

# 2019 Agricultural Peak Employment Wage and Practices Employer Survey Results

Distributed June 2020

Washington State Employment Security Department  
Suzi LeVine, *Commissioner*

Dan Zeitlin, *Director*  
Policy, Data, Performance and Integrity

Steven Ross, *Director of Labor Market Information*  
Labor Market and Economic Analysis

Gustavo Avilés, *Program Evaluation, Research & Analysis Manager*  
Labor Market and Economic Analysis

Prepared by

Joshua Moll, *Econometrics & Actuarial Analysis Manager*  
Jami Mills, *Research Economist*

For more information or to get this report in an alternative format, call the Employment Security Department Labor Market Information Center at 800-215-1617.

Employment Security Department is an equal opportunity employer/program. Auxiliary aids and services are available upon request to individuals with disabilities. Language assistance services for limited English proficient individuals are available free of charge. Washington Relay Service: 711.

## Contents

Executive summary .....	3
Background .....	3
Role of State Employment Security Agencies.....	3
Key findings .....	3
2019 results .....	4
Employer estimates .....	4
Employment estimates .....	6
Prevailing wage rates .....	7
Prevailing or normal and common employment practices .....	10
Prevailing practices .....	10
Normal and common practices .....	11
Appendices.....	13
Appendix 1: Prevailing wage rate finding process.....	13
Prevailing wage finding process.....	13
Appendix 2: Estimating prevailing or normal and common practices.....	14
Prevailing practices .....	15
Normal and common practices .....	16
Minimum productivity standards .....	16
Experience requirements .....	16
Reference checks.....	16
Provision of tools and the positive recruitment of U.S. Nationals .....	17
Appendix 3: Supplemental data.....	17

# Executive summary

## Background

The Washington State Employment Security Department's (ESD) Labor Market and Economic Analysis (LMEA) division has conducted an agricultural wage and practice survey annually since 2015, surveying for occupations and activities for which employers have requested temporary foreign laborers through the agricultural recruitment system (ARS). Prior to 2015, LMEA conducted an agricultural wage and practice survey on a biennial basis for select agricultural commodities.

## Role of State Employment Security Agencies

USDOL provides funding to State Employment Security Agencies (SESAs) to conduct surveys that help its regional offices establish prevailing wages and prevailing or normal and common practices in agriculture. The guidelines to conduct these surveys are contained in ETA Handbooks 385 and 398. ETA Handbook 385 requires SESAs to conduct a prevailing wage survey for any agricultural activity or occupation to which one or more of the following conditions apply:

1. One hundred or more workers were employed in the previous season, or are expected to be employed in the current season;
2. Foreign workers were employed in the previous season, or employers have requested or may be expected to request foreign workers in the current season, regardless of the number of workers involved;
3. The crop activity has an unusually complex wage structure, or there are other factors affecting the prevailing wage which can best be determined by a wage survey; or
4. The crop or crop activity has been designated by the national office as a major crop or crop activity either because of the importance of the production of this crop to the national economy or because large numbers of workers are employed in the crop activity in a number of different areas in the country (ETA Handbook 385, p. I-115).

## Key findings

The 2019 Agricultural Peak Employment Wage and Practice Surveys received 52.25 percent and 46.14 percent response rates for the employer and worker surveys respectively; this equates to 716 eligible employers and 1,299 workers responding to the surveys.

In addition, the 2019 prevailing wage finding process identified 82 different combinations of agricultural commodity-activity wage structures; 31 of these combinations meet or exceed USDOL thresholds for wage determinations. Of the 31 combinations of commodity-activity-wage structures that meet USDOL determination thresholds, 10 are for apple activities, 5 are for berry activities, 11 are for cherry activities and 5 are for pear activities. Five commodity-activity wage structures

that meet USDOL determination thresholds increased from the previous 2018 iteration wage finding process. These commodity-activity wage structures are: Apple pruning, \$13.50 per hour (+\$1.00 per hour); Apple thinning \$15.00 per hour (+\$2.00 per hour); Cripps Pink apple harvesting, \$28.00 per bin (+\$1.00 per bin); Raspberry harvesting, \$12.64 per hour (+\$1.14 per hour); and, Cherry pruning, \$14.00 per hour (+\$1.00) while only one commodity-activity saw a decrease from the previous iteration, which is Blueberry harvesting, \$0.50 per pound (-\$0.25 per pound). Notably, a few cherry harvesting wage structures moved from a piece rate wage to an hourly wage in addition

to a typically piece rate wage structure for one apple harvesting activity. Dark Red, Lapin and Skeena cherry harvesting activities shifted from a \$0.20 per pound wage structure to \$12.00 per hour, and Yellow cherry harvesting moved from \$0.30 per pound to \$12.00 per hour. Gala apple harvesting, typically seen as a piece rate wage structure, also transferred to an hourly wage with a value of \$12.00 per hour.

Moreover, no employment practices measures, to include experience requirements, the provision of family housing and minimum productivity standards, passed the prevailing practices or normal and common practices thresholds as the majority of employer survey responses indicated that all three employment practices were either not applicable or skipped the questions.

