (During shutdown)



USDOL: No guidance, training, or communication to SWAs about implementation of the rule.



To be discussed later in this meeting.

# PY 2026: Changes to ESD's H-2A Housing Certification Processes



ESD will require all H-2A TWH to have a valid DOH TWH license\*

*\* Exception: Mobile range housing. Mobile range housing will be inspected by ESD, only, according to federal mobile range housing standards beginning 2026.*

Range housing will be inspected by ESD staff, no license required *for H-2A housing certification*

REMINDER: H-2A TWH MUST BE READY FOR ESD'S CERTIFICATION **AT FILING** OF THE ETA-790.

# Discontinuation of Services



Discontinuation of Services – 20 CFR 658, Subpart F, initiated from 10/1/25-11/1/25	0
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# Working together for H-2A Program Integrity in Washington State



- October 2025: Criminal indictments brought vs. principals of farm labor contractors with job orders in WA State
- ESD directly supporting USDOL Office of Inspector General Office's and USDOL Wage and Hour Division's investigation and case development
- USDOL OIG press release forthcoming



# Recent changes to staffing



Margarito Cabrera returning to  
ASWS – Compliance team  
supervisor

Two Compliance team  
supervisors

Northwest Compliance Specialist  
position (Region 7)- not filled



# WA CARES Update



- Temporary visa holders will be automatically exempt from WA CARES
- Now unnecessary to submit exemption request
- Between now and 1/1/26 --> do not submit exemption request.
- System will automatically exempt starting 1/1/26

# PFML Claims Update



- Data to indicate potential fraudulent/unsubstantiated PFML claims by H-2A workers. Likely facilitated by “paid preparers”.
- Employers can submit complaints to PFML Fraud Unit using this link:  
[https://paidleave.wa.gov/app/uploads/2020/05/FraudComplaintForm\\_FINAL\\_032520.pdf](https://paidleave.wa.gov/app/uploads/2020/05/FraudComplaintForm_FINAL_032520.pdf).
- Using fraud form is the preferred and most efficient manner to report suspected fraud to PFML

# Processing and adjudicating Foreign Labor Certification applications

Olivia Gutierrez, Foreign Labor Certification Program Coordinator, ASWS,  
ESD



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# Application status report

October 1, 2025 – October 31, 2025



Due to federal government shut down, no applications were submitted in the month of October 2025.

# Number of active contracts & workers

Started by and ended after October 31, 2025.



## Active contracts & number of workers

Started by and Ends after - October 31, 2025

**277**

Contracts

**28368**

Workers

# Number of applications & workers requested by AHO



Due to federal government shut down, no applications were submitted in the month of October 2025.



# Number of active contracts & workers; by AHO

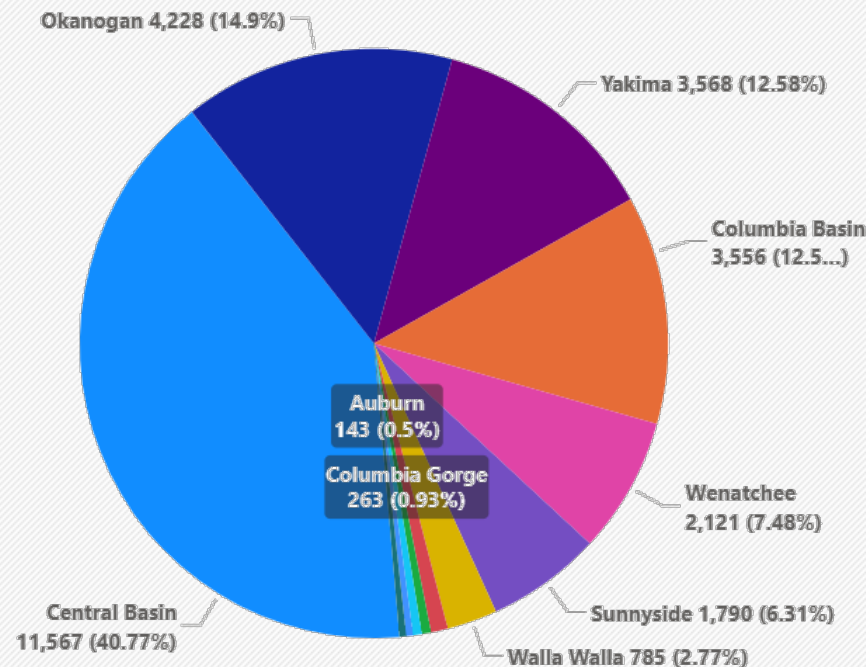
Started by and ended after October 31, 2025.



