



Agricultural and Seasonal Workforce Services Advisory Committee

Meeting details

Date: Wednesday, April 17, 2024

Time: 1:00 p.m. – 3:00 p.m.

Location: Virtual meeting via Zoom

Physical address: Employment Security Department, 212 Maple Park Ave SE, Olympia, WA 98501 | Maple Leaf Conference Room

Committee members present

- Delia Peña
- Elizabeth Strater (Proxy for Victoria Ruddy)
- Edgar Franks
- Michele Besso
- Michael Gempler
- Rosalinda Guillen
- Ranie Haas (Proxy for Jon DeVaney)

Non-voting agency representatives

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

ESD staff

- Joy Adams
- Bertha J. Clayton
- Vickie Carlson
- Petra Meraz
- Carlos Sandoval-Larios

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 (See Addendum II.)

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. Seven voting members were present at the time of meeting minute approval. (Quorum)

ASWS Office Update – Bertha J. Clayton, ASWS Director (See Addendum II.)

Recording timestamp **00:03:46**

Inter-agency coordination: ASWS Compliance + LNI Community Relations

Recording timestamp **00:19:04**

- ASWS Office will provide data at the May 2024 Advisory meeting relating to the proportion of total site visits that have been coordinated.

*Time did not permit presentation of all slides. The committee was instructed to review slides for information.

Committee Discussion (See Addendum III.)

Recording timestamp **01:16:41**

- Washington agricultural labor issues in the news

ADDENDUM II.

ASWS Office Update - April 2024



Bertha J. Clayton, ASWS Director, ESD

TWH Inspections for SWA housing compliance certification



- ESD has completed **three** TWH inspections (of 9 or less occupant housing) since the March 2024 ASWS Advisory Committee meeting!
 - Inspection report and findings peer reviewed by LNI and DOH
 - ESD team observed potential issues while on-site (agricultural activity in ETA was not agricultural activity performed).
 - ESD will continue to “fill in” for TWH inspections until further notice with the goal of alleviating burden on LNI and alleviating employer wait time for LNI inspection (LNI has 1 TWH inspection state-wide)
- LNI transitioning out of performing TWH inspections for units with 9 or less occupants.
- Inter-agency agreement: work has begun to create a replacement inter-agency agreement for inspections of temporary worker housing for SWA housing compliance certification.

Conducting Field Checks: Inter-agency Coordination



- Final JLARC report and JLARC hearing on 4/24/2024
- Current action:
 - ESD/LNI/DOH/WSDA will advise JLARC committee that ESD is engaging with LNI DOSH and DOH for inter-agency agreements for field check coordination in 2024.
 - First draft completed. Currently ESD and LNI is working to develop revised draft that will then be presented for review by DOH and WSDA.

Inter-agency coordination: ASWS Compliance + LNI Community Relations



- Coordinated employer outreach with LNI Community Relations team (Site Visits)
- Agreement Date: 4/26/24
- Objective of agreement:
 - 1) Coordinate joint educational outreach to Migrant Seasonal Farmworkers (MSFWs) to maximize the informational benefit to workers; and
 - (2) Promote employer compliance with laws of common concern among the regulated community in the state of Washington.
- How it's going:
 - Challenges – Employer reluctance/resistance to LNI, negative impact on relationship between ESD and employers, scheduling logistics, employee attention span.

Office of Foreign Labor Certification national training for all State Workforce Agencies (SWAs)



- 2-day virtual training regarding foreign labor application processing/wage rates/SOC codes/standard of review
- Statistics shared by Brian Pasternak, OFLC Program Administrator
 - 1987: 44 applications received nationally; 2023: 21,000 applications seeking 390,000 jobs
 - 2024: 16,000 applications received seeking 235,000 jobs in **first half of program year**. 6.8% increase YOY increase (# of jobs requested)
 - As of 2024, South Africa is 2nd largest supply country
- Comments from Brian Pasternak re: FLC funding to states
 - Utilization of program is increasing, but funding stays flat
 - Exception: Funding for FLC travel will increase to support in person attendance at conferences, trainings, etc.
 - Funding table to be released in coming weeks.

Site Visit 4/11/2024, Tieton, WA Job Order: 3/23/24-12/31/24



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

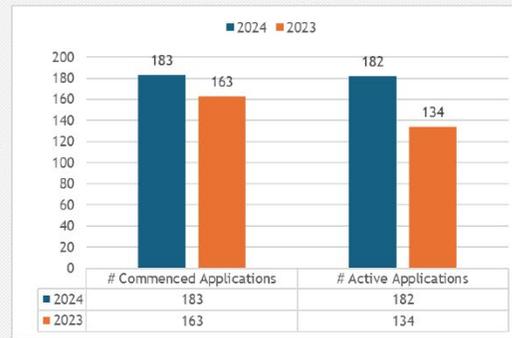
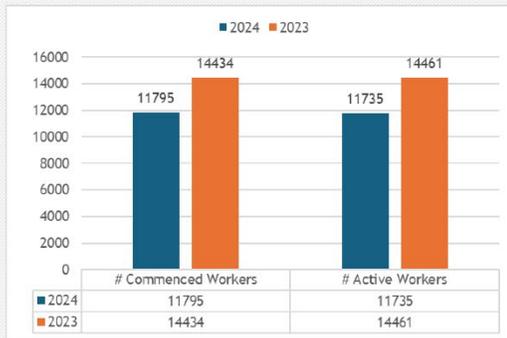
Processing and Adjudicating Foreign Labor Certification Applications