## 2019 results

### Employer estimates

For estimating the total number of employers to have participated in the production of a given agricultural commodity and employed migrant or seasonal laborers, LMEA utilized a log-linear approach to an abundance estimator known as a capture-recapture estimator.<sup>1</sup>

This type of population estimator has three general requirements:

1. At least two capture occasions are necessary to generate an estimate. An example of this would be having at least two agricultural survey iteration results available and in the same structural format;
2. The capture occasions occur over a relatively short period of time; and
3. All occasions of the search procedure (e.g., survey iterations) remain conceptually equivalent.

Additionally, this type of estimator takes three universal assumptions:

1. The population in question is finite;
2. Immigration into the population area is negligible. An example of this would be the number of new agricultural employers established on a yearly basis is small; and
3. Mortality rates are negligible, meaning the number of agricultural employers going out of business is small.

Procedurally, this approach to population estimation enables the determination of the probability of employers to experience responding to a survey iteration and therefore the expected number of employers, regarding a given agricultural commodity, can be formulated and re-expressed as a log-linear model. This model re-expression then allows the fitting of specific linear regressions that have the capacity to estimate the number of employers that did not respond to a survey iteration, controlling survey nonresponse and producing a population estimate of the total number of employers participating in the production of a particular agricultural commodity.

During the 2019 survey iteration, 148 distinct and varying levels of agricultural commodities were reported; however, only 23 commodities received high enough reporting frequencies over three survey iterations to warrant employer estimation. *Figure 1* details the models chosen to generate employer populations by agricultural commodity, metrics to assess model fit and 95 percent

---

<sup>1</sup> For more detailed information see: Rivest, L.P. & Baillargeon, S. (2007). "Rcapture: Loglinear Models for Capture-Recapture in R". *Journal of Statistical Software*, 19(5).

confidence intervals for each commodity. Employer estimates were generated using 2017, 2018 and 2019 employer survey iterations.

**Figure 1. 2019 employer estimates**

Washington state, 2020

Source: Employment Security Department/LMEA, 2017, 2018, 2019 Agricultural Wage and Practice Employer Surveys

Commodity	Estimation model	Employer Estimate	Standard error	Confidence interval (95%)
Apples	Mth Chao	1,147	58.04	1,046 - 1,274
Apples Braeburn	Mt	154	49.61	93 - 324
Apples Cripps Pink	Mt	219	52.64	148 - 375
Apples, Fuji	Mth Chao	597	78.94	472 - 791
Apples, Gala	Mth Chao	881	72.70	758 - 1,047
Apples, Golden Delicious	Mth Chao	562	59.13	467 - 704
Apples, Granny Smith	Mth Chao	452	59.76	359 - 601
Apples, Honeycrisp	Mth Chao	699	70.01	584 - 863
Apples, Red Delicious	Mth Chao	563	55.47	472 - 694
Berries	Mt	338	22.30	301 - 389
Berries, Blueberries	Mth Chao	220	27.27	179 - 289
Berries Raspberries	Mt	172	25.91	133 - 239
Cherries	Mth Chao	1,022	51.33	932 - 1,134
Cherries Dark Red	Mt	744	32.39	687 - 814
Cherries Lapin	Mt	254	27.50	210 - 320
Cherries, Red	Mh Chao	524	50.03	443 - 642
Cherries, Skeena	Mth Chao	299	54.70	220 - 448
Cherries, Sweetheart	Mth Chao	300	29.14	253 - 375
Cherries, Yellow	Mth Chao	542	49.18	461 - 657
Pears	Mth Chao	722	52.49	633 - 841
Pears, Bartlett	Mth Chao	658	52.60	570 - 779
Pears, Bosc	Mth Chao	319	43.06	253 - 428
Pears D'anjou	Mt	551	79.94	428 - 753

## Employment estimates

The estimation method used for the 2019 survey iteration to estimate total employment by commodity-activity is an iterative proportional fitting procedure, more commonly referred to in survey analysis as a raking algorithm.<sup>2</sup>

The raking algorithm chosen to estimate total employment by commodity-activity incrementally post-stratifies employer survey responses so that the marginal totals from the survey match (equal) specified marginal control totals, where the sample marginal totals would be the number of employers responding for a particular commodity and the control marginal total are defined as the employer population estimates detailed previously. The raking procedure then results in the production of calibration weights to adjust reported employment. These weights are then multiplied by the reported employment for a given commodity-activity to generate total estimated employment levels.

Figure 2 shows the resulting total estimated employment levels by commodity-activity for which LMEA could generate an estimate and fulfill USDOL determination requirements.<sup>3</sup> Additionally, Figure 2 conveys total reported employment and the necessary integer and percent thresholds outlined by the USDOL.

