



UPDATED: WA State Tells U.S. Dept. of Labor to Protect Farm Worker Wage Rates

Updated at 3:15pmPT on Friday, July 27 -- We just received a copy of a [letter from the State of Washington's Employment Security Department](#) (ESD) to the U.S. Department of Labor (DOL), issued today, whereby ESD informed DOL it would be re-submitting apple harvest survey data and requesting DOL to reinstate higher piece-rate wages for farm workers.

"The agricultural industry's own data shows farm workers earn significantly more money on piece-rate wages than on the \$14 hourly rate. **We applaud the State of Washington's efforts to protect wages for farm workers and their continued use of both grower and worker data to ensure statistically valid survey results,**" said Joe Morrison, a lawyer with Columbia Legal Services in Wenatchee. "We call on the U.S. Department of Labor to accept Washington State's revised apple harvest wage data to protect farm worker families who perform back-breaking labor essential to our state and national economy."

Apple Growers Pressure Regulators to Slash Wages for Thousands of Washington Farm Workers

Email Celebrates "Saving the Apple Industry Millions"

Washington's apple industry is pressuring both the Washington State Employment Security Division (ESD) and the federal Department of Labor (DOL) to lower harvest wages between \$4-6 per hour for the upcoming 2018 apple harvest. For decades, apple growers have paid piece-rate wages - an incentive-based system based on the number of bins filled - whereby an average farm worker earns \$18 an hour and the fastest pickers can earn over \$20 an hour. If the state allows the industry effort to succeed, the DOL would allow employers using the H-2A program to lower wages for foreign and local workers to just over **\$14 an hour - a massive, painful pay cut for farm worker families.** ESD and DOL oversee wage surveys and approve grower contracts under the H-2A program and are legally responsible for protecting the wages and working conditions of farm workers from being depressed by the hiring of vulnerable foreign workers.

WAFLA, a Washington corporation that recently generated \$7.7 million in revenues charging

member growers to help them navigate the H-2A program to import foreign workers, sent a [June 29 email titled "Big Win for H2 Apple Growers"](#) lauding WAFLA's lobbying efforts: "[ESD] agreed . . . [to] remove all piece rates for apple growers that utilize the H-2A program. This is a huge win and saved the apple industry millions. Really glad we could help." DOL is conducting a final review before deciding whether to approve the deflated wages.

"The industry's own data shows farm workers earn more money on piece-rate wages than on the proposed hourly wage rate. Government agencies have a legal duty under the H-2A program to put the higher wage in those H-2A contracts," said Joe Morrison, a lawyer with Columbia Legal Services in Wenatchee. **"We call on Governor Inslee to immediately instruct ESD to reverse course and protect farm worker families who perform back-breaking labor that is essential for our state's economy."**

[WAFLA previously tried to eliminate higher piece-rate wages](#) in 2015 when it openly encouraged growers to submit inaccurate wage data on their annual wage surveys. At that time, WAFLA's executive director, Dan Fazio, told growers: "[W]e want to encourage you to be smart and strategic in your answers to help yourself and the other people in your industry." ESD had to remove the tainted survey data and restore higher piece-rate wages after an [ESD report](#) found that WAFLA's "guidance" resulted in growers providing wage data at odds with data provided in previous years.

"Agricultural employers have a long history of trying to hire vulnerable foreign workers at wage rates that U.S. farm workers cannot afford to accept," said Bruce Goldstein, President of [Farmworker Justice](#), a national farm worker advocacy group based in Washington, D.C. "The H-2A agricultural program law contains modest labor protections to prevent employers from displacing U.S. workers and adversely affecting the wage rates of U.S. workers. **The State of Washington and the U.S. Department of Labor should not allow themselves to be manipulated into slashing the required minimum wage rate under the H-2A program.**"

Each year ESD gathers wage data to set harvest wages for workers employed under H-2A contracts, the federal program that allows agricultural employers to hire foreign workers if there is a certified labor shortage. Washington currently brings in over 20,000 foreign H-2A workers, with that number increasing annually. Some of Washington's largest and most powerful apple growers - Zirkle, Washington Fruit, Stemilt, and Gebbers - as well as WAFLA's client-farmers, participate in the H-2A program and could take advantage of this drastic reduction in the wage requirement, causing thousands of farm workers to suffer huge financial losses. Employers outside the H-2A program could also reduce their wages to avoid competitive harm from lower-paying growers.

Although each wage survey conducted since 2007, including the 2017 survey, has demonstrated that piece-rate wages are the norm during apple harvest, WAFLA and other apple industry lobbyists have pressured the agencies to throw out last year's survey results. A University of Washington statistician informed ESD and DOL that approach ["cannot be justified on scientific grounds and relies on flawed reasoning."](#) If the wage survey data is discarded, apple harvest wages will default to \$14.12 per hour - the minimum wage for H-2A contracts in

Washington.

"Governor Inslee recently traveled to a Yakima union hall packed with farm workers to sign into law a bill that recognizes March 31 as Cesar Chavez Day," said Eric Gonzalez of the [Washington State Labor Council, AFL-CIO](#). **"Cesar Chavez would roll over in his grave if he knew the Governor's lead H-2A oversight agency was cutting wages for farm workers at the behest of the agricultural industry."**

Farm workers and advocates have [long raised widespread concerns with the H-2A program](#) since H-2A temporary workers have fewer rights than domestic farm workers, are tied to a single employer, have no path to legal immigration status, and are vulnerable to abuse and mistreatment.

Media Contacts

Joe Morrison, CLS, 509-662-9681 x125, joe.morrison@columbialegal.org

Eric Gonzalez, WSLC, 360-239-0959, egonzalez@wslc.org

Bruce Goldstein, Farmworker Justice, 202-800-2521, bgoldstein@farmworkerjustice.org

About Us

Columbia Legal Services advocates for people who face injustice and poverty. We seek to achieve social and economic justice for all, using policy reform, litigation, and innovative partnerships to reveal and end actions that harm the communities we serve. www.columbialegal.org

[/ColumbiaLegalServices](#) | [@columbialegal](#)

Farmworker Justice is a national advocacy organization for farm workers. www.farmworkerjustice.org

[/FarmworkerJustice](#) | [@farmwrkrjustice](#)

Washington State Labor Council, AFL-CIO is widely considered to be the "voice of labor" in our state and represents and provides services for hundreds of local unions throughout Washington state.. www.wslc.org

[/WAaflcio](#) | [@WAAFLCIO](#)