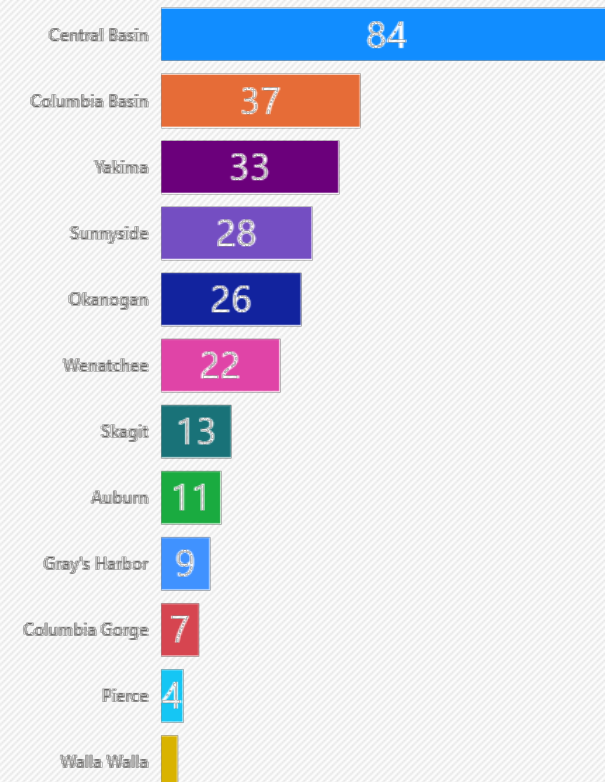
**277**  
Contracts

**28,368**  
Workers

PY 2026 Active Workers by AHO



PY 2026 Active Contracts by AHO



# Compliance Reporting: PY2025

## Site visits (field visits), field checks & complaints

Susana Rodriguez, Compliance Unit Supervisor, ASWS, ESD



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# ASWS Compliance Updates



## Site visits conducted

**454**

Site Visits

**24,747**

Workers Contacted

## Total field checks and workers Completed

Field Checks

**16**

Workers

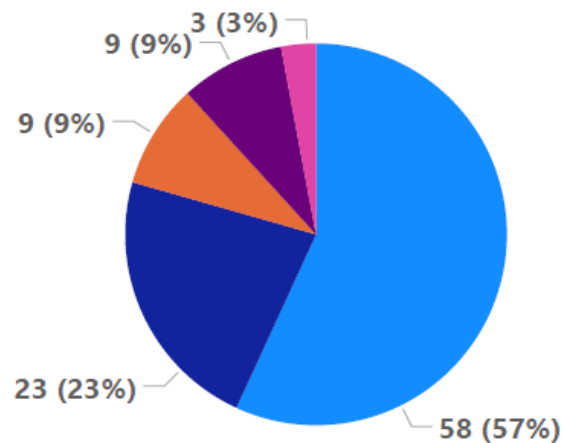
**32**

## Number of workers per field check

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

## Complaint status

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



## Total complaints

**102**

## Complaint status

In process

**9**

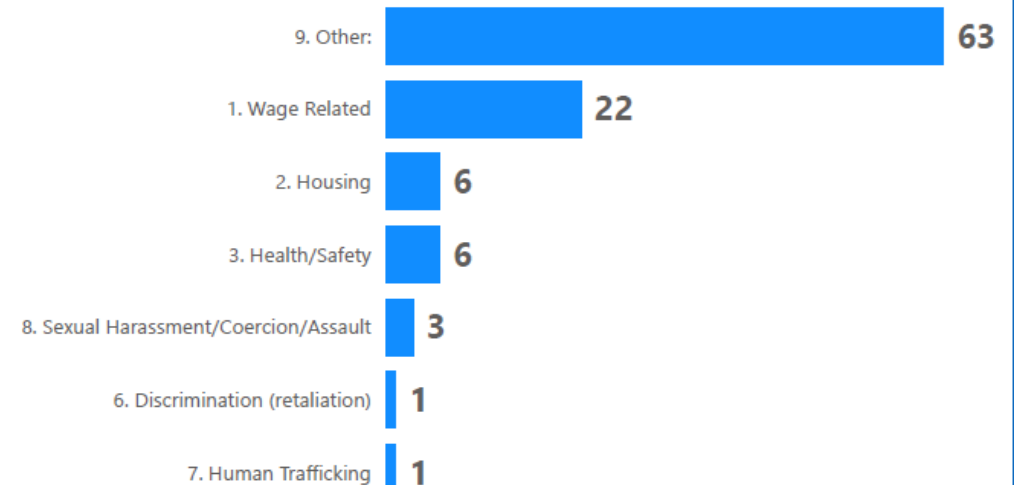
Informally resolved

**58**

Referred to other agency

**23**

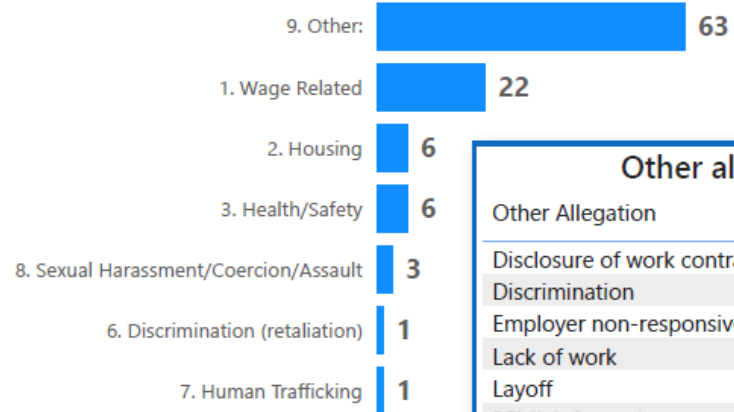
## Complaints/apparent violations



# Other allegations subcategories



## Complaints/apparent violations



## Other allegations

Other Allegation	# Allegations
Disclosure of work contract	1
Discrimination	1
Employer non-responsive to SWA	1
Lack of work	5
Layoff	4
PFML information	1
Productivity Standards	2
Recruitment fee	1
Retaliation	3
Sick time usage	1
Staggering Workers	1
Supervisor Misconduct	16
Worker Recruitment	9
Worker Termination	16
Worker Termination, Sick pay	1
<b>Total</b>	<b>63</b>