**Figure 2.** 2019 employment estimates by commodity-activity

Washington state, 2020

Source: Employment Security Department/LMEA, 2019 Agricultural Wage and Practice Employer Survey

Commodity	Activity	Total reported employment	Total estimated employment	USDOL percent threshold	Determination threshold	Determination
Apples	Pruning	3,339	20,177	15%	3,027	Yes
Apples	Thinning	4,641	28,865	15%	4,330	Yes
Apples, Braeburn	Harvesting	2,402	9,945	15%	1,492	Yes
Apples, Cripps Pink	Harvesting	1,039	5,861	15%	880	Yes
Apples, Cripps Pink	Pruning	843	5,576	15%	837	Yes
Apples, Gala	Harvesting	6,772	45,044	15%	6,757	Yes
Apples, Gala	Pruning	2,375	15,344	15%	2,302	Yes
Apples, Gala	Thinning	3,076	19,942	15%	2,992	Yes
Apples, Granny Smith	Harvesting	2,466	15,302	15%	2,296	Yes
Apples, Red Delicious	Pruning	1,293	8,514	15%	1,278	Yes
Berries	Harvesting	3,189	7,793	15%	1,169	Yes
Berries	Pruning	871	2,416	20%	484	Yes
Berries, Blueberries	Harvesting	2,535	6,209	15%	932	Yes
Berries, Blueberries	Pruning	775	2,187	20%	438	Yes
Berries, Raspberries	Harvesting	864	4,084	15%	613	Yes
Cherries	Harvesting	14,012	48,730	15%	7,310	Yes
Cherries	Pruning	1,386	4,531	15%	680	Yes
Cherries, Dark Red	Harvesting	10,620	42,486	15%	6,373	Yes

<sup>2</sup> For more detailed information see: Lumley, T. (2004). "Analysis of complex survey samples". *Journal of Statistical Software*, 9(1), 1-19.

<sup>3</sup> For employment estimates that did not meet USDOL thresholds, see Figure A3-1 in Appendix 3.

Commodity	Activity	Total reported employment	Total estimated employment	USDOL percent threshold	Determination threshold	Determination
Cherries, Dark Red	Pruning	873	2,784	20%	557	Yes
Cherries, Lapin	Harvesting	4,030	14,219	15%	2,133	Yes
Cherries, Red	Harvesting	7,048	25,841	15%	3,877	Yes
Cherries, Red	Pruning	555	2,274	20%	455	Yes
Cherries, Skeena	Harvesting	4,262	15,415	15%	2,313	Yes
Cherries, Sweetheart	Harvesting	3,754	13,286	15%	1,993	Yes
Cherries, Yellow	Harvesting	6,808	25,447	15%	3,818	Yes
Cherries, Yellow	Pruning	542	2,101	20%	421	Yes
Pears	Pruning	948	5,390	15%	809	Yes
Pears	Thinning	704	4,258	15%	639	Yes
Pears, Bartlett	Pruning	793	4,374	15%	657	Yes
Pears, Bartlett	Thinning	612	3,389	15%	509	Yes
Pears, Bosc	Harvesting	2,810	14,295	15%	2,145	Yes

## Prevailing wage rates

*Figure 3* presents prevailing wages for those commodity activities for which LMEA could generate an estimate and a determination from the results of the 2019 Agricultural Peak Employment Wage and Practice Employer Survey. When prevailing wages are hourly rates lower than the AEWR, employers must pay hired laborers through the ARS or H-2A program the current AEWR. According to federal guidelines, employers who hire laborers through the ARS or the H-2A program can pay the AEWR or the prevailing piece rate to those laborers engaged in commodity activities for which the prevailing wage is a piece rate. Regardless of which pay rate they use, employers who use the ARS or H-2A program to hire laborers must ensure their average hourly wage rate in a given week is equal to or greater than the AEWR; further details on the prevailing wage finding process can be found in *Appendix 1*.

*Figure 3* contains two combination levels of commodity-activity wage structures, ranging from generalized high levels (e.g., apple-harvesting) to a one step lower level (e.g., apple-red delicious-harvesting) that all qualify for wage determinations.

For piece rate wages, LMEA surveyed for hourly earnings guarantee, which is the minimum an employer must pay to an agricultural laborer, regardless of activity or amount of work, and the dimension of the base wage unit. For apple and pear base wage units, reported dimensions and base wages were normalized to meet the industry standard linear bin dimension (47" x 47" x 24.5") recorded and identified in 2019 employer job orders. When a reported linear bin dimension differed from the standard linear bin dimension, the cubic inches for the differing linear bin were calculated and the base wage reported was adjusted proportionally to meet the standard linear bin dimension. When bin dimensions were reported by weight, LMEA identified the most common bin weight from the 2019 Agricultural Peak Employment Wage and Practice Employer Survey and equated it to the standard linear bin dimension given the commodity in question. The most common bin weights reported were 900 pounds and 1,000 pounds for apples and pears respectively. This enabled LMEA to proportionally adjust the base wage for bin dimensions reported by weight to meet the standard linear bin dimension. The result of normalizing base wages and wage unit dimensions drastically

increases the number of employers represented in the prevailing wage finding process, aiding to ensuring a robust distribution of commodity activity wages structures.