**Employment
Security
Department**
WASHINGTON STATE

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

Commenced & Active – PY24/PY23 to date



Year to Date Comparison



	2024	2023	% Difference
# Applications	317	322	2%
# Workers Requested	26085	30465	-14%
# Withdrawn Applications	12	20	-40%
# Withdrawn Workers	374	2420	-85%
# DOL Denied Applications	2	5	-60%
# DOL Denied Workers	20	82	-76%
# Commenced Applications	183	163	12%
# Commenced Workers	11795	14434	-18%
# Impossibilities Applications	0	0	-
# Impossibilities Workers	0	0	-
# Active Applications	182	134	36%
# Active Workers	11735	14461	-19%

Monthly Comparison – Feb/Mar



PY 2024 Month to Month Comparison

	Feb	Mar
# Applications	49	82
# Workers Requested	4234	10214
# Withdrawn Applications	1	4
# Withdrawn Workers	227	85
# DOL Denied Applications	1	0
# DOL Denied Workers	10	0
# Commenced Applications	73	77
# Commenced Workers	7521	2345
# Impossibilities Applications	0	0
# Impossibilities Workers	0	0
# Active Applications	73	76
# Active Workers	7521	2285

Current Active Contracts/Workers



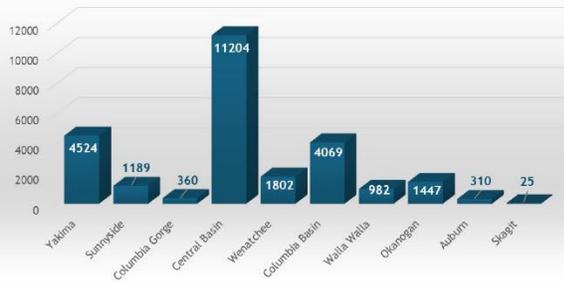
Includes ALL active contracts from previous PY to Current Date

As of 3/31/2024	
Current Active Contracts	182
Current Workers requested on those contracts	11735

Number & Percentage of workers requested by AHO to date

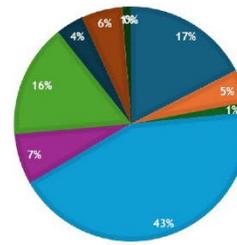


Number of workers requested



PERCENTAGE OF WORKERS REQUESTED

■ Yakima ■ Sunnyside ■ Columbia Gorge ■ Central Basin ■ Wenatchee
■ Columbia Basin ■ Walla Walla ■ Okanogan ■ Auburn ■ Skagit



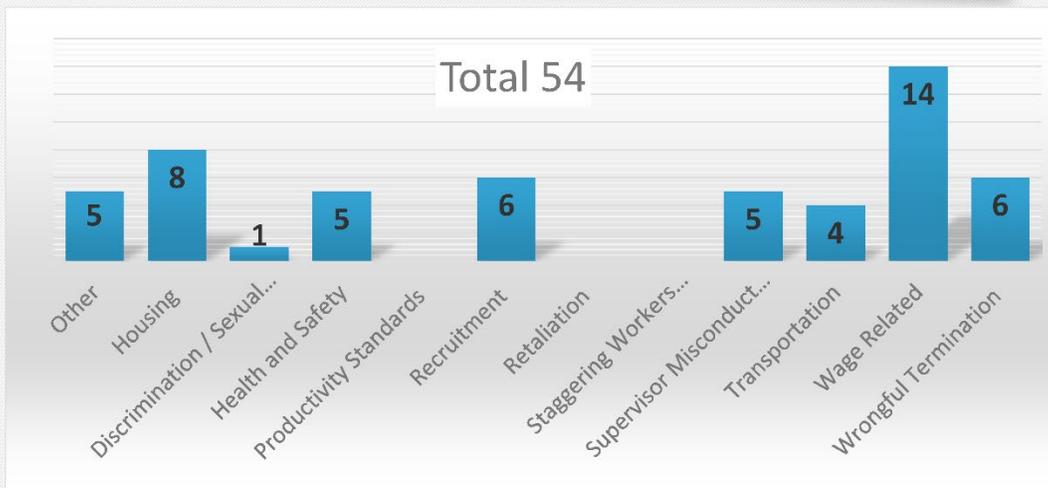
Completing site visits (field visits) and Field Checks



