

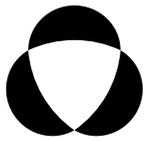


Washington State Department of
Labor & Industries

Farm Labor Contractor

Application/Renewal Packet

July 2016 Edition



Farm Labor Contractor Registration

To work as a farm labor contractor in Washington State, you must first get a Farm Labor Contractor License. This fact sheet explains how to get started and what you need to know to operate legally.

What is a farm labor contractor?

A farm labor contractor (FLC) is defined as any person, agency or subcontractor who, for a fee, recruits, solicits, employs, supplies, transports, or hires agricultural workers to perform any FLC activity. FLC activity includes:

- Growing, producing, or harvesting farm or nursery products.
- Reforestation of lands, including planting, transplanting, and thinning trees.
- Harvesting Christmas trees.

Washington State registers FLCs to ensure workers are paid. FLCs are insured and bonded by companies who understand the requirements for paying workers fairly. You must get and keep a current FLC license issued by Department of Labor & Industries (L&I) in order to perform any FLC activity.

What is required to become a farm labor contractor?

In order to become an FLC, you must first get the following license, certificates, a bond and vehicle insurance:

- **Washington State Business License**
Before you apply for an FLC license, you must get a Business License from the Washington State Business Licensing Service (BLS). BLS will issue a Uniform Business Identifier (UBI) number for your business. Apply online at www.Business.wa.gov/BLS or call 800-451-7985 to get an application.
- **Washington State Farm Labor Contractor License**
You must apply to the Department of Labor & Industries (L&I) for an FLC license. To apply, complete form F700-014-000, available at www.Lni.wa.gov/FormPub. (Type F700-014-000 into the Search box.)

Your FLC license must be renewed each year, and you must carry it with you at all times and show it to all workers and employers with whom you contract.

■ Registration Fee

Annual license fees are due at the time of application or renewal. Please make checks payable to Department of Labor & Industries. The annual fees are:

- Farm Labor Contractor \$35
- Forestation/Reforestation \$100

■ Tax Compliance Certifications

Before you send in your FLC application, you must complete Tax Compliance Certification forms to show that your business is current with federal and state taxes:

- IRS Tax Compliance Certification Form F700-098-000.
- IRS form 8821, which must be completed, signed and sent with the form above.
- Washington Department of Revenue form F700-100-000.
- Washington Department of Employment Security form F700-099-000.

These forms are available on the L&I website at www.Lni.wa.gov/FormPub.

You must submit all of the above completed tax compliance certification forms, even if you do not plan to hire employees right now.



■ Surety Bond (or other proof of financial security)

To ensure that workers' wages are paid, state law requires FLCs to have **one** of the following:

- Surety Bond: A bond obtained from any local insurance provider. Use form F700-066-000.
- Assignment of Account or Time Deposit. Use form F700-060-000.
- Cash deposit: The required amount is deposited with L&I.

These forms are available on the L&I website at www.Lni.wa.gov/FormPub.

The amount of the surety bond or deposit depends on the number of employees you wish to hire:

| Number of Employees | Annual amount of required security |
|---------------------|------------------------------------|
| 1-10 | \$5,000 |
| 11-50 | \$10,000 |
| 51-100 | \$15,000 |
| More than 100 | \$20,000 |

■ Vehicle insurance

If you will be transporting workers, you must provide a Certificate of Insurance to L&I along with your application. Each vehicle used to transport workers must have the following minimum coverage:

- \$50,000 property damage per accident.
- \$100,000 injury or damage, including death, to any one person.
- \$500,000 injury or damage, including death, to more than one person.

■ Payroll Records

You must keep accurate records and provide them to L&I upon request. All workers must be paid at least the state minimum wage. Every payday, you must provide your workers with a written pay statement that itemizes the total payment and includes a description of each deduction made, the hours worked, rate(s) of pay and pieces, if paid on a piece-rate basis.

■ Worker information

At time of hiring, you must give each worker a copy of a signed Agreement – Farm Labor Contractor and Workers form (F700-046-000). This form, which must be signed by the FLC and the worker, must explain the terms and conditions of employment in English and any other language common to the worker. You must also give the worker a copy of Contracted Farm Workers Rights information sheet. L&I will mail these forms to you with your approved license.

Are there penalties?

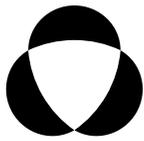
Yes. An FLC license may be revoked, denied or suspended for failure to comply with the law. A violation of the Farm Labor Contractor Act is a misdemeanor, punishable by a maximum fine of \$5,000 or six months imprisonment, or both.

Need more information?

Call or visit the nearest L&I office or the Farm Labor Contractor Supervisor at 360-902-4537 or email to ESGENERAL@Lni.wa.gov.



Other formats for persons with disabilities are available on request. Call 1-800-547-8367. TDD users, call 360-902-5797. L&I is an equal opportunity employer.



Registro para un contratista de trabajadores agrícolas

Para trabajar como un contratista de trabajadores agrícolas en el estado de Washington, usted tiene que obtener primero una Licencia de contratista agrícola. Esta hoja de información explica cómo comenzar y lo que necesita saber para operar legalmente.

¿Quién es un contratista de trabajadores agrícolas?

Un contratista de trabajadores agrícolas (FLC, por su sigla en inglés) es una persona, agencia o subcontratista que recluta, solicita, emplea, suministra, transporta o contrata trabajadores agrícolas por un honorario para desempeñar cualquier actividad como contratista agrícola. Las actividades como contratistas agrícolas incluyen:

- Cultivar, producir o cosechar productos agrícolas o de viveros.
- Reforestación de tierras, incluyendo plantar, transplantar y entresacar árboles.
- Cosechar árboles de Navidad.

El estado de Washington registra a los contratistas de trabajadores agrícolas para asegurar que se les pague a los trabajadores. Los contratistas de trabajadores agrícolas están asegurados y tienen fianzas de compañías que entienden los requisitos para pagarles a los trabajadores justamente. Usted tiene que obtener y mantener una licencia vigente de contratistas de trabajadores agrícolas emitida por el Departamento de Labor e Industrias (L&I) para poder hacer cualquier actividad como contratista de trabajadores agrícolas.

¿Qué se requiere para ser un contratista de trabajadores agrícolas?

Para ser un contratista de trabajadores agrícolas, usted tiene que obtener primero los siguientes documentos para licencia, certificados, fianza y seguro para su vehículo:

- **Licencia de Negocios del estado de Washington**
Antes de solicitar una Licencia de Contratista de Trabajadores Agrícolas, usted debe obtener una Licencia de Negocios del Servicio de Licencias

del estado de Washington (BLS, por su sigla en inglés). BLS emitirá un Número de Identificación del Negocio (UBI, por su sigla en inglés) para su negocio. Solicite en línea en www.Business.wa.gov/BLS o llame al 800-451-7985 para obtener una solicitud.

■ Licencia de Contratista de Trabajadores Agrícolas del estado de Washington

Usted debe solicitar al Departamento de Labor e Industrias (L&I) una Licencia de Contratista de Trabajadores Agrícolas. Para solicitarla, complete el formulario F700-014-000 (en inglés solamente), disponible en www.Lni.wa.gov/FormPub. (Escriba F700-014-000 en la casilla de búsqueda).

Su Licencia para Contratista de Trabajadores Agrícolas tiene que renovarse cada año y debe tenerla con usted en todo momento y mostrársela a todos los trabajadores y empleadores con los que haga un contrato.

■ Costo del registro

El costo para la licencia anual debe pagarse al momento de presentar la solicitud o la renovación. Por favor haga sus cheques a nombre del Departamento de Labor e Industrias. Los costos anuales son:

- Contratista de trabajadores agrícolas . . . \$35
- Forestación/reforestación \$100

■ Certificaciones de cumplimiento de impuesto

Antes de enviar su solicitud para la Licencia de Contratista de Trabajadores Agrícolas, usted debe completar los formularios de Certificación de cumplimiento de impuestos para demostrar que su negocio está al día con los impuestos federales y estatales:

- Formulario de certificación de cumplimiento de impuesto del Departamento de Servicio de Impuestos Internos (IRS, por su sigla en inglés) F700-098-000.

- Formulario 8821 del Departamento de Servicio de Impuestos Internos, el cual tiene que completarse, firmarse y enviarse con el formulario indicado arriba.
- Formulario F700-100-000 del Departamento de Recaudación de Impuestos de Washington.
- Formulario F700-099-000 del Departamento para la Seguridad del Empleo de Washington.

Estos formularios están disponibles en el sitio de Internet de L&I, www.Lni.wa.gov/Spanish/FormPub.

Usted tiene que someter todos los formularios de certificación de cumplimiento de impuestos aunque usted no tenga planeado contratar empleados en este momento.

- **Fianza de garantía (u otra prueba de seguridad económica)** Para asegurar que los salarios de los trabajadores sean pagados, la ley del estado requiere que los Contratistas de Trabajadores Agrícolas tengan **uno** de lo siguiente:
 - Fianza de garantía: Una fianza obtenida de cualquier proveedor de seguro de la localidad. Use el formulario F700-066-000 (en inglés solamente).
 - Depósito en una cuenta bancaria asignada o un Depósito a plazo. Use el formulario F700-060-000.
 - Depósito en efectivo: La cantidad requerida se deposita con L&I.

Estos formularios están disponibles en el sitio web de L&I en, www.Lni.wa.gov/Spanish/FormPub.

La cantidad de la fianza de garantía o del depósito depende del número de empleados que usted desea contratar:

| Número de empleados | Cantidad anual de garantía requerida |
|---------------------|--------------------------------------|
| 1-10 | \$5,000 |
| 11-50 | \$10,000 |
| 51-100 | \$15,000 |
| Más de 100 | \$20,000 |

- **Seguro del vehículo**
Si usted transportará a trabajadores, usted tiene que proporcionarle un Certificado de seguro a L&I junto con su solicitud. Cada vehículo usado para

transportar trabajadores debe tener la cobertura mínima siguiente:

- \$50,000 en daño a la propiedad por accidente.
- \$100,000 lesión o daño, incluyendo la muerte, a cualquier persona.
- \$500,000 lesión o daño, incluyendo la muerte, a más de una persona.