**Figure 3. 2019 prevailing wage rates\***

Washington state, 2020

Source: Employment Security Department/LMEA, 2019 Agricultural Wage and Practice Employer Survey

Commodity	Activity	Prevailing wage	Base wage	Wage unit	Hourly guarantee	Dimension	Bonus amount	Bonus unit
Apples	Pruning	\$13.50	\$13.50	Hour	N/A	N/A	\$0.00	No Bonus
Apples	Thinning	\$15.00	\$15.00	Hour	N/A	N/A	\$0.00	No Bonus
Apples, Braeburn	Harvesting	\$12.00	\$12.00	Hour	N/A	N/A	\$0.00	No Bonus
Apples, Cripps Pink	Harvesting	\$28.00	\$28.00	Bin	\$16.00	47"x47"x24.5"	\$0.00	No Bonus
Apples, Cripps Pink	Pruning	\$13.50	\$13.50	Hour	N/A	N/A	\$0.00	No Bonus
Apples, Gala	Harvesting	\$12.00	\$12.00	Hour	N/A	N/A	\$0.00	No Bonus
Apples, Gala	Pruning	\$13.50	\$13.50	Hour	N/A	N/A	\$0.00	No Bonus
Apples, Gala	Thinning	\$15.00	\$15.00	Hour	N/A	N/A	\$0.00	No Bonus
Apples, Granny Smith	Harvesting	\$27.00	\$27.00	Bin	\$13.50	47"x47"x24.5"	\$0.00	No Bonus
Apples, Red Delicious	Pruning	\$13.50	\$13.50	Hour	N/A	N/A	\$0.00	No Bonus
Berries	Harvesting	\$12.64	\$12.64	Hour	N/A	N/A	\$0.00	No Bonus
Berries	Pruning	\$13.50	\$13.50	Hour	N/A	N/A	\$0.00	No Bonus
Berries, Blueberries	Harvesting	\$0.50	\$0.50	Pound	\$15.03	N/A	\$0.00	No Bonus
Berries, Blueberries	Pruning	\$14.00	\$14.00	Hour	N/A	N/A	\$0.00	No Bonus
Berries, Raspberries	Harvesting	\$12.64	\$12.64	Hour	N/A	N/A	\$0.00	No Bonus
Cherries	Harvesting	\$0.20	\$0.20	Pound	\$15.03	N/A	\$0.00	No Bonus
Cherries	Pruning	\$14.00	\$14.00	Hour	N/A	N/A	\$0.00	No Bonus
Cherries, Dark Red	Harvesting	\$12.00	\$12.00	Hour	N/A	N/A	\$0.00	No Bonus
Cherries, Dark Red	Pruning	\$14.00	\$14.00	Hour	N/A	N/A	\$0.00	No Bonus
Cherries, Lapin	Harvesting	\$12.00	\$12.00	Hour	N/A	N/A	\$0.00	No Bonus
Cherries, Red	Harvesting	\$0.20	\$0.20	Pound	\$15.03	N/A	\$0.00	No Bonus
Cherries, Red	Pruning	\$14.00	\$14.00	Hour	N/A	N/A	\$0.00	No Bonus
Cherries, Skeena	Harvesting	\$12.00	\$12.00	Hour	N/A	N/A	\$0.00	No Bonus



Commodity	Activity	Prevailing wage	Base wage	Wage unit	Hourly guarantee	Dimension	Bonus amount	Bonus unit
Cherries, Sweetheart	Harvesting	\$0.20	\$0.20	Pound	\$15.03	N/A	\$0.00	No Bonus
Cherries, Yellow	Harvesting	\$12.00	\$12.00	Hour	N/A	N/A	\$0.00	No Bonus
Cherries, Yellow	Pruning	\$14.00	\$14.00	Hour	N/A	N/A	\$0.00	No Bonus
Pears	Pruning	\$15.00	\$15.00	Hour	N/A	N/A	\$0.00	No Bonus
Pears	Thinning	\$12.00	\$12.00	Hour	N/A	N/A	\$0.00	No Bonus
Pears, Bartlett	Pruning	\$15.00	\$15.00	Hour	N/A	N/A	\$0.00	No Bonus
Pears, Bartlett	Thinning	\$13.40	\$13.40	Hour	N/A	N/A	\$0.00	No Bonus
Pears, Bosc	Harvesting	\$12.00	\$12.00	Hour	N/A	N/A	\$0.00	No Bonus

\*N/A means not applicable

## Prevailing or normal and common employment practices

Regulations contained at 20 CFR Part 655, subpart B, and 20 CFR Part 653, subpart F, define the “prevailing” and “normal and common” practices for seasonal U.S. agricultural workers that USDOL may allow in job orders filed through the ARS.<sup>4</sup>

### Prevailing practices

#### Family Housing

LMEA analyzed the provision of family housing first by crop-variety-activity to identify if there was notable distinction. As those specific crop-variety-activities received similar responses with regard to the provision of family housing, LMEA grouped crop varieties when arraying the data for family housing analysis. For those commodity-activity combinations which had a sufficient sample size LMEA found no variation in the results. It follows that the provision of family housing is not a prevailing practice. *Figure 4* illustrates the percent of estimated employment and employers reported in order to dictate a prevailing practice.