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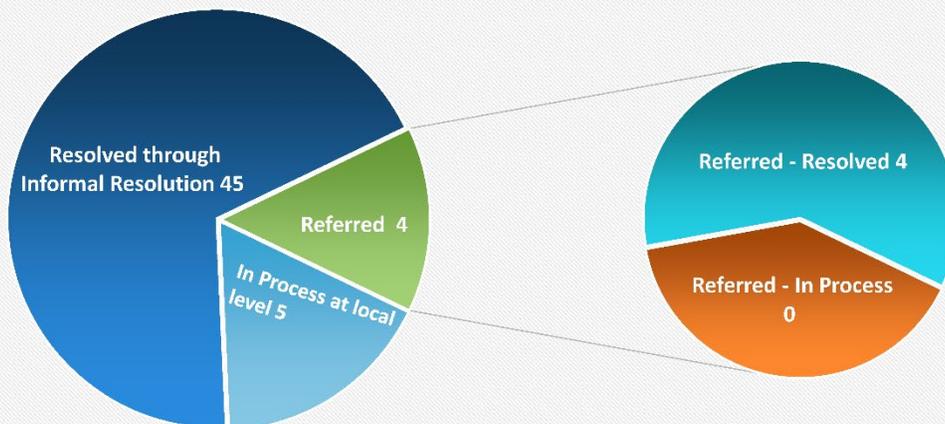
Carlos Sandoval-Larios, Temporary Compliance Team Supervisor, ASWS, ESD

Processing complaints consistent with 20 CFR 658, Subpart E *Reporting Period: 10/01/23 - 04/01/24*



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Status of Complaints / Apparent Violations *Reporting Period: 10/01/23 - 04/01/24*



Conducting Field Checks

Review period: 10/01/23 - 4/01/24



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.

Number of Placements <i>(seeker referred by ESD to job order and started working)</i>	14
Number of Field Checks Performed by ASWS	9

Conducting Field Visits (Site Visits)

Review period: 10/01/23 - 4/01/24



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	167
Approximate number of workers who attended Site Visits and received information	11,216

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). Requested information received from employer representative on 4/11/24.

ADDENDUM III.

Committee Discussion – Washington Ag labor issues in the news



ASWS Advisory Committee Members

Washington Ag Labor: Issues in the News



Seattle Times article

NewsBank
 Seattle Times, Thu Feb 1 - March 28, 2024 - page 1
 March 28, 2024 | Seattle Times, The West | Seattle, Washington | Page 1

A shift in the state's farm labor

CENSUS DATA | As more farmworkers arrive from outside the U.S., some domestic workers say growers are relaxing the guest worker program.



Changes in farm labor, 2017 to 2022

Domestic farmworkers in Washington increased by 27% from 2017 to 2022, while foreign-born workers decreased by 14%, according to U.S. Census Bureau data. The total number of farmworkers in Washington increased by 13% over the same period.

Category	2017	2022
Domestic farmworkers	~100,000	~127,000
Foreign-born workers	~150,000	~129,000
Total farmworkers	~250,000	~256,000

AGRICULTURE | The Seattle Times

Tri-City Herald article

Tri-City Herald

'Gone for good.' U.S. workers flee farms, leaving WA growers struggling under old rules

Cory McCoy
 Tue, Apr 9, 2024 - 14 min read

The beating heart of Washington's agriculture industry is in danger, but a central Washington lawmaker has a plan to help shore up the most critical issue farmers are facing — a disappearing workforce dependent on migrant labor.

Washington is the largest grower of non-citrus tree fruit in the United States, with much of it centered on the areas in and around Yakima and the Tri-Cities.

If these farms collapse, it will impact everything from fresh fruit to juice and canned goods that many Americans take for granted.

Rep. Dan Newhouse, R-Wash., represents the state's primary growing region, a strip about 100 miles wide straight down the center of the state on the east side of the Cascade Mountains.

The bulk of the state's agricultural contribution — including more than half of the apples and cherries produced in the United States — come from Washington's 4th Congressional District.

As a farmer himself, Newhouse knows the challenges they're facing, and told the Tri-City Herald that what we're seeing today is the

ADDENDUM IV.

Committee Administration



Joy Adams, Policy Director, ESPI, ESD

Review of Committee Charter & Protocols



CHARTER:

- Committee meetings are *open to the public* but are *not meetings of the public*.
 - Take care to not state individual names / business names
- The **purpose** of the meetings is to conduct Committee business **and** to provide the members an opportunity to discuss issues with each other and with staff scheduled on the agenda.
 - Stay in scope of **RCW 50.75.040**
- Members may designate a **regular alternate** to serve on the board in his or her place with the same authority as the member **when he or she is unable to attend a meeting**
 - One representative per appointed position

PROTOCOL:

- Roberts Rules of Order – Revised
 - Speakers must be recognized by the Chair
 - Minutes will include required items and reference attached slides

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. 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. Por favor limite sus comentarios a dos minutos.



Agricultural and Seasonal Workforce Services ADVISORY COMMITTEE



Employment Security Department
WASHINGTON STATE

ASWS Advisory Committee Meeting

Wednesday, May 15, 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

Employment Security Department • Employment System Policy & Integrity