# ASWS quarterly report – 4<sup>th</sup> Qtr. PY2025

July 1 – September 30, 2025



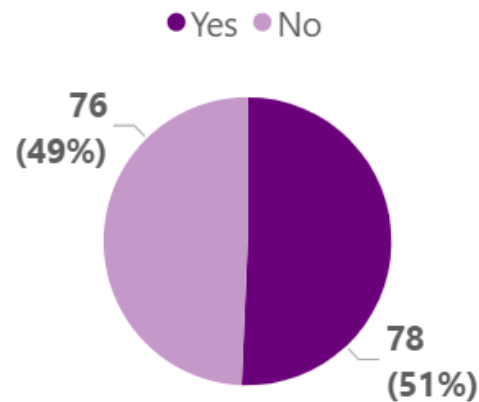
## 2. Total Workers Requested

**17,694**

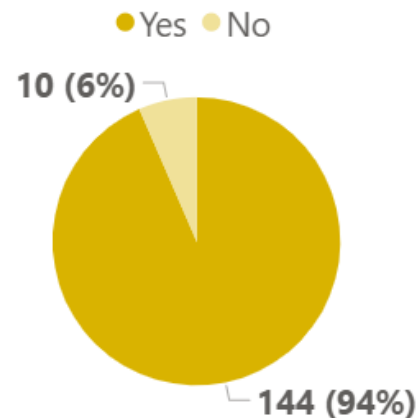
## 3. Total Workers Received

**16,158**

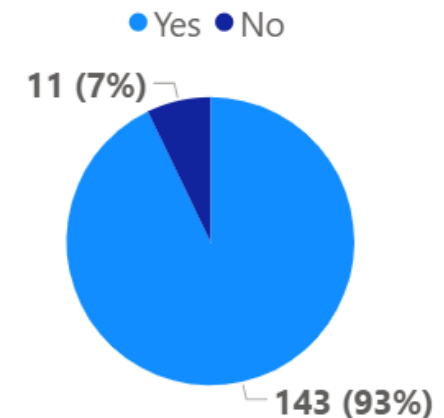
### 1. Number workers requested match?



### 4. Housing Locations Match?



### 5. Worksite Locations Match?



# Workforce Services Division Updates November 2025



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Alberto Isiordia, Assistant Director of WSD Operations, ESD

# 2025 AEWB Rule



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Bertha J. Clayton, ASWS Director, ESD

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

# Summary of Changes



Interim final rule changes	Example
AEWR calculated from BLS OEWS data vs. farm labor survey	
	OLD RULE: \$19.81/hr. (WA AEWR)
	NEW RULE (WA AEWR RATE): \$16.53 for farmworkers in entry-level positions “Tier 1” \$19.00 for farmworkers in skilled positions. “Tier 2”
Two wage tiers based on experience the job requires	Washington’s AEWRs for both entry-level and skilled <b><u>H-2A workers</u></b> adjusted to account for employer provided housing.
Adverse Compensation Adjustment (H-2A wages, only)	Both adjusted wage levels <i>below</i> the 2025 state minimum wage of \$16.66 per hour. Employers must pay highest applicable wage.



# Summary of Changes, cont.



Interim final rule changes	Example
New Standard Occupation Code (SOC) standard	<p>Old Focus: Do some of the job duties described indicate applicability of a higher paying SOC code? If yes → all workers should be paid higher wage regardless of whether they are performing those duties</p> <p>New Focus: Are most of the job duties described in the job order within the “Big 6” SOC codes paid at the AEWR rate? If yes → AEWR rate applies to all work.</p>
OEWS-based AEWRs and Adverse Compensation Adjustments to be updated mid-year	Usually, mid-year adjustments fall during peak cherry harvest season.
Effective date = 10/2/25	FLAG was not accessible from 10/1/25 to 11/3/25. Very limited SWA "test run" of how rules will be interpreted during pre-certification review process and post-certification operations.

Public comment period for interim final rule  
closes:

**DECEMBER 1, 2025**



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**On Break until \_\_\_\_ am**

# Committee Discussion & Feedback



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Bertha J. Clayton, ASWS Director, ESD

# Committee Discussion & Feedback



- 2026 Meeting Scheduling
- 2026 Preview

# Housekeeping



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# 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 sugerencia 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 están 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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## **ASWS Advisory Committee Meeting**

Thursday, January 15, 2025

9:00 am – 11:30 pm

*Zoom*