**Figure 4.** 2019 provision of family housing\*

Washington state, 2020

Source: Employment Security Department/LMEA, 2019 Agricultural Wage and Practice Employer Survey

Commodity	Activity	Housing	Housing amount (per week)	Percent estimated employment reported	Percent estimated employers reported
Apples	Harvesting	Yes	\$0.00	3.96%	3.74%
Apples	Harvesting	Missing	Missing	1.78%	3.37%
Apples	Harvesting	No	N/A	8.85%	19.60%
Apples	Pruning	Yes	\$0.00	5.39%	3.37%
Apples	Pruning	Missing	Missing	4.40%	3.95%
Apples	Pruning	No	N/A	6.58%	18.47%
Apples	Thinning	Yes	\$0.00	4.79%	3.77%
Apples	Thinning	Missing	Missing	5.47%	3.90%
Apples	Thinning	No	N/A	5.63%	18.09%
Berries	Harvesting	Yes	\$0.00	9.29%	2.65%
Berries	Harvesting	Missing	Missing	9.44%	2.98%
Berries	Harvesting	No	N/A	22.16%	26.16%
Berries	Packing	No	N/A	14.24%	26.19%
Berries	Pruning	Missing	Missing	13.58%	3.05%
Berries	Pruning	No	N/A	15.77%	25.89%
Cherries	Harvesting	Yes	\$0.00	4.12%	3.18%
Cherries	Harvesting	Missing	Missing	3.06%	3.48%
Cherries	Harvesting	No	N/A	20.90%	23.07%
Cherries	Pruning	Yes	\$0.00	4.86%	2.84%
Cherries	Pruning	Missing	Missing	8.21%	4.69%

<sup>4</sup> For more information see *Appendix 2* of this report.

Commodity	Activity	Housing	Housing amount (per week)	Percent estimated employment reported	Percent estimated employers reported
Cherries	Pruning	No	N/A	17.53%	22.75%
Cherries	Thinning	Missing	Missing	19.07%	9.76%
Cherries	Thinning	No	N/A	14.45%	19.51%
Pears	Harvesting	Yes	\$0.00	2.05%	4.30%
Pears	Harvesting	Missing	Missing	0.49%	1.86%
Pears	Harvesting	No	N/A	10.72%	17.62%
Pears	Pruning	Yes	\$0.00	3.71%	3.73%
Pears	Pruning	Missing	Missing	1.17%	2.15%
Pears	Pruning	No	N/A	12.19%	18.23%
Pears	Thinning	Yes	\$0.00	4.25%	4.98%
Pears	Thinning	No	N/A	11.32%	16.73%

\*N/A means not applicable

## Normal and common practices

### Experience requirements

LMEA first calculated experience requirements by commodity-activity to determine if there were differences across specific crop-variety-activities. As all specific crop-variety-activity combinations indicated “no experience requirements,” LMEA grouped crop varieties when arraying the data for experience requirement analysis. It was found that there was no variation in experience requirements, and that the majority of employers included in the analysis indicated “no months required,” or skipped the question. *Figure 5* details the percent of estimated employment and employers reported in order to determine a finding by months of experience required to be employed.

**Figure 5.** 2019 experience requirements

Washington state, 2020

Source: Employment Security Department/LMEA, 2019 Agricultural Wage and Practice Employer Survey

Commodity	Activity	Experience (months)	Percent estimated employment reported	Percent estimated employers reported
Apples	Harvesting	0	2.54%	25.61%
Apples	Pruning	0	2.27%	23.21%
Apples	Thinning	0	1.74%	23.73%
Berries	Harvesting	0	39.17%	22.22%
Cherries	Harvesting	0	24.21%	25.68%
Cherries	Pruning	0	20.17%	23.40%
Pears	Harvesting	0	28.31%	27.69%
Pears	Pruning	0	27.32%	26.32%

### Minimum productivity standards

For all commodity-activities with a sufficient sample size to report findings, LMEA did not have any occurrences where minimum productivity standards were normal and common, as the majority of employers either skipped the question or responded as a minimum productivity standard was not applicable. *Figure 6* shows the percent of estimated employment and employers reported for given minimum productivity standards.

**Figure 6. 2019 minimum productivity standards\***

Washington state, 2020

Source: Employment Security Department/LMEA, 2019 Agricultural Wage and Practice Employer Survey