■ Registros de nómina

Usted tiene que mantener registros exactos y proporcionarlos a L&I al solicitarlo. A todos los trabajadores se les tiene que pagar por lo menos el salario mínimo del estado. Cada día de pago usted tiene que proporcionarle a sus trabajadores un comprobante de pago que detalla el pago total e incluye una descripción de cada deducción hecha, las horas trabajadas, tarifa(s) de pago y por pieza si se le paga en base a una tarifa por pieza.

■ Información del trabajador

Al contratar a un empleado usted tiene que darle a cada uno una copia firmada del formulario de Acuerdo entre contratistas agrícolas y trabajadores (F700-046-999). Este formulario, el cual tiene que firmarlo el Contratista de Trabajadores Agrícolas y el trabajador, tiene que explicar los términos y condiciones de empleo en inglés y en cualquier otro idioma común al trabajador. Usted también tiene que darle al trabajador una copia de la hoja de información de los Derechos de los trabajadores agrícolas contratados. L&I le enviará por correo estos formularios con su licencia aprobada.

¿Hay alguna multa?

Sí. La licencia para Contratistas de Trabajadores Agrícolas puede ser revocada, negada o suspendida por falta de cumplimiento con la ley. Una violación a la Ley de Contratistas de Trabajadores Agrícolas es un delito menor, sancionado por una multa máxima de \$5,000 o seis meses de encarcelamiento, o ambos.

¿Necesita más información?

Llame o visite la oficina más cercana de L&I o al Supervisor de la sección para Contratistas de Trabajadores Agrícolas al 360-902-4537 o envíe un correo electrónico a ESGENERAL@Lni.wa.gov.

Hay otros formatos disponibles para personas con discapacidades. Llame al 1-800-547-8367. Usuarios de TDD llamen al 360-902-5797. L&I es un empleador con igualdad de oportunidad.

Farm Labor Contractor License Application/Renewal Packet Instructions

Important — Please read carefully as your packet will be returned to you if it's incomplete.

You have received this packet because:

- You're applying for a new Farm Labor Contractor's License **OR**
- You need to renew your Farm Labor Contractor's License before the end of the year.

Complete and return the required documents in one packet:

1. **Application or Renewal for Farm Labor Contractor License form (F700-014-000).** Complete and sign this application form.
2. **Attach a complete list of your agents and subcontractors who will be performing farm labor contractor activities under your license.** Include agent/subcontractor's name, address, and telephone number.
3. **Application/Renewal fee.** See the fees below:
 - \$35.00 for general farm labor contractors.
 - \$100.00 for forestation/reforestation contractors.
 - \$135.000 for both general farm labor and forestation/reforestation.
4. **Tax Compliance Certificate forms.** Complete the forms in this section and mail or fax them to each corresponding agency for approval.
 - Department of Revenue (F700-100-000).
 - Department of Employment Security (F700-099-000). Email is the fastest way to get this processed.

Include the two forms above after they have been signed and returned.
 - Internal Revenue Service (IRS) Form 8821 (F700-098-000). You must complete, sign, and mail or fax this form to the IRS with your IRS Tax Compliance form. **Don't wait for the IRS return approval to you. The IRS will send the compliance certification approval directly to L&I.**

Continue to next page

5. **Surety bond paperwork.** Include one of the following.

- **New applicants** must send us either:
 - The **original** surety bond/completed Farm Labor Contractor's Bond form (F700-066-000) **OR**
 - An **original** Farm Labor Contractor Assignment of Account or Time Deposit form (F700-060-000). You must have the form completed and signed by the bank or credit union personnel and notary.

- **Renewal applicants** must send us either:
 - An **original** bond/completed Farm Labor Contractor's Bond form (F700-066-000) **OR**
 - A bond continuation certificate (this may be a copy). **This is applicable even if you have a continuous bond. OR**
 - We only need a new **original** Farm Labor Contractor Assignment of Account or Time Deposit form if the name, address, or phone number of your bank changed otherwise a copy is sufficient.

6. **Proof of auto liability insurance if you transport your workers.** We need proof of current auto liability coverage showing at least three minimum coverage amounts required by law **and** the make, model, and license plate number of all insured vehicles you will use to transport workers.

Incomplete license application/renewal packets will be returned. When preparing your packet, check to make sure you have enclosed **all** required items.

Send all required documents and renewal fee in one package to:

Department of Labor & Industries
Employment Standards/Farm Labor Contractor Unit
PO Box 44510
Olympia WA 98504-4510

End of year, renewal applicants ensure continuous coverage.

Send your completed application/renewal packet in before November 30, 2016. This will allow time for processing before January 1, 2017.

Questions?

If you have any questions, please contact Tisa Soeteber, Farm Labor Contractor Specialist, at 360-902-4537 or toll-free at 1-866-219-7321 or by email at zepq235@Lni.wa.gov.

Department of Labor and Industries
 Employment Standards Program
 Farm Labor Unit
 PO Box 44510
 Olympia WA 98504-4510
 1-866-219-7321/(360) 902-4537
[http://www.lni.wa.gov/WorkplaceRights/Agriculture/
 FarmLabor](http://www.lni.wa.gov/WorkplaceRights/Agriculture/FarmLabor)



APPLICATION OR RENEWAL FOR FARM LABOR CONTRACTOR LICENSE

| | |
|---|---|
| <input type="checkbox"/> New License | <input type="checkbox"/> Renewal |
| <input type="checkbox"/> Farm Labor | <input type="checkbox"/> Forestation and/or Reforestation |
| <input type="checkbox"/> Recruitment Only | |

| | | | | |
|-----------------------------|-------|--------|------|--------|
| Applicant's full legal name | First | Middle | Last | Suffix |
|-----------------------------|-------|--------|------|--------|

List any other names used

IMPORTANT: All changes in your home or business address must be reported immediately to the Dept. of Labor and Industries.

| | | | |
|--------------------------|------|-------|-----|
| Applicant's home address | City | State | ZIP |
|--------------------------|------|-------|-----|

| | | |
|------------|----------------|----------------|
| Home phone | Business phone | Cellular phone |
|------------|----------------|----------------|

| | | |
|---------------|------------|--------------------|
| Email address | UBI number | L&I account number |
|---------------|------------|--------------------|

Name of Business (corporate and assumed business name)

| | | | |
|--------------------------------------|------|-------|-----|
| Business address (physical location) | City | State | ZIP |
|--------------------------------------|------|-------|-----|

| | | | |
|--|------|-------|-----|
| Business mailing address (if different from above) | City | State | ZIP |
|--|------|-------|-----|

Type of business

Sole proprietor
 Partnership
 Corporation

If a partnership, list the name, home and business addresses of each partner.

| | | |
|------|------|------|
| Name | Name | Name |
|------|------|------|

| | | |
|--------------|--------------|--------------|
| Home address | Home address | Home address |
|--------------|--------------|--------------|

| | | |
|------------------|------------------|------------------|
| Business address | Business address | Business address |
|------------------|------------------|------------------|

| | | |
|------|------|------|
| City | City | City |
|------|------|------|

| | | |
|---|-------------------|---|
| If a corporation, give state of incorporation | Date incorporated | Attach copy of certificate of incorporation |
|---|-------------------|---|

List all persons financially interested, either as partners, stockholders, associates, profit sharers, or providers of board or lodging to agricultural employees.

| | | |
|------|------|------|
| Name | Name | Name |
|------|------|------|

| | | |
|---------|---------|---------|
| Address | Address | Address |
|---------|---------|---------|

| | | |
|------|------|------|
| City | City | City |
|------|------|------|

| | | | | | |
|-------|------------------|--------|------------------|-------|------------------|
| Phone | *Amt of interest | Phone. | *Amt of interest | Phone | *Amt of interest |
|-------|------------------|--------|------------------|-------|------------------|

***List the amount or percentage of each applicant's share in the proposed farm or forest labor contracting operation.**

How many workers do you plan to employ this year?

Describe in detail how and where you intend to obtain your employees and the type of work you intend to perform:

| | | |
|---|------------------------------|-----------------------------|
| Were you licensed as a farm labor contractor in Washington last year? | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
|---|------------------------------|-----------------------------|

| | | |
|---|---------------|--------------------|
| If "Yes", how many workers did you employ? | | |
| Have you or any of your agents, partners, associates, stockholders, or profit sharers now or ever had a farm labor contractor's license suspended, revoked or denied by any state or federal agency? <input type="checkbox"/> Yes <input type="checkbox"/> No | | |
| If "Yes", give the name of the person, the state or federal agency involved and the date of suspension, revocation or denial. | | |
| Are you or any of your agents, partners, associates, stockholders or profit sharers now or ever been licensed to operate as a farm labor contractor in any other state(s)? <input type="checkbox"/> Yes <input type="checkbox"/> No | | |
| If "Yes", name the person(s) and dates licensed. | | |
| Are there any pending administrative actions, law suits or outstanding judgments against you or any of your agents, partners, associates, stockholders or profit sharers in any state or federal court arising out of activities as a farm labor contractor? <input type="checkbox"/> Yes <input type="checkbox"/> No | | |
| If "Yes", describe in detail the parties involved, the nature of the action, and the current status or final disposition of the matter. (If more space is needed, attach additional sheets). | | |
| | | |
| | | |
| Do you intend to use any motor vehicle in the conduct of your farm labor contracting activities? <input type="checkbox"/> Yes <input type="checkbox"/> No | | |
| If "Yes", will the vehicle(s) be used to transport workers? <input type="checkbox"/> Yes <input type="checkbox"/> No | | |
| For each vehicle to be used, complete the following and supply evidence to prove liability coverage. (If more space is needed, attach additional sheets). | | |
| Name of the insurance company | | |
| Company's address | City | State ZIP |
| Business name of insurance agent | | |
| Agent's business address | City | State ZIP |
| Agent's business phone | Policy Number | Amount of coverage |

As an applicant for a farm labor contracting license, being first duly sworn, i depose and say:

That I will at all times conduct my business as a Farm Labor Contractor in accordance with Chapter 19.30, Revised Code of Washington and the rules of the Director of the State of Washington Department of Labor and Industries.

With regards to any action filed against me concerning my activities as a Farm Labor Contractor, I appoint the Director of the State of Washington Department of Labor and Industries as my lawful agent to accept service of summons when I am not present in the jurisdiction in which the action is commenced or have in any other way become unavailable to accept service.

That I will comply with all provisions of Chapter 19.30, Revised Code of Washington.

