**Agricultural Operations, Washington Farm/Forestry Labor Contractor License**

**REFERENCES**

The Workforce Investment Act (WIA) of 1998, Public Law 103-152 (WorkSource); the Wagner-Peyser Act as amended by WIA (Labor Exchange); the Code of Federal Regulations (CFR), Title 20, Chapter V, Part 652 (Labor Exchange), Parts 653 and 654 (MSFWs), Part 655 (H-2A), and Title 29, Part 500 (MSPA); the Revised Code of Washington (RCW) Chapters 19.30 (FLC License); and the Washington Administrative Code (WAC), Chapter 296-310 (FLC License).

**PURPOSE**

The Washington State Department of Labor and Industries (L&I), Industrial Relations Division, has the responsibility for administration and enforcement of RCW 19.30 and WAC 296-310 as amended. All [persons](http://www.wa.gov/esd/policies/documents/4066.htm#Person) proposing to engage in [farm/forestry labor contracting activities](http://www.wa.gov/esd/policies/documents/4066.htm#FLC Activity), must obtain a Farm Labor Contractor's (FLC) license. This requirement must be met by any person other than an [agricultural employer](http://www.wa.gov/esd/policies/documents/4066.htm#Ag Employer), an agricultural association, or an employee of an agricultural employer or association who; for any money or other valuable consideration paid or promised to be paid; recruits, solicits, hires, employs, supplies or transports any [agricultural worker](http://www.wa.gov/esd/policies/documents/4066.htm#Ag Employee).

Along with a Washington license, each contractor must also have a federal Farm Labor Contractor's (FLC) Certification of Registration to legally provide farm/forestry labor contractor services (see Policies and Procedures document number 7027-3, Federal Farm/Forestry Labor Contractor Certification).   All FLCs must comply with both Washington State and federal requirements.

Washington licenses may not be transferred or assigned. Each Washington FLC initial license expires no later than December 31 of the calendar year in which it was issued. License renewals may be for up to two years but expire no later than December 31 of the calendar year subsequent to the year of issue. All actions performed under a license are the responsibility of the original licensee and she/he can be deemed legally liable/responsible for all such actions in a court of law.

**PERSONS AFFECTED**

ESD WorkSource Staff and Management

**DEFINITIONS**

**Farm/Forestry Labor Contractor (FLC):** Any person who, for a fee, performs any farm labor contracting activity.

**Farm Labor Contracting Activity:** Recruiting, soliciting, employing, supplying, transporting, or hiring agricultural workers.

**Agricultural Employee:** Any person who renders personal services to, or under the direction of, an agricultural employer in connection with the employer's agricultural activity.

**Agricultural Employer:** Any person engaged in agricultural activity; including the growing, producing, or harvesting of farm or nursery products, or engaged in the forestation or reforestation of lands; which includes; but is not limited to the planting, transplanting, tubing, precommercial thinning, and thinning of trees and seedlings, the clearing, piling, and disposal of brush and slash, the harvest of Christmas trees, and other related activities.

**Person:** Any individual, firm, partnership, association, corporation, or unit or agency of state or local government.

**POLICY**

It is the policy of the Employment Security Department (ESD) to provide services to [farm/forestry labor contractors](http://www.wa.gov/esd/policies/documents/4066.htm#Contractor) that are consistent with Washington's RCW 19.30 and WAC 296-310, as amended.

***Note:****All applicants must be in compliance with the Migrant and Seasonal Agricultural Workers Protection Act (MSPA) of 1983 (29 CFR Part 500) as amended in 1989 (see Policies and Procedures communication number 4056, Federal Farm/Forestry Labor Contractor Certification).*

**Comparison of Federal and State Programs**

There are some differences and similarities between the Washington and federal programs that should be noted:

1. RCW 19.30 and WAC 296-310, as amended, apply to all farm labor contractors operating within the state of Washington. A federally registered FLC may have a subordinate farm labor contractor employee who is federally registered to act as an agent or subcontractor, but Washington State has no such classification and requires that each contractor and employee(s) have individual license(s).
2. Federal registration as a farm labor contractor under the MSPA applies in all instances except when the contractor is operating within 25 intrastate-miles of the contractor's permanent residence and for not more than thirteen weeks per year. The exemption regarding miles and weeks, cited for federally certified contractors, is not included in Washington law.
3. State-registered farm/forestry labor contractors must be bonded or have an Assignment of Account or Time Deposit with L&I. State licensed farm labor contractors must pay an annual license fee. There are no similar federal requirements.
4. Federal certificates and state licenses have different periods of validity and must both be valid when the work is performed.

***Note:*** *Specific information concerning the federal program can be found in Policies and Procedures communication number 4056, Federal Farm/Forestry Labor Contractor Certification.*

**SUPERSEDES**

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**CONTACT**

Oscar Trevino
Employment Security Department
Employment and Career Development Division
P.O. Box 9046, Mail Stop 6000
Olympia , WA 98507-9046
E-Mail: otrevino@esd.wa.gov
Telephone: (360) 438-4653
Fax: (360) 438-4014