Commodity	Activity	Productivity standard	Productivity unit	Productivity frequency	Percent estimated employment reported	Percent estimated employers reported
Apples	Harvesting	3	Bin	Per Hour	0.11%	0.36%
Apples	Harvesting	4	Bin	Per Hour	0.13%	0.36%
Apples	Harvesting	5	Bin	Per Day	0.06%	0.36%
Apples	Harvesting	N/A	N/A	N/A	11.62%	23.12%
Apples	Pruning	N/A	N/A	N/A	16.31%	25.93%
Apples	Thinning	N/A	N/A	N/A	15.93%	25.95%
Berries	Harvesting	N/A	N/A	N/A	40.42%	31.56%
Berries	Packing	N/A	N/A	N/A	31.71%	31.71%
Berries	Pruning	N/A	N/A	N/A	36.05%	31.79%
Cherries	Harvesting	2	Missing	Missing	0.55%	0.59%
Cherries	Harvesting	3	Missing	Missing	0.20%	0.39%
Cherries	Harvesting	N/A	N/A	N/A	24.72%	25.05%
Cherries	Harvesting	N/A	N/A	N/A	0.23%	0.39%
Cherries	Pruning	N/A	N/A	N/A	29.88%	29.26%
Cherries	Thinning	N/A	N/A	N/A	34.43%	32.50%
Pears	Harvesting	N/A	N/A	N/A	12.64%	21.72%
Pears	Pruning	N/A	N/A	N/A	17.36%	24.41%
Pears	Thinning	N/A	N/A	N/A	16.01%	22.50%

\*N/A means not applicable

# Appendices

## Appendix 1: Prevailing wage rate finding process

### Prevailing wage finding process

ETA Handbook 385 provides guidelines for determining the prevailing wage in each agricultural activity or occupation. According to federal guidelines and found in *Appendix figure A1-1*, the suggested sample size in terms of the percentage of total domestic employment decreases as the level of total domestic employment in each activity increases.

**Appendix figure A1-1.** U.S. Department of Labor prevailing wage rate threshold requirements  
Washington state, 2020

Source: U.S. Department of Labor, Employment and Training Administration, Handbook No. 385: p. I-114

Level of estimated employment in commodity activity area	Percent needed to make a determination
100 – 349	100%
350 – 499	60%
500 – 799	50%
800 – 999	40%
1,000 – 1,249	35%
1,250 – 1,599	30%
1,600 – 2,099	25%
2,100 – 2,999	20%
3,000 or more	15%

After collecting wage information for agricultural commodities and activities, LMEA calculates the prevailing wage rate according to one of two rules. The first is the 40 percent rule, which states that if there is one pay rate paid to 40 percent or more of domestic seasonal employment for a given commodity activity, then that rate becomes the prevailing wage. If two separate wage rates are paid to 40 percent of domestic seasonal employment for a given commodity activity, then both are considered prevailing.

The second is the 51 percent rule. This rule requires arraying wage rates in descending order and counting the cumulative level of domestic seasonal employment, until 51 percent of domestic seasonal employment is covered. If there is not a single unit of payment (e.g., hour, bin) SESAs are to determine which payment unit is applicable to the largest level of employment and then determine the prevailing wage rate according to either the 40 percent rule or the 51 percent rule.

As required by USDOL, LMEA identified the prevailing wage rates based on responses to the 2019 employer survey according to federal guidelines contained in ETA Handbook 385. Because a raking algorithm was used to estimate the level of total domestic seasonal employment, the total estimated level of domestic seasonal employment was used to identify and establish the prevailing wage rates.

## Appendix 2: Estimating prevailing or normal and common practices

Per ETA Handbook 398, SESAs are required to determine the conditions of employment for U.S. seasonal workers in each agricultural activity surveyed. This portion of the survey is to ensure employers who hire foreign workers, “conform the job offer to conditions and standards which are ‘prevailing,’ ‘normal,’ or ‘common’ practices or standards of other employers who hire U.S. workers in the same area and in the same occupation” (ETA Handbook 398, p. II-5).

The concept of a “prevailing practice” has a specific quantitative threshold. If at least 50 percent of all employers who also employ at least 50 percent of all U.S. workers in a given activity engage in a practice, then it is prevailing.<sup>5</sup> This is referred to as the “double-majority” rule. The following practices are subject to the prevailing threshold:

1. The provision of family housing
2. Transportation and subsistence costs
3. Frequency of payment

However, the quantitative threshold for normal and common standards is not specified in ETA Handbook 398. Instead, normal and common are defined as:

...situations which may be less than prevailing, but which clearly are not unusual or rare. The degree to which a practice is engaged in (or a benefit is provided) should be determined to be close to what is viewed (and measured) as “prevailing,” but the degree by which the practice or benefit is measured and degree of proof needed to establish its acceptability for H-2A purposes is not as formal or stringent as “prevailing” calls for (ETA Handbook 398, p. II-7).

When setting the quantitative threshold for normal and common practices or benefits, USDOL’s Regional Administrators (RAs) use their discretion. The following practices are subject to the “normal and common” threshold:

1. Minimum productivity standards
2. Provision of tools and equipment
3. Occupational qualifications (e.g., experience requirements)
4. Positive recruitment of U.S. Nationals.

SESAs do not use the same sampling universe for every practice surveyed to make a prevailing or normal and common determination. Of the practices listed previously, SESAs are required to survey both H-2A and non-H-2A employers about the following:

1. Provision of tools and equipment
2. Provision of family housing
3. Frequency of payment

---

<sup>5</sup> Regulatory definitions, see: 20 CFR 655.103(b) and 20 CFR 655.1300(c).