That the information I have supplied on or with this application for a Farm Labor Contractor License is true and correct to the best of my knowledge.

| | |
|------|------------------------|
| Date | Contractor's signature |
|------|------------------------|

IMPORTANT:

All of the following application/renewal items must be submitted to Labor and Industries in one package.

| | | |
|---|--|---|
| <input type="checkbox"/> Application/Renewal Form | <input type="checkbox"/> License Fee | <input type="checkbox"/> Dept. of Revenue Tax Compliance Certification (signed and approved by DOR) |
| <input type="checkbox"/> Dept. of Employment Security Tax Compliance Certification (signed & approved by ESD) | <input type="checkbox"/> Proof of Auto Liability Insurance (if applicable) | <input type="checkbox"/> Proof of Surety (bond or assignment of account) |



INTERNAL REVENUE SERVICE TAX COMPLIANCE CERTIFICATION

for Registered Farm Labor Contractors

| | |
|--|---|
| Applicant Name: [Last, First, Middle Initial] [Mark one box] Owner <input type="checkbox"/> Authorized Tax Matters Person <input type="checkbox"/> Business Name: DBA (Doing Business As), if applicable: Have you done business under any other business name or Employer Identification Number (EIN)? Yes <input type="checkbox"/> No <input type="checkbox"/> If "Yes", please list names(s) and EIN number(s) below: Name:..... EIN:..... Name:..... EIN:..... Address: [List Street/PO Box, City, ZIP+4] | Social Security Number (SS#): Type of Business: [Mark one box and list Tax ID Number] Sole Proprietor <input type="checkbox"/> Partnership <input type="checkbox"/> Corporation <input type="checkbox"/> Other (Specify) <input type="checkbox"/> Did you have employees working for your business in the past 12 months? Yes <input type="checkbox"/> No <input type="checkbox"/> If "Yes", number:..... Do you expect to have employees working for you in the next 12 months? Yes <input type="checkbox"/> No <input type="checkbox"/> If "Yes", number:..... Daytime Telephone Number: () Fax Number: () |
|--|---|

| | | | |
|---|--------------------------|---|--------------------------|
| For Official Use Only | | | |
| Do Not Write Below This Line | | | |
| [This section to be completed in full by IRS staff <u>only</u>.] | | | |
| Internal Revenue Service Certification | | [Mark one box, then sign and date form] | |
| | YES | NO | N/A |
| <u>Returns Filed:</u> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Outstanding Liability | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Payroll [Forms 941, 940, 943] | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Individual Income [Form 1040] | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Corporation [Form 1120] | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Other (Specify)..... | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| | | | |
| In Compliance <input type="checkbox"/> | | Not In Compliance <input type="checkbox"/> | |
| Signature of IRS Certifying Official: _____ | | Date: _____ | |

Forms may be certified by contacting the INTERNAL REVENUE SERVICE at the following address, or it may be sent to their fax number listed below. **IRS will not return this form you.** IRS will send certification approval directly to the Department of Labor and Industries at the address listed on the top of this form.

| | |
|---|--|
| Fax Number (503) 227-5594 _____ Phone Number (503) 265-3743 | Address Internal Revenue Service – EG: 2315 1220 SW 3 rd Ave, Suite G044 Portland, OR 97204-2827 MS: 0105 Attn: A. Gaylord |
|---|--|

PRIVACY ACT STATEMENT: The submission of your Social Security Number is voluntary. It will be used only for identification purposes to facilitate your application for a Farm Labor Contractor's license. Failure to provide this number may result in a delay of the application process.

Tax Information Authorization

OMB No. 1545-1165

For IRS Use Only

Received by: _____
 Name _____
 Telephone _____
 Function _____
 Date _____

- ▶ Information about Form 8821 and its instructions is at www.irs.gov/form8821.
- ▶ Do not sign this form unless all applicable lines have been completed.
- ▶ To request a copy or transcript of your tax return, use Form 4506, 4506-T, or 4506T-EZ.

1 Taxpayer information. Taxpayer must sign and date this form on line 7.

| | |
|---|-----------------------------------|
| Taxpayer name and address (type or print) | Taxpayer identification number(s) |
| | Daytime telephone number |
| | Plan number (if applicable) |

2 Appointee. If you wish to name more than one appointee, attach a list to this form.

| | |
|--|--|
| Name and address | CAF No. _____ |
| Department of Labor and Industries | PTIN _____ |
| Attn: Farm Labor Contracting Unit | Telephone No. (360) 902-4537 |
| PO Box 44510, Olympia WA 98504-4510 | Fax No. (360) 902-5300 |
| | Check if new: Address <input type="checkbox"/> Telephone No. <input type="checkbox"/> Fax No. <input type="checkbox"/> |

3 Tax matters. The appointee is authorized to inspect and/or receive confidential tax information for the tax matters listed on this line. Do not use Form 8821 to request copies of tax returns.

| (a) Type of Tax (Income, Employment, Payroll, Excise, Estate, Gift, Civil Penalty, etc.) (see instructions) | (b) Tax Form Number (1040, 941, 720, etc.) | (c) Year(s) or Period(s) (see the instructions for line 3) | (d) Specific Tax Matters (see instr.) |
|--|--|--|--|
| Income/Business | 1040, 1065, 1120, 1120S | 2012 - 2016 | |
| Employment | 940, 941, 943, 944, 945 | 2012 - 2016 | |

4 Specific use not recorded on Centralized Authorization File (CAF). If the tax information authorization is for a specific use not recorded on CAF, check this box. See the instructions. If you check this box, skip lines 5 and 6

- 5 Disclosure of tax information** (you **must** check a box on line 5a or 5b unless the box on line 4 is checked):
- a** If you want copies of tax information, notices, and other written communications sent to the appointee on an ongoing basis, check this box
 - Note.** Appointees will no longer receive forms, publications and other related materials with the notices.
 - b** If you do not want any copies of notices or communications sent to your appointee, check this box

6 Retention/revocation of tax information authorizations. This tax information authorization automatically revokes all prior authorizations for the same tax matters you listed on line 3 above unless you checked the box on line 4. If you do not want to revoke a prior tax information authorization, you **must** attach a copy of any authorizations you want to remain in effect **and** check this box

To revoke this tax information authorization, see the instructions.

7 Signature of taxpayer. If signed by a corporate officer, partner, guardian, executor, receiver, administrator, trustee, or party other than the taxpayer, I certify that I have the authority to execute this form with respect to the tax matters and tax periods shown on line 3 above.

▶ IF NOT SIGNED AND DATED, THIS TAX INFORMATION AUTHORIZATION WILL BE RETURNED.

▶ DO NOT SIGN THIS FORM IF IT IS BLANK OR INCOMPLETE.

Signature Date

Print Name Title (if applicable)

PIN number for electronic signature

Department of Labor and Industries
 Employment Standards Program
 Farm Labor Contractor Unit
 PO Box 44510
 Olympia WA 98504-4510
 Toll Free 1-866-219-7321
 Phone (360) 902-4537
www.lni.wa.gov/WorkplaceRights/Agriculture/FarmLabor/



**Department of Revenue
 Tax Compliance
 Certification
 for Registered Farm Labor Contractors**

| | |
|---|--|
| Business Name: | Employer Identification Number (EIN): |
| DBA (Doing Business As), if applicable: | Type of Business: [Mark one box and list Social Security Number or Tax ID Number] |
| Address: [List Street/PO Box, City, ZIP+4] | Sole Proprietor <input type="checkbox"/> Partnership <input type="checkbox"/> Corporation <input type="checkbox"/> Other (Specify) <input type="checkbox"/> |
| Master Business License Unified Business Identifier Number (UBI): | Daytime Telephone Number: () |
| Contact Name and Title: Name Title | Fax Number: () |

U. S. DEPARTMENT OF LABOR (USDOL) information [Mark one box and enter information, if applicable]

Are you required to have a **federal** Farm Labor Contractor License? No Yes

If "Yes", what is the number?: Expiration Date:

**For Official Use Only
 Do Not Write Below This Line**

[This section to be completed in full by DOR staff only.]

Department of Revenue (DOR) Certification

[Mark one box and enter information, if applicable]

In Compliance Taxes current through: _____
 month day year

Not In Compliance

Signature of DOR Certifying Official: _____ Date: _____

Title: _____

Forms may be certified by contacting the DEPARTMENT OF REVENUE by mail or in person at the following addresses, or it may be sent to their fax number listed below. If faxed, attached a written request asking that the certified form be returned by fax to you at the number you provide. Upon certification by DOR, return this form to the Farm Labor Contracting section of the Department of Labor and Industries at the address listed on the top of this form.

| | |
|---|--|
| <u>Mailing & Street Address</u> Washington State Department of Revenue Compliance Division 6500 Linderson Way, Suite 202 Tumwater, Washington 98501 | <u>Fax Number</u> (360) 704-5863 <u>Phone Number</u> (360) 704-5800 |
|---|--|



FARM LABOR CONTRACTOR'S BOND

BOND NO. _____

KNOW ALL MEN BY THESE PRESENTS: That we _____

_____ as Principal, and _____, a corporation organized and existing under the laws of the State of _____ and authorized to transact surety business in the State of Washington, as Surety, are held and firmly

bound unto the STATE OF WASHINGTON in the penal sum of _____ (\$ _____) DOLLARS, lawful money of the United States of America to be paid to the State of Washington, for the payment of which sum, well and truly to be made, we bind ourselves, our heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

SEALED WITH OUR SEALS, and DATED this _____ day of _____, 20_____.

THE CONDITIONS OF THE ABOVE OBLIGATION is such that,

WHEREAS, The above bounden principal has made application to the State Department of Labor and Industries for a license to act as a Farm Labor Contractor in the State of Washington for the year ending

December 31, 20_____, in accordance with the provisions of Chapter 392 of the Laws of 1955 and RCW 19.30, each amended by Laws of 1985, Chapter 28, Laws of 1986, Chapter 107, and Laws of 1987, Chapter 216, is required pursuant to the provisions of said law to furnish a bond in the

Penal sum of _____ (\$ _____) DOLLARS,
Conditioned as required by said law.