SESAs are required to survey only non-H-2A employers concerning the following practices:<sup>6</sup>

1. Transportation and subsistence costs
2. Positive recruitment of U.S. Nationals
3. Occupational qualifications

The employers to be surveyed and the threshold to be used are less clear for productivity standards. Additional guidance from USDOL led us to survey both H-2A and non-H-2A employers, and to apply the “normal and common” threshold, for productivity standards.

### **Prevailing practices**

According to USDOL guidance, a practice or standard must apply to half of all employers who also hire half of all workers in our sample in order to be considered prevailing (the double-majority rule). The only practice or benefit included in the 2019 survey that is subject to the prevailing threshold is the provision of family housing. For our prevailing practice recommendations, we used the same sample size rules used to estimate prevailing wages.

#### *Family housing*

LMEA, following guidance from USDOL, surveyed for all family housing offered and the cost associated on a weekly basis. ETA Handbook 398 states:

In arriving at a determination as to whether the provision of family housing is a prevailing practice, RAs and SESAs must look beyond the threshold question on the basic availability of housing which is suitable for families. They must also determine whether it is the active practice of employers to offer this housing as a benefit to migrant workers who need and request it.

#### *Transportation and subsistence costs and frequency of payments*

ESD did not include questions about transportation and subsistence costs on the 2018 or 2019 survey. ETA Handbook 398 states the following about transportation and subsistence costs:

H-2A employers must offer to advance transportation and subsistence costs (or otherwise provide them) to U.S. workers when it is the prevailing practice of non-H-2A employers in the area and occupation to do so (or when transportation is advanced for H-2A workers) (ETA Handbook 398 p. II-10).

In addition, 20 CFR 655.1305(e)5 states:

During the period of employment that is the subject of the labor certification application, the employer will... Provide transportation in compliance with all applicable Federal, State or local laws and regulations between the worker’s living quarters (i.e., housing provided by the employer under 20 CFR 655.104(d)) and the employer’s worksite without cost to the worker.

---

<sup>6</sup> For more information, see: 20 CFR 655.122, § 655.150-158, and § 655.1305.

It is our understanding that the language in ETA Handbook 398 and 20 CFR 655.1305 require employers to provide advance transportation and subsistence costs.<sup>7</sup> Therefore, we did not survey employers about the advancement of transportation or subsistence costs in the 2018 survey.

LMEA also did not include questions related to the frequency of payment on the 2018 or 2019 survey. According to 20 CFR 655.122(m):

The employer must state in the job offer the frequency with which the worker will be paid, which may be at least twice monthly or according to the prevailing practice in the area of intended employment, whichever is more frequent.

Due to the language included in the regulation, making reference to a minimum requirement of twice a month, LMEA decided to not include questions, beginning on the 2018 survey, related to the frequency of payment.

### **Normal and common practices**

There is no quantitative threshold for normal or common practices specified in ETA Handbook 398. As a result, we followed advice received in an email communication, dated January 5, 2016, with the CNPC to arrive at our normal and common practices recommendations for minimum productivity standards and experience requirements.

According to this guidance, at least 33 percent of employers in a sample must report engaging in a practice before the practice is considered “normal and common.” However, LMEA received no instruction regarding the percentage of employers who must use a specific standard (e.g., 4 bins/day, or 3 months of experience) in order to determine maximum allowable standards in H-2A job orders. As a result, LMEA decided that the next step should be to determine the most common quantifiable standard reported.

### **Minimum productivity standards**

For all commodity-activities with a sufficient sample size to report findings, LMEA did not have any occurrences by commodity-activity where minimum productivity standards were normal and common, as the majority of the employers either skipped the question or answered “no.”

### **Experience requirements**

ETA Handbook 398 states that experience requirements (occupational qualifications) are subject to the normal and common threshold.

In determining the appropriateness of occupational qualification, the regional office should consider normal, accepted practice of non-H-2A employers in the same or comparable occupations and crops as a first step (ETA Handbook 398, pp. II-13 – II 14).

### **Reference checks**

As of April 2019, there have been no requirements or guidelines that require a normal and common practice determination for employee references. LMEA was notified that USDOL previously challenged employers on the reference requirement issue and lost the case before an administrative law judge. The decision indicated that, if experience requirements are deemed “normal and

---

<sup>7</sup> In addition, see: 20 CFR 655.122.



common,” the USDOL must allow employers to require a reference in their job orders when they choose to do so. Although LMEA collected information on reference checks for the 2015 survey iteration, given the administrative law judge decision that employers must be allowed to require references when they chose to, LMEA did not include the question for the 2018 or 2019 surveys.

### Provision of tools and the positive recruitment of U.S. Nationals

LMEA did not include questions about the provision of tools on the 2018 survey. ETA Handbook 398 states the following about the provision of tools:

Normally, employers must provide, without charge, all tools, supplies and equipment to the workers, if they are required to perform the tasks described in the job offer ... Absent a specific, justifiable, approved request from an employer, the RA must require that employers provide necessary tools, supplies and equipment without charge to the worker (ETA Handbook 398 pp. II-9).

In addition, 20 CFR 655.122(f) states that, “The employer must provide to the worker, without charge or deposit charge, all tools, supplies and equipment required to perform the duties assigned.”