KNOWN, THEREFORE, the condition of this obligation is such that if the Principal shall fully comply with the provisions of Chapter 392 of the Laws of 1955 and RCW 19.30, each amended by Laws of 1985, Chapter 28, Laws of 1986, Chapter 107, and Laws of 1987, Chapter 216, hereinafter called the Act, and any and all rules and regulations promulgated in accordance with the provisions of the Act, and be conditioned on payment of sums legally owing under contract to an agricultural employee, then this obligation shall be null and void; otherwise, it shall remain in full force and effect. The aggregate liability of the surety upon such bond for all claims that may arise thereunder shall not exceed the face amount of the bond.

This obligation is applicable to the license period commencing _____ 20_____ and ending December 31, 20_____, and shall be irrevocable during this period.

IN WITNESS OF THIS CONTRACT, The Principal and Surety have affixed their hands and seals this

_____ day of _____, 20_____

Principal's Name

Surety Name

By: _____



FARM LABOR CONTRACTOR ASSIGNMENT OF ACCOUNT OR TIME DEPOSIT

This assignment is for the purpose of fulfilling the requirement of RCW 19.30.040. The undersigned does assign, transfer, and set over unto the State of Washington all rights, title, and interest in and to \$ _____ (_____ thousand and no/100 dollars) of Account No. _____ in the _____ in the name of _____ (bank name) _____ (assignor) with full power and authority to demand, collect, and receive said deposit and to give receipt and release for the uses and purposes prescribed by said RCW 19.30.040. It is understood and agreed that _____ (bank name) holds this savings account or time deposit in its possession and agrees to hold \$ _____ until a release of this assignment is received from the State of Washington. It is further understood that this assignment is subject to judgments which may be rendered against _____ in accordance with the provisions of RCW 19.30. The deposit will be released to the State of Washington after 30 days notice on demand with no other condition of release.

Signed and dated at _____, Washington this _____ day of _____, 20_____

Acceptance (to be completed by bank personnel)

| | |
|--|---------------------|
| The undersigned accepts the foregoing assignment of account or time deposit and agrees to hold the funds until an authorized release is received from the State of Washington. | |
| Account # | in the amount of \$ |
| Date | |

| | | |
|------------------------------|-------|-------|
| Print/type name of depositor | | |
| Signature of depositor | | |
| Address | | |
| City | State | ZIP+4 |

Notarized signature of authorized bank personnel

| |
|--|
| SUBSCRIBED AND SWORN TO BEFORE ME ON THIS DATE |
| NOTARY PUBLIC IN AND FOR THE STATE OF |
| RESIDING IN |
| MY COMMISSION EXPIRES ON |

| | | |
|--|-------|-------|
| Print/type name of authorized bank personnel | | |
| Signature of authorized bank personnel | | |
| Bank address | | |
| City | State | ZIP+4 |
| Phone number | | |

(Notary Seal)

Chapter 19.30 RCW

Farm Labor Contractors

| | |
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RCW 19.30.010 Definitions.

As used in this chapter:

- (1) "Person" includes any individual, firm, partnership, association, corporation, or unit or agency of state or local government.
- (2) "Farm labor contractor" means any person, or his or her agent or subcontractor, who, for a fee, performs any farm labor contracting activity.
- (3) "Farm labor contracting activity" means recruiting, soliciting, employing, supplying, transporting, or hiring agricultural employees.
- (4) "Agricultural employer" means 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.
- (5) "Agricultural employee" means any person who renders personal services to, or under the direction of, an agricultural employer in connection with the employer's agricultural activity.
- (6) This chapter shall not apply to employees of the employment security department acting in their official capacity or their agents, nor to any common carrier or full time regular employees thereof while transporting agricultural employees, nor to any person who performs any of the services enumerated in subsection (3) of this section only within the scope of his or her regular employment for one agricultural employer on whose behalf he or she is so acting, unless he or she is receiving a commission or fee, which commission or fee is determined by the number of workers recruited, or to a nonprofit corporation or organization which performs the same functions for its members. Such nonprofit corporation or organization shall be one in which:
 - (a) None of its directors, officers, or employees are deriving any profit beyond a reasonable salary for services performed in its behalf.
 - (b) Membership dues and fees are used solely for the maintenance of the association or corporation.
- (7) "Fee" means:
 - (a) Any money or other valuable consideration paid or promised to be paid for services rendered or to be rendered by a farm labor contractor.
 - (b) Any valuable consideration received or to be received by a farm labor contractor for or in connection with any of the services described in subsection (3) of this section, and shall include the difference between any amount received or to be received by him, and the amount paid out by him for or in connection with the rendering of such services.
- (8) "Director" as used in this chapter means the director of the Department of Labor and Industries of the state of Washington.
[1985 c 280 § 1; 1955 c 392 § 1.]

RCW 19.30.020 License required--Duplicates.

No person shall act as a farm labor contractor until a license to do so has been issued to him or her by the director, and unless such license is in full force and effect and is in the contractor's possession. The director shall, by regulation, provide a means of issuing duplicate licenses in case of loss of the original license or any other appropriate instances. The director shall issue, on a monthly basis, a list of currently licensed farm labor contractors.

[1985 c 280 § 2; 1955 c 392 § 2.]

RCW 19.30.030 Applicants--Qualifications--Fee--Liability insurance.

The director shall not issue to any person a license to act as a farm labor contractor until:

- (1) Such person has executed a written application on a form prescribed by the director, subscribed and sworn to by the applicant, and containing (a) a statement by the applicant of all facts required by the director concerning the applicant's character, competency, responsibility, and the manner and method by which he or she proposes to conduct operations as a farm labor contractor if such license is issued, and (b) the names and addresses of all persons financially interested, either as partners, stockholders, associates, profit sharers, or providers of board or lodging to agricultural employees in the proposed operation as a labor contractor, together with the amount of their respective interests;
- (2) The director, after investigation, is satisfied as to the character, competency, and responsibility of the applicant;
- (3) The applicant has paid to the director a license fee of:
 - (1) Thirty-five dollars in the case of a farm labor contractor not engaged in forestation or reforestation, or
 - (2) one hundred dollars in the case of a farm labor contractor engaged in forestation or reforestation or such other sum as the director finds necessary, and adopts by rule, for the administrative costs of evaluating applications;
- (4) The applicant has filed proof satisfactory to the director of the existence of a policy of insurance with any insurance carrier authorized to do business in the state of Washington in an amount satisfactory to the director, which insures the contractor against liability for damage to persons or property arising out of the contractor's operation of, or ownership of, any vehicle or vehicles for the transportation of individuals in connection with the contractor's business, activities, or operations as a farm labor contractor;
- (5) The applicant has filed a surety bond or other security which meets the requirements set forth in RCW 19.30.040;
- (6) The applicant executes a written statement which shall be subscribed and sworn to and shall contain the following declaration:

"With regards to any action filed against me concerning my activities as a farm labor contractor, I appoint the director of the Washington department of labor and industries as my lawful agent to accept service of summons when I am not present in the jurisdiction in which the action is commenced or have in any other way become unavailable to accept service"; and

RCW 19.30.030 (Cont)

- (7) The applicant has stated on his or her application whether or not his or her contractor's license or the license of any of his or her agents, partners, associates, stockholders, or profit sharers has ever been suspended, revoked, or denied by any state or federal agency, and whether or not there are any outstanding judgments against him or her or any of his or her agents, partners, associates, stockholders, or profit sharers in any state or federal court arising out of activities as a farm labor contractor.
[1985 c 280 § 3; 1955 c 392 § 3.]

RCW 19.30.040 Surety bond--Security.

- (1) The director shall require the deposit of a surety bond by any person acting as a farm labor contractor under this chapter to insure compliance with the provisions of this chapter. Such bond shall be in an amount specified by the director in accordance with such criteria as the director adopts by rule but shall not be less than five thousand dollars. The bond shall be payable to the state of Washington and be conditioned on payment of sums legally owing under contract to an agricultural employee. The aggregate liability of the surety upon such bond for all claims which may arise thereunder shall not exceed the face amount of the bond.
- (2) The amount of the bond may be raised or additional security required by the director, upon his or her own motion or upon petition to the director by any person, when it is shown that the security or bond is insufficient to satisfy the contractor's potential liability for the licensed period.
- (3) No surety insurer may provide any bond, undertaking, recognizance, or other obligation for the purpose of securing or guaranteeing any act, duty, or obligation, or the refraining from any act with respect to a contract using the services of a farm labor contractor unless the farm labor contractor has made application for or has a valid license issued under RCW 19.30.030 at the time of issuance of the bond, undertaking, recognizance, or other obligation.
- (4) Surety bonds may not be canceled or terminated during the period in which the bond is executed unless thirty days' notice is provided by the surety to the department. The bond is written for a one-year term and may be renewed or extended by continuation certification at the option of the surety.
- (5) In lieu of the surety bond required by this section, the contractor may file with the director a deposit consisting of cash or other security acceptable to the director. The deposit shall not be less than five thousand dollars in value. The security deposited with the director in lieu of the surety bond shall be returned to the contractor at the expiration of three years after the farm labor contractor's license has expired or been revoked if no legal action has been instituted against the contractor or on the security deposit at the expiration of the three years.
- (6) If a contractor has deposited a bond with the director and has failed to comply with the conditions of the bond as provided by this section, and has departed from this state, service may be made upon the surety as prescribed in RCW 4.28.090.
[1987 c 216 § 1; 1986 c 197 § 15; 1985 c 280 § 4; 1955 c 392 § 4.]

RCW 19.30.045 Claim for wages--Action upon surety bond or security.

- (1) Any person, having a claim for wages pursuant to this chapter may bring suit upon the surety bond or security deposit filed by the contractor pursuant to RCW 19.30.040, in any court of competent jurisdiction of the county in which the claim arose, or in which either the claimant or contractor resides.
- (2) The right of action is assignable in the name of the director or any other person.
[1987 c 216 § 2; 1986 c 197 § 19.]

RCW 19.30.050 License--Grounds for denying.

A license to operate as a farm labor contractor shall be denied:

- (1) To any person who sells or proposes to sell intoxicating liquors in a building or on premises where he or she operates or proposes to operate as a farm labor contractor, or
- (2) To a person whose license has been revoked within three years from the date of application.
[1985 c 280 § 5; 1955 c 392 § 5.]

RCW 19.30.060 License--Revocation, suspension, refusal to issue or renew.

Any person may protest the grant or renewal of a license under this section. The director may revoke, suspend, or refuse to issue or renew any license when it is shown that:

- (1) The farm labor contractor or any agent of the contractor has violated or failed to comply with any of the provisions of this chapter;
- (2) The farm labor contractor has made any misrepresentations or false statements in his or her application for a license;
- (3) The conditions under which the license was issued have changed or no longer exist;
- (4) The farm labor contractor, or any agent of the contractor, has violated or wilfully aided or abetted any person in the violation of, or failed to comply with, any law of the state of Washington regulating employment in agriculture, the payment of wages to farm employees, or the conditions, terms, or places of employment affecting the health and safety of farm employees, which is applicable to the business activities, or operations of the contractor in his or her capacity as a farm labor contractor;
- (5) The farm labor contractor or any agent of the contractor has in recruiting farm labor solicited or induced the violation of any then existing contract of employment of such laborers; or
- (6) The farm labor contractor or any agent of the contractor has an unsatisfied judgment against him or her in any state or federal court, arising out of his or her farm labor contracting activities.

The director shall immediately suspend the license or certificate of a person who has been certified pursuant to RCW 74.20A.320 by the department of social and health services as a person who is not in compliance with a support order or a *residential or visitation order. If the person has continued to meet all other requirements for reinstatement during the suspension, reissuance of the license or

certificate shall be automatic upon the director's receipt of a release issued by the Department of Social and Health Services stating that the licensee is in compliance with the order.

[1997 c 58 § 846; 1985 c 280 § 6; 1955 c 392 § 6.]

RCW 19.30.060 cont.

NOTES:

***Reviser's note:** 1997 c 58 § 887 requiring a court to order certification of noncompliance with residential provisions of a court-ordered parenting plan was vetoed. Provisions ordering the department of social and health services to certify a responsible parent based on a court order to certify for noncompliance with residential provisions of a parenting plan were vetoed. See RCW 74.20A.320.

Short title--Part headings, captions, table of contents not law--Exemptions and waivers from federal law--Conflict with federal requirements--Severability--1997 c 58: See RCW 74.08A.900 through 74.08A.904.

Effective dates--Intent--1997 c 58: See notes following RCW 74.20A.320.

RCW 19.30.070 License--Contents.

Each license shall contain, on the face thereof:

- (1) The name and address of the licensee and the fact that he or she is licensed to act as a farm labor contractor for the period upon the face of the license only;
- (2) The number, date of issuance, and date of expiration of the license;
- (3) The amount of the surety bond deposited by the licensee;
- (4) The fact that the license may not be transferred or assigned; and
- (5) A statement that the licensee is or is not licensed to transport workers.
[1985 c 280 § 7; 1955 c 392 § 7.]

RCW 19.30.081 License--Duration--Renewal.

Farm labor contractors may hold either a one-year license or a two-year license, at the director's discretion.

The one-year license shall run to and include the 31st day of December next following the date thereof unless sooner revoked by the director. A license may be renewed each year upon the payment of the annual license fee, but the director shall require that evidence of a renewed bond be submitted and that the contractor have a bond in full force and effect.

The two-year license shall run to and include the 31st day of December of the year following the year of issuance unless sooner revoked by the director. This license may be renewed every two years under the same terms as the one-year license, except that a farm labor contractor possessing a two-year license shall have evidence of a bond in full force and effect, and file an application on which he or she shall disclose all information required by RCW 19.30.030 (1)(b), (4), and (7).

[1987 c 216 § 3; 1986 c 197 § 16; 1985 c 280 § 8.]

RCW 19.30.090 License--Application for renewal.

All applications for renewal shall state the names and addresses of all persons financially interested either as partners, associates or profit sharers in the operation as a farm labor contractor.

[1955 c 392 § 9.]

RCW 19.30.110 Farm labor contractor--Duties.

Every person acting as a farm labor contractor shall:

- (1) Carry a current farm labor contractor's license at all times and exhibit it to all persons with whom the contractor intends to deal in the capacity of a farm labor contractor prior to so dealing.
- (2) Disclose to every person with whom he or she deals in the capacity of a farm labor contractor the amount of his or her bond and the existence and amount of any claims against the bond.
- (3) File at the United States post office serving the address of the contractor, as noted on the face of the farm labor contractor's license, a correct change of address immediately upon each occasion the contractor permanently moves his or her address, and notify the director within ten days after an address change is made.
- (4) Promptly when due, pay or distribute to the individuals entitled thereto all moneys or other things of value entrusted to the contractor by any third person for such purpose.
- (5) Comply with the terms and provisions of all legal and valid agreements and contracts entered into between the contractor in the capacity of a farm labor contractor and third persons.
- (6) File information regarding work offers with the nearest employment service office, such information to include wages and work to be performed and any other information prescribed by the director.
- (7) On a form prescribed by the director, furnish to each worker, at the time of hiring, recruiting, soliciting, or supplying, whichever occurs first, a written statement in English and any other language common to workers who are not fluent or literate in English that contains a description of:
 - (a) The compensation to be paid and the method of computing the rate of compensation;
 - (b) The terms and conditions of any bonus offered, including the manner of determining when the bonus is earned;
 - (c) The terms and conditions of any loan made to the worker;
 - (d) The conditions of any transportation, housing, board, health, and day care services or any other employee benefit to be provided by the farm labor contractor or by his or her agents, and the costs to be charged for each of them;
 - (e) The terms and conditions of employment, including the approximate length of season or period of employment and the approximate starting and ending dates thereof, and the crops on which and kinds of activities in which the worker may be employed;
 - (f) The terms and conditions under which the worker is furnished clothing or equipment;
 - (g) The place of employment;

RCW 19.30.110 cont.

- (h) The name and address of the owner of all operations, or the owner's agent, where the worker will be working as a result of being recruited, solicited, supplied, or employed by the farm labor contractor;
 - (i) The existence of a labor dispute at the worksite;
 - (j) The name and address of the farm labor contractor;
 - (k) The existence of any arrangements with any owner or agent of any establishment at the place of employment under which the farm labor contractor is to receive a fee or any other benefit resulting from any sales by such establishment to the workers; and
 - (l) The name and address of the surety on the contractor's bond and the workers' right to claim against the bond.
- (8) Furnish to the worker each time the worker receives a compensation payment from the farm labor contractor, a written statement itemizing the total payment and the amount and purpose of each deduction therefrom, hours worked, rate of pay, and pieces done if the work is done on a piece rate basis, and if the work is done under the Service Contract Act (41 U.S.C. Secs. 351 through 401) or related federal or state law, a written statement of any applicable prevailing wage.
- (9) With respect to each worker recruited, solicited, employed, supplied, or hired by the farm labor contractor:
- (a) Make, keep, and preserve for three years a record of the following information:
 - (i) The basis on which wages are paid;
 - (ii) The number of piecework units earned, if paid on a piecework basis;
 - (iii) The number of hours worked;
 - (iv) The total pay period earnings;
 - (v) The specific sums withheld and the purpose of each sum withheld; and
 - (vi) The net pay; and
 - (b) Provide to any other farm labor contractor and to any user of farm labor for whom he or she recruits, solicits, supplies, hires, or employs workers copies of all records, with respect to each such worker, which the contractor is required by this chapter to make, keep, and preserve. The recipient of such records shall keep them for a period of three years from the end of the period of employment. When necessary to administer this chapter, the director may require that any farm labor contractor provide the director with certified copies of his or her payroll records for any payment period. The record-keeping requirements of this chapter shall be met if either the farm labor contractor or any user of the contractor's services makes, keeps, and preserves for the requisite time period the records required under this section, and so long as each worker receives the written statements specified in subsection (8) of this section.

[1985 c 280 § 9; 1955 c 392 § 11.]

RCW 19.30.120 Farm labor contractor--Prohibited acts.

No person acting as a farm labor contractor shall:

- (1) Make any misrepresentation or false statement in an application for a license.
- (2) Make or cause to be made, to any person, any false, fraudulent, or misleading representation, or publish or circulate or cause to be published or circulated any false, fraudulent, or misleading information concerning the terms or conditions or existence of employment at any place or places, or by any person or persons, or of any individual or individuals.
- (3) Send or transport any worker to any place where the farm labor contractor knows a strike or lockout exists.
- (4) Do any act in the capacity of a farm labor contractor, or cause any act to be done, which constitutes a crime involving moral turpitude under any law of the state of Washington.
[1985 c 280 § 10; 1955 c 392 § 12.]

RCW 19.30.130 Rules--Adjustment of controversies.

- (1) The director shall adopt rules not inconsistent with this chapter for the purpose of enforcing and administering this chapter.
- (2) The director shall investigate and attempt to adjust equitably controversies between farm labor contractors and their workers with respect to claims arising under this chapter.
[1985 c 280 § 11; 1955 c 392 § 14.]

RCW 19.30.150 Penalties.

Any person who violates any provisions of this chapter, or who causes or induces another to violate any provisions of this chapter, shall be guilty of a misdemeanor punishable by a fine of not more than five thousand dollars, or imprisonment in the county jail for not more than six months, or both.

[1955 c 392 § 13.]

RCW 19.30.160 Civil penalty--Hearing--Court action.

- (1) In addition to any criminal penalty imposed under RCW 19.30.150, the director may assess against any person who violates this chapter, or any rule adopted under this chapter, a civil penalty of not more than one thousand dollars for each violation.
- (2) The person shall be afforded the opportunity for a hearing, upon request to the director made within thirty days after the date of issuance of the notice of assessment. The hearing shall be conducted in accordance with chapter 34.05 RCW.
- (3) If any person fails to pay an assessment after it has become a final and unappealable order, or after the court has entered final judgment in favor of the agency, the director shall refer the matter to the state attorney general, who shall recover the amount assessed by action in the appropriate superior court. In such action, the validity and appropriateness of the final order imposing the penalty shall not be subject to review.

RCW 19.30.160 cont.

- (4) Without regard to other remedies provided in this chapter, the department may bring suit upon the surety bond filed by the farm labor contractor on behalf of a worker whose rights under this chapter have been violated by the contractor. The action may be commenced in any court of competent jurisdiction. In any such action, there shall be compliance with the notice and service requirements set forth in RCW 19.30.170.

[1987 c 216 § 4; 1986 c 197 § 17; 1985 c 280 § 15.]

RCW 19.30.170 Civil actions--Damages, costs, attorney's fees--Actions upon bond or security deposit.