LMEA also did not include questions on the 2018 or 2019 surveys related to the positive recruitment of U.S. Nationals. Since the majority of employers report bypassing the ARS for the recruitment of domestic workers, almost all job orders received in the state of Washington go through the H-2A system. We know that the recruitment of U.S. Nationals is a requirement of the H-2A system. Therefore, we did not survey employers about the positive recruitment of U.S. Nationals.

## Appendix 3: Supplemental data

**Appendix figure A3-1.** 2019 employment estimates by commodity-activity that did not meet USDOL thresholds\*  
Washington state, 2020

Source: Employment Security Department/LMEA, 2019 Agricultural Wage and Practice Employer Survey

Commodity	Activity	Total reported employment	Total estimated employment	USDOL percent threshold	Determination threshold	Determination
Apples	Don't Know	(D)	(D)	(D)	(D)	No
Apples	Harvesting	10,084	68,865	15%	10,308	No
Apples, Braeburn	Pruning	197	1,501	30%	450	No
Apples, Braeburn	Thinning	219	1,643	25%	411	No
Apples, Cripps Pink	Thinning	1,561	10,427	15%	1,563	No
Apples, Fuji	Harvesting	5,619	40,601	15%	6,085	No
Apples, Fuji	Pruning	1,480	10,320	15%	1,544	No
Apples, Fuji	Thinning	2,041	14,455	15%	2,165	No
Apples, Golden Delicious	Harvesting	2,256	21,124	15%	3,161	No
Apples, Golden Delicious	Pruning	1,172	14,169	15%	2,120	No
Apples, Golden Delicious	Thinning	1,715	23,739	15%	3,556	No
Apples, Granny Smith	Pruning	1,278	11,612	15%	1,740	No

Commodity	Activity	Total reported employment	Total estimated employment	USDOL percent threshold	Determination threshold	Determination
Apples, Granny Smith	Thinning	1,672	18,406	15%	2,759	No
Apples, Honeycrisp	Don't Know	(D)	(D)	(D)	(D)	No
Apples, Honeycrisp	Harvesting	3,938	30,166	15%	4,519	No
Apples, Honeycrisp	Pruning	1,790	17,475	15%	2,619	No
Apples, Honeycrisp	Thinning	2,523	30,066	15%	4,507	No
Apples, Red Delicious	Harvesting	5,249	36,131	15%	5,411	No
Apples, Red Delicious	Thinning	1,720	11,610	15%	1,736	No
Berries	Don't Know	(D)	(D)	(D)	(D)	No
Berries	Hand Harvesting	(D)	(D)	(D)	(D)	No
Berries	Machine Harvest Driver	(D)	(D)	(D)	(D)	No
Berries	Machine Harvest Sorter	(D)	(D)	(D)	(D)	No
Berries	Packing	363	1,145	35%	399	No
Berries, Blueberries	Don't Know	(D)	(D)	(D)	(D)	No
Berries, Blueberries	Hand Harvesting	(D)	(D)	(D)	(D)	No
Berries, Blueberries	Machine Harvest Driver	(D)	(D)	(D)	(D)	No
Berries, Blueberries	Machine Harvest Sorter	(D)	(D)	(D)	(D)	No
Berries, Blueberries	Packing	192	400	60%	240	No
Berries, Raspberries	Don't Know	(D)	(D)	(D)	(D)	No
Berries, Raspberries	Packing	(D)	(D)	(D)	(D)	No
Berries, Raspberries	Pruning	243	1,189	35%	417	No
Cherries	Thinning	305	886	40%	353	No
Cherries, Dark Red	Thinning	119	319	100%	317	No
Cherries, Lapin	Pruning	329	1,303	30%	386	No
Cherries, Lapin	Thinning	(D)	(D)	(D)	(D)	No
Cherries, Red	Thinning	70	252	100%	248	No
Cherries, Skeena	Pruning	284	1,434	30%	426	No
Cherries, Skeena	Thinning	(D)	(D)	(D)	(D)	No
Cherries, Sweetheart	Pruning	359	1,365	30%	402	No
Cherries, Sweetheart	Thinning	(D)	(D)	(D)	(D)	No
Cherries, Yellow	Thinning	54	182	100%	180	No

Commodity	Activity	Total reported employment	Total estimated employment	USDOL percent threshold	Determination threshold	Determination
Pears	General Labor	(D)	(D)	(D)	(D)	No
Pears	Harvesting	4,734	35,344	15%	5,288	No
Pears, Bartlett	General Labor	(D)	(D)	(D)	(D)	No
Pears, Bartlett	Harvesting	4,488	33,797	15%	5,058	No
Pears, Bosc	General Labor	(D)	(D)	(D)	(D)	No
Pears, Bosc	Pruning	345	2,258	20%	448	No
Pears, Bosc	Thinning	215	2,242	20%	448	No
Pears, D'anjou	Harvesting	306	12,515	15%	1,876	No
Pears, D'anjou	Pruning	28	606	50%	302	No

\*(D) indicates data has been suppressed due to non-disclosure policies and regulations set at both the state and federal level.