- (1) After filing a notice of a claim with the director, in addition to any other penalty provided by law, any person aggrieved by a violation of this chapter or any rule adopted under this chapter may bring suit in any court of competent jurisdiction of the county in which the claim arose, or in which either the plaintiff or respondent resides, without regard to the amount in controversy and without regard to exhaustion of any alternative administrative remedies provided in this chapter. No such action may be commenced later than three years after the date of the violation giving rise to the right of action. In any such action the court may award to the prevailing party, in addition to costs and disbursements, reasonable attorney fees at trial and appeal.
- (2) In any action under subsection (1) of this section, if the court finds that the respondent has violated this chapter or any rule adopted under this chapter, it may award damages up to and including an amount equal to the amount of actual damages, or statutory damages of five hundred dollars per plaintiff per violation, whichever is greater, or other equitable relief.
- (3) Without regard to other remedies provided in this chapter, a person having a claim against the farm labor contractor for any violation of this chapter may bring suit against the farm labor contractor and the surety bond or security deposit filed by the contractor pursuant to RCW 19.30.040, in any court of competent jurisdiction of the county in which the claim arose, or in which either the claimant or contractor resides.
- (4) An action upon the bond or security deposit shall be commenced by serving and filing the summons and complaint within three years from the date of expiration or cancellation of the bond or expiration or cancellation of the license, whichever is sooner, or in the case of a security deposit, within three years of the date of expiration or revocation of the license.
- (5) A copy of the summons and complaint in any such action shall be served upon the director at the time of commencement of the action and the director shall maintain a record, available for public inspection, of all suits so commenced. Such service shall constitute service on the farm labor contractor and the surety for suit upon the bond and the director shall transmit the complaint or a copy thereof to the contractor at the address listed in his or her application and to the surety within forty-eight hours after it has been received.
- (6) The surety upon the bond may, upon notice to the director and the parties, tender to the clerk of the court having jurisdiction of the action an amount equal to the claims or the amount of the bond less the amount of judgments, if any, previously satisfied therefrom and to the extent of such tender the surety upon the bond shall be exonerated.
- (7) If the actions commenced and pending at any one time exceed the amount of the bond then unimpaired, the claims shall be satisfied from the bond in the following order:
- (a) Wages, including employee benefits;
 - (b) Other contractual damage owed to the employee;
 - (c) Any costs and attorneys' fees the claimant may be entitled to recover by contract or

statute.

- (8) If any final judgment impairs the bond so furnished so that there is not in effect a bond undertaking in the full amount prescribed by the director, the director shall suspend the license of the contractor until the bond liability in the required amount unimpaired by unsatisfied judgment claims has been furnished. If such bond becomes fully impaired, a new bond must be furnished.
- (9) A claimant against a security deposit shall be entitled to damages under subsection (2) of this section. If the farm labor contractor has filed other security with the director in lieu of a surety bond, any person having an unsatisfied final judgment against the contractor for any violation of this chapter may execute upon the security deposit held by the director by serving a certified copy of the unsatisfied final judgment by registered or certified mail upon the director. Upon the receipt of service of such certified copy, the director shall pay or order paid from the deposit, through the registry of the court which rendered judgment, towards the amount of the unsatisfied judgment. The priority of payment by the director shall be the order of receipt by the director, but the director shall have no liability for payment in excess of the amount of the deposit.

[1987 c 216 § 5; 1986 c 197 § 18; 1985 c 280 § 16.]

RCW 19.30.180 Injunctions— Costs — Attorney fee

The director or any other person may bring suit in any court of competent jurisdiction to enjoin any person from using the services of an unlicensed farm labor contractor or to enjoin any person acting as a farm labor contractor in violation of this chapter, or any rule adopted under this chapter, from committing future violations. The court may award to the prevailing party costs and disbursement and a reasonable attorney fee.

[1985 c 280 § 12.]

RCW 19.30.190 Retaliation against employee prohibited

No farm labor contractor or agricultural employer may discharge or in any other manner discriminate against any employee because:

- (1) The employee has made a claim against the farm labor contractor or agricultural employer for compensation for the employee's personal services.
- (2) The employee has caused to be instituted any proceedings under or related to RCW 19.30.180.
- (3) The employee has testified or is about to testify in any such proceedings.
- (4) The employee has discussed or consulted with anyone concerning the employee's rights under this chapter.

[1985 c 280 § 13.]

RCW 19.30.200 Unlicensed farm labor contractors — Liability for services

Any person who knowingly uses the services of an unlicensed farm labor contractor shall be personally, jointly, and severally liable with the person acting as a farm labor contractor to the same extent and in the same manner as provided in this chapter. In making determinations under this section, any user may rely upon either the license issued by the director to the farm labor

contractor under RCW 19.30.030 or the director's representation that such contractor is licensed as required by this chapter.

[2000 c 171 § 48; 1985 c 280 § 14.]

RCW 19.30.900 Severability — 1955 c 392

If any section, sentence, clause or word of this chapter shall be held unconstitutional, the invalidity of such section, sentence, clause or word shall not affect the validity of any other portion of this chapter, it being the intent of this legislative assembly to enact the remainder of this chapter notwithstanding such part so declared unconstitutional should or may be so declared.

[1955 c 392 § 17.]

RCW 19.30-901 Severability — 1985 c 280

If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

[1985 c 280 § 18.]

RCW 19.30.902 Effective date — 1985 c 280

This 1985 act shall take effect January 1, 1986,

[1985 c 280 § 19.]

Chapter 296-310 WAC

Farm Labor Contracting Rules

Last Updated: 12/11/1985

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WAC 296-310-010 Definitions

For the purposes of this chapter:

- (1) "Agricultural employee" means any person who renders personal services to, or under the direction of, an agricultural employer in connection with the employer's agricultural activity.
- (2) "Agricultural employer" means 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.
- (3) "Bonded contractor" means a contractor who obtained a surety bond in order to comply with RCW 19.30.030(5).
- (4) "Contractor" means a farm labor contractor.
- (5) "Department" means the Department of Labor and Industries.
- (6) "Director" means the director of the Department of Labor and Industries.
- (7) "Employee" means an agricultural employee.
- (8) "Farm labor contractor" means any person, or his or her agent or subcontractor, who, for a fee, performs any farm labor contracting activity.
- (9) "License" means a farm labor contractor license.
- (10) "Secured contractor" means a contractor who assigned a savings account to, or deposited case of other security with, the department in order to comply with RCW 19.30.030 (5).
- (11) "Security" means a saving account assigned to, or cash or other security deposited with, the department.

[Statutory Authority: RCW 19.30.130. 86-01-027 (Order 85-34), § 296-310-010, filed 12/11/85.]

WAC 296-310-020 Application for initial and renewed licenses.

- (1) To obtain a license, a contractor must:
 - (a) Complete and application for a license;
 - (b) Provide the information requested by RCW 19.30.030 (1), (6), (7);
 - (c) Obtain a surety bond or provide other acceptable security to the department. If the contractor obtains a bond, it must submit the original bond to the department.
 - (d) Obtain insurance and supply the information required by WAC 296-310-040 (2) if the contractor seeks a license to transport workers; and
 - (e) Pay the fee set by WAC 296-310-060.

WAC 296-310-020 Cont.

- (2) The department shall send a renewal notice to the contractor's last recorded address at least forty-five days before the contractor's license expires. The contractor may renew its license if it submits the renewal notice and provides the materials required in the subsection (1)(b), (c), (d) if appropriate, and (e) of this section.
- (3) The contractor must submit all materials to the department in one package. Each of the materials must name the contractor exactly as it is named on the application for license or the renewal notice. If the contractor is renewing its license, each of the materials must include the contractor's license number. If any of the materials are missing, do not properly name the contractor, or do not include the license number, the department shall refuse to license or renew the license of the contractor.
- (4) The bond and the insurance policy must expire no sooner than the expiration date of the license for which the contractor has applied.
- (5) Applications for issuance or renewal of a license must be sent to:

Department of Labor and Industries
ESAC Division
General Administration Building
Olympia WA 98504

[Statutory Authority: RCW 19.30.130. 86-01-027 (Order 85-34), § 296-310-020, filed 12/11/85.]

WAC 296-310-030 Denial of license

- (1) The department may refuse to issue or renew a license for the reasons listed in RCW 19.30.50 and 19.30.060. If the department refuses a license for any of these reasons, it shall serve on the contractor a notice of denial of license. The notice of denial of license shall:
 - (a) Describe concisely the ground for denial of license; and
 - (b) Specify the statutory authority for the denial.
The notice of denial shall inform the contractor that it may request a hearing pursuant to WAC 296-310-160 on the denial. The notice shall specify that if no hearing is requested within thirty days of the date of issuance of the notice the director shall issue a final, unappealable order denying the license.
- (2) The department also shall refuse to issue a license to or renew the license of the contractor who fails to comply with WAC 296-130-020. The department shall inform the contractor of the problem either in writing or, if appropriate, orally. Because compliance with WAC 296-310-020 involves technical requirements that are entirely within the control of the contractor, no hearing shall be granted on a failure to comply.

[Statutory Authority: RCW 19.30.130.86-01-027 (Order 85-34), § 296-310-030, filed 12/11/85.]

WAC 296-310-040 Requirements for a license to transport employees

- (1) A contractor who intends to transport employees must obtain liability insurance. The department shall require public liability and property damage insurance that provides coverage, for each single occurrence and for each vehicle use to transport employees, in the following minimum amounts:
 - (a) \$50,000 for injury or damage to property;
 - (b) \$100,000 for injury or damage, including death, to any one person, and
 - (c) \$500,000 for injury or damage, including death, to more than one person.
- (2) The contractor must also provide to the department evidence of the insurance policy or policies.

[Statutory Authority: RCW 19.30.130.86-01-027 (Order 85-34), § 296-310-040, filed 12/11/85.]

WAC 296-310-050 Amount of bond or security

- (1) A contractor must provide a bond or security in the following minimum amounts:
 - (a) If the contractor employs or intends to employ:
 - i. From one to ten employees: \$5,000
 - ii. From eleven to fifty employees: \$10,000
 - iii. From fifty-one to one hundred employees: \$15,000
 - iv. Over one hundred employees: \$20,000
 - (b) If the contractor does not employ agricultural employees, but only recruits, solicits, supplies, transports, or hires employees for another person, and that person takes complete responsibility for payment of wages to the employees, the contractor shall obtain a \$50,000 bond or other security.
- (2) If the contractor obtains a two-year license, the bond or security shall be twice the minimum amounts stated in subsection (1) of this section.
- (3) The department may order the contractor to obtain a bond or security for an amount greater than the minimums set by subsections (1) and (2) of this section if the security of bond is insufficient to satisfy the contractor's potential liability for the license period. If the department determines that an increased bond is necessary, it shall serve on the contractor a notice to increase bond or security. The notice shall:
 - (a) Describe concisely the reasons an increase in the bond or security is necessary;
 - (b) Specify the statutory authority for the required increased; and
 - (c) Grant the contractor thirty days from the date of issuance of the notice to obtain and provide to the department the increased bond or security.

WAC 296-310-050 Cont.

The notice shall inform the contractor that it may request a hearing pursuant to WAC 296-310-160 on the order to increase the bond or security. The notice shall specify that if no hearing is requested within thirty days of the date of issuance of the notice the director shall issue a final, unappealable order requiring the contractor to submit the increased bond or security. The notice shall also specify that, if the contractor neither appeals nor obtains the increased bond or security within the thirty days, the department shall suspend the contractor's license.

- (4) If the director issues a final, unappealed decision raising the amount of the bond or security, the raised amount shall be required for all license periods after the date of issuance of the final decision unless the decision specifically states otherwise. A contractor may, if the circumstances that led to the increased amount change, file with the department a written petition to lower the amount. The petition shall specify the grounds that justify a lowering of the bond or security. The department shall investigate the petition and shall issue a new notice stating its decision on the bond amount. The contractor, if aggrieved, may appeal this new notice as provided in subsection (3) of this section.

[Statutory Authority: RCW 19.30.130.86-01-027 (Order 85-34), § 296-310-050, filed 12/11/85.]

WAC 296-310-060 Fees

- (1) The fee for a one-year license is:
 - (a) For a contractor engaged in forestation or reforestation: \$100.00
 - (b) For all other contractors: \$35.00

- (2) The fee for a two-year license is:
 - (a) For a contractor engaged in forestation or reforestation: \$200.00
 - (b) For all other contractors: \$70.00

[Statutory Authority: RCW 19.30.130. 86-01-027 (Order 85-34), § 296-310-060, filed 12/11/85.]

WAC 296-310-070 Duplicate licenses

If a contractor loses its license, or if the license is stolen or destroyed, the contractor may obtain a duplicate license upon application to the department. The application must specify the reason a duplicate is necessary.

The duplicate license shall be stamped prominently with the word “duplicate.” A new contractor license number shall be supplied to the contractor.

[Statutory Authority: RCW 19.30.130. 86-01-027 (Order 85-34), § 296-310-070, filed 12/11/85.]

WAC 296-310-080 Length of license period

A contractor who is obtaining its initial license shall be licensed for only year only. A contractor who is renewing its license may choose to obtain either a one-year or two-year license, unless the department informs the contractor that it may obtain only a one-year license.

All one-year licenses shall expire on December 31 of the year of issuance. All two-year licenses shall expire on December 31 of the year following the year of issuance.

[Statutory Authority: RCW 19.30.130. 86-01-027 (Order 85-34), § 296-310-080, filed 12/11/85.]

WAC 296-310-090 Change in business structure, name, address, or number of employees

- (1) If a contractor changes its business structure (for example, if it changes from a partnership to a corporation, or if the partners in a partnership change), the contractor must apply for the a new license in the manner required by WAC 296-310-020. If a contractor does not obtain a new license after a change in its business structure, its previous license may be invalid.
- (2) If a contractor changes its name or address, it must notify the department within ten days.
- (3) If a contractor begins employing agricultural employees, or increases the number of its employees, so that the bond or security is insufficient for that number of employees, the contractor must obtain a new bond or security in the amount required by WAC 296-310-050 and submit it to the department.

The department need not issue a notice to increase the amount of bond or security in this situation.

[Statutory Authority: RCW 19.30.130. 86-01-027 (Order 85-34), § 296-310-090, filed 12/11/85.]

WAC 296-310-100 Cancellation of insurance or bond

- (1) No surety company may cancel any bond issued to a contractor pursuant to RCW 19.30.040, unless the contractor previously submits another bond or other security, for the same amount, that covers the contractor's liability for the same period as that for the bond that is to be cancelled.
- (2) A cancellation of a surety bond or insurance policy is effective thirty days after the department receives the cancellation notice, if the cancellation notice contains the following information:
 - (a) The name of the contractor, exactly as it appears on the contractor's license;
 - (b) The contractor's license number;
 - (c) The contractor's business address;
 - (d) The number of the bond or insurance policy that is to be cancelled;
 - (e) The effective date of the bond or insurance policy that is be cancelled; and

WAC 296-310-100 Cont.

- (f) If the cancellation is of a surety bond, a certification that the contractor has previously obtained and submitted to the department a new bond or other security as required by subsection (1) of this section.
- (3) To help the department process cancellations, the information in subsection (2) of this section should be provided in the order shown.
- (4) The insurance and bonding companies should send cancellation notices to the department by certified or registered mail.

[Statutory Authority: RCW 19.30.130. 86-01-027 (Order 85-34), § 296-310-100, filed 12/11/85.]

WAC 296-310-110 Refund of security deposited with the department

- (1) If a contractor is secured, the department shall release its interest in the security three years after the contractor's last license expired. The department shall not release its interest, however, if an unsatisfied judgment or claim is outstanding against the contractor.
- (2) The department shall in any case release its interest in the security if the contractor provides a surety bond in the same amount that covers all of the periods in which the contractor was licensed for the previous three years, plus for the contractor's current license period if applicable.

[Statutory Authority: RCW 19.30.130. 86-01-027 (Order 85-34), § 296-310-110, filed 12/11/85.]

WAC 296-310-120 Revocation or suspension of license

- (1) The department may revoke a contractor's license for the reasons listed in RCW 19.30.050 (1) and 19.30.060. If the department revokes a license, it shall serve on the contractor a notice of revocation. The notice of revocation shall:
 - (a) Describe concisely the ground for the revocation; and
 - (b) Specify the statutory authority for the revocation. The notice of revocation shall inform the contractor that it may request a hearing on the revocation. The notice shall specify that if no hearing is requested within thirty days after the date of issuance of the notice, the director shall issue a final, unappealable order revoking the contractor's license.

The hearing may be requested pursuant to WAC 296-310-160.

- (2) A contractor is entitled to retain its license only if it remains in compliance with the bonding and insurance requirements of RCW 19.30.030 and 19.30.040. If a contractor's surety bond or other security is impaired or becomes insufficient, the contractor's insurance policy is cancelled, or the contractor transports employees without insurance, the department shall suspend the contractor's license until the contractor obtains a new bond, other security, or insurance policy, eliminates the impairment to the bond or security, or ceases to transport workers. The contractor may not do business while its license is suspended.

WAC 296-310-120 Cont.

The department shall inform the contractor in writing of the suspension and of the steps the contractor must take to remove the suspension. The contractor may not appeal a suspension of licensing.

[Statutory Authority: RCW 19.30.130. 86-01-027 (Order 85-34), § 296-310-120, filed 12/11/85.]

WAC 296-310-130 Submission of complaint

Any person may submit to the department a complaint alleging a violation of chapter 19.30 RCW or challenging an application for a license. The complaint must describe the alleged violation or ground for denying a license, and must identify the alleged violator or applicant. It would aid the department's investigation if the complaint also specifies:

- (1) The name and address of the complainant; and
- (2) The address of the alleged violator or applicant.

[Statutory Authority: RCW 19.30.130. 86-01-027 (Order 85-34), § 296-310-130, filed 12/11/85.]

WAC 296-310-140 Investigation of complaint

The department shall investigate a complaint unless the complaint was submitted more than three years after the date of the alleged violation. The department shall not investigate any complaint filed more than three years after the date of the violation.

[Statutory Authority: RCW 19.30.130. 86-01-027 (Order 85-34), § 296-310-140, filed 12/11/85.]

WAC 296-310-150 Notice of violation

- (1) If the department determines that there is reasonable cause to believe that chapter 19.30 RCW has been violated, the department shall serve on the violator a notice of violation. The notice of violation shall:
 - (a) Describe concisely the violations;
 - (b) Specify which statute was violated;
 - (c) If known, identify the employees who were affected by the violation;
 - (d) If known and applicable, state the amount of unpaid wages or damages the violator owes;
 - (e) State the penalty, if any, the department will assess for the violations;
 - (f) State whether the contractor's license is being revoked as a result of the violation.

WAC 296-310-150 Cont.

- (2) If the notice alleges that the contractor owes unpaid wages or damages, the department shall serve a copy of the notice of violation of the violator's surety bond company.
- (3) The notice of violation shall inform the violator and, if applicable, its surety that they may request a hearing on violation, the amount of unpaid wages or damaged owed, or the penalty assessed. The notice shall specify that if no hearing is requested within thirty days after the date the notice was issued the director shall issue a final, unappealable order finding that the violation did occur, ordering the violator to pay any unpaid wages or damages, and assessing penalties.

[Statutory Authority: RCW 19.30.130. 86-01-027 (Order 85-34), § 296-310-150, filed 12/11/85.]

WAC 296-310-160 Appeal of notices

- (1) The contractor or violator, or the violator's surety if the surety has an interest in the matter, may request a hearing on the matter asserted in a notice of denial of license, a notice of violation. One original and four copies of the request must be filed with the director within thirty days after the date the department issued the notice. A party requesting a hearing on the notice of violation must also serve a copy of the request on the surety or the violator as appropriate.
- (2) The request for hearing must be in writing and must specify:
 - (a) The name and address of the party requesting the hearing;
 - (b) The name and date of issuance of the notice that is being appealed;
 - (c) The matters contained in the notice that the requestor believes are erroneous;
 - (d) The reasons the notice is erroneous; and
 - (e) If a surety is appealing a notice of violation, the name and address of violation contactor.

[Statutory Authority: RCW 19.30.130. 86-01-027 (Order 85-34), § 296-310-160, filed 12/11/85.]

WAC 296-310-170 Hearing on appeal of notice

- (1) The director may hear an appeal personally or may delegate the authority to hold the hearing and draft a proposed decision to an administrative law judge pursuant to chapter 34.12 RCW. The plaintiff at the hearing shall be the department and the defendants shall be the contractor or the violator and its surety. The department shall have the burden of proving, by preponderance of the evidence, that the matters stated in the notice occurred.
- (2) Any person who has standing may, upon motion, be allowed to intervene as a plaintiff in a hearing on a notice of violation. Any interested person, whether or not admitted as a plaintiff, may submit written arguments and affidavits in any hearing.

WAC 296-310-170 Cont.

- (3) The hearing shall be conducted in accordance with the uniform procedure rules, chapter 1 – 08 WAC.
- (4) If the director presides over the hearing, the director shall issue a final decision that includes finding of fact and conclusions of law and, if appropriate for a violation, an order to pay unpaid wages, damages, or a penalty.
- (5) If an administrative law judge presides over the hearing, she or he shall issue a proposed decision that includes findings of fact and conclusions of law and, if appropriate for a violation, an order to pay unpaid wages, damages, or a penalty. The proposed decision shall be served on the contractor or the violator and its surety, the department, and any persons who have intervened as plaintiffs. Any of these parties, if aggrieved by the proposed decision, may appeal to the director within thirty days after the date of issuance of the proposed decision. If none of the parties appeals within thirty days, the proposed decision may not be appealed either to the director or the courts. A copy of the proposed decision shall also be mailed to all persons who submitted written arguments or affidavits at the hearing.
- (6) An appellant must file with the director an original and four copies of its notice of appeal. The notice of appeal must specify which findings and conclusions are erroneous.

The appellant must attach to the notice the written arguments supporting its appeal. The appellant must serve a copy of the notice of appeal and the arguments on the other parties. The respondent parties must file with the director their written arguments within thirty days after the date the notice of appeal and the arguments were served upon them.

- (7) The director shall review the proposed decision in accordance with the Administrative Procedure Act, chapter 34.04 RCW. The director may: Require the parties to specify the portions of the record on which the parties rely; require the parties to submit additional information by affidavit or certificate; remand the matter to the administrative law judge for further proceedings; and require a department employee to prepare a summary of the record for the department to review. The director may allow the parties to present oral arguments as well as the written arguments. The director shall issue a final decision that can affirm, modify, or reverse the proposed decision.
- (8) The director shall serve the final decision on all parties. Any aggrieved party may appeal the final decision to superior court pursuant to RCW 34.04.130 unless the final decision affirms an unappealed proposed decision. If no party appeals within the period set by RCW 34.04.130, the director's decision is conclusive and binding on all parties. The director shall also mail a copy of the final decision to all persons who submitted written arguments or affidavits at the hearing.

[Statutory Authority: RCW 19.30.130. 86-01-027 (Order 85-34), § 296-310-170, filed 12/11/85.]

WAC 296-310-180 Effect of final decision

If the director issues a final decision that includes a finding that a violator owes unpaid wages or damages, and the finding is not appealed or is affirmed by the courts, the finding and the decision are res judicata in any action by the department, or by any other person who was a plaintiff at the hearing, against the violator and its surety to recover the unpaid wages or damages. The finding and decision are not res judicata in any action by a person who was not a party at the hearing.

[Statutory Authority: RCW 19.30.130. 86-01-027 (Order 85-34), § 296-310-180, filed 12/11/85.]

WAC 296-310-190 Suit by department for unpaid wages or damages

- (1) RCW 19.30.160 (4) authorizes the department to sue a violator and its surety on behalf of an employee to recover unpaid wages and other damages. The department is not required to bring suit and, in its sole discretion, may decide not to do so in any case. The department also shall not sue on behalf of any employee who has already brought a suit against the violator and its surety in the matter.
- (2) The department may file a suit against the violator and its surety at any time without regard to whether administrative proceedings have been exhausted.
- (3) The department may include in any suit a request for an injunction against the violator.

[Statutory Authority: RCW 19.30.130. 86-01-027 (Order 85-34), § 296-310-190, filed 12/11/85.]

WAC 296-310-200 Procedures for filing suit against a contractor

- (1) A suit against a contractor and its bond or security for unpaid wages or damages may be brought in any court with jurisdiction. The venue may be in the county in which the claim arose, or in which either the damaged person or the defendant resides.
- (2) When a contractor is sued, the plaintiff must serve the summons and complaint on the contractor and its surety by serving three copies of the summons and complaint by certified or registered mail on the department. The department shall not accept personal service of the summons and complaint.
- (3) The department may be unable to process a summons and complaint if the summons and complaint do not contain the following information:
 - (a) The contractor's name exactly as it appears on the contractor's license;
 - (b) The contractor's business address;
 - (c) The names of the owners, partners, or officers of the contractor; and
 - (d) The contractor's license number. If the suit names a surety as a defendant, the summons and complaint should also include:
 - (e) The name and address of the surety that issued the contractor's bond;
 - (f) The bond number; and

WAC 296-310-200 Cont.

- (g) The effective date of the bond.

If the information is insufficient for the department to identify the contractor or surety that is being sued, the department shall not attempt to serve the summons and complaint and shall return the them to the plaintiff.

[Statutory Authority: RCW 19.30.130. 86-01-027 (Order 85-34), § 296-310-200, filed 12/11/85.]

WAC 296-310-210 Collection of judgments.

- (1) If a contractor is secured, a plaintiff who has received a final judgment against a contractor may satisfy the judgment out of the security held by the department.
- (2) The department shall satisfy a final judgment if the plaintiff serves on the department three certified copies of the unsatisfied judgment. The plaintiff must include the following information with the copies of the judgment:
 - (a) The name of the contractor, exactly as it appears on the contractor's license;
 - (b) The contractor's business address;
 - (c) The names of the owners, partners, or officers of the contractor;
 - (d) The contractor's license number; and
 - (e) The exact amount of the judgment awarded by the court, including attorney's fee and interest.

If the department does not receive sufficient information to enable it to pay the judgment, it shall inform the plaintiff that more information is needed.

- (3) If a contractor is bonded, a plaintiff can satisfy a final judgment only against the contractor or the bonding company. The department can neither satisfy the judgment nor, unless the department itself is the plaintiff, force the contractor or the bonding company to pay the judgment. The plaintiff must join the bonding company in the suit if it want the bonding company to pay the judgment.

[Statutory Authority: RCW 19.30.130. 86-01-027 (Order 85-34), § 296-310-210, filed 12/11/85.]

WAC 296-310-220 Priority for payment of judgments.

RCW 19.30.170 contains two different provisions for priority in paying judgments from the contractor's bond or security.

- (1) If a contractor is secured, the department shall satisfy final judgment against the contractor in the order of the department receives the judgment.

WAC 296-310-220 Cont.

- (2) If a contractor is bonded, claims for unpaid wages and benefits are satisfied first, claims for damages are satisfied second, and claims for costs and attorney's fees are satisfied last. No claim in a lesser category may be satisfied until all pending claims in the preceding categories are satisfied, unless the total amount of all pending claims in the preceding categories is less than the amount of the bond that remains unimpaired.

[Statutory Authority: RCW 19.30.130. 86-01-027 (Order 85-34), § 296-310-220, filed 12/11/85.]

WAC 296-310-230 Civil penalties

- (1) In determining the amount of any civil penalty to be imposed under RCW 19.30.160 the department shall consider the following factors:
 - (a) Previous violations by the violators;
 - (b) The history of the violator in taking all necessary measures to prevent or correct violations;
 - (c) The magnitude and seriousness of the violations;
 - (d) The remedial of purpose of chapter 19.30 RCW;
 - (e) Any mitigating circumstances; and
 - (f) Any other factors the department considers relevant.
- (2) It is the violator's responsibility to inform the department of mitigating evidence.
- (3) The penalties for acting as a contractor without a license, or for the transporting employees without an endorsement to do so, are:
 - (a) Up to \$500 for the first violation;
 - (b) Up to \$750 for the second violation; and
 - (c) Up to \$1000 for the third and any further violations.

[Statutory Authority: RCW 19.30.130. 86-01-027 (Order 85-34), § 296-310-230, filed 12/11/85.]

WAC 296-310-240 Adjustment of controversies

- (1) Upon receipt of a complaint or on its own motion, the department shall attempt to adjust equitably a controversy between a contractor and its employees.
- (2) No particular form of proceeding is necessary for resolving disputes. The supervisor of employment standards shall, in each case, use his or her best judgment in designing a procedure. However, in every case in which the supervisor determines that a hearing should be held, the supervisor shall notify the affected persons, or their representatives, of the time, date, place, and purpose of the hearing.

WAC 296-310-240 Cont.

- (3) A hearing shall be informal and shall not be subject to chapter 34.04 RCW. The supervisor's suggestions for the resolution are advisory and not binding, and may not be appealed to any person or court.
- (4) The director may delegate the resolution of any particular case to a person other than the supervisor of employment standards. That person shall have the same authority as the supervisor to determine the form of the proceeding.

[Statutory Authority: RCW 19.30.130. 86-01-027 (Order 85-34), § 296-310-240, filed 12/11/85.]

WAC 296-310-250 Filing and service

All papers required to be filed with the director under the chapter or chapter 19.30 RCW shall be addressed to **Director, Department of Labor and Industries, General Administration Building, Olympia WA 98504.**

Filing and service may be made as provided in WAC 1-08-090 through 1-08-140.

[Statutory Authority: RCW 19.30.130. 86-01-027 (Order 85-34), § 296-310-250, filed 12/11/85.]

WAC 296-310-260 Liability of person who uses services of unlicensed contractor

- (1) A person who knowingly uses the services of an unlicensed contractor is liable for unpaid wages, damages, and civil and criminal penalties to the same extent as the unlicensed contractor.
- (2) Pursuant to RCW 19.30.200, a person may prove lack of knowledge by proving that she or he relied on a license issued by the department under chapter 19.30 RCW, or upon the department's representation that the contractor was licensed. The department shall not make oral representations that a contractor is or is not licensed. All representations by the department that a contractor is licensed shall be made in writing and shall be signed by the director. The department shall not accept reliance on a supposed oral representation as proof in any administrative enforcement proceeding.

[Statutory Authority: RCW 19.30.130. 86-01-027 (Order 85-34), § 296-310-260, filed 12/11/85.]

WAC 296-310-270 Inspection of records

A contractor or any person using a contractor's services shall allow a representative of the department to inspect at any reasonable time the records it is required to keep by chapter 19.30 RCW.

[Statutory Authority: RCW 19.30.130. 86-01-027 (Order 85-34), § 296-310-270, filed 12/11/85.]