

## XI. LABOR

### **Labor Laws and Regulations** **11.010**

1 The overall guiding force influencing commodity prices is the  
2 economic law of supply and demand. It is imperative that government  
3 recognize the volatility of this force when adopting, amending or  
4 repealing statutes and administrative rules. In general we are opposed to  
5 statutes and administrative rules that ignore this force and reduce our  
6 ability to compete in the local, national and international market place.

7 We support those statutes and administrative rules which assist  
8 Oregon producers to become more competitive. (07)

### **Statewide Labor Policy** **11.015**

1 Farming operations are often times in multiple cities, counties and  
2 other municipalities in the State of Oregon. To ensure a farm can  
3 successfully employ workers in multiple jurisdictions around the state,  
4 farmers need to have a consistent set of laws regulating their employees.  
5 We support uniform statewide labor laws that farmers can enforce to all  
6 employees regardless of where their field of operations is located. (14)

### **Labor Regulations** **11.020**

1 Agricultural employers are encouraged to give special attention to  
2 improving employee/employer relations within the following areas:

- 3 1. Improve the earnings of workers by proper training, supervision  
4 and continuity of employment.
- 5 2. Improve conditions where necessary for field sanitation, hazard  
6 communication, pesticide labeling procedures and payroll  
7 practices.
- 8 3. Defend the rights of the workers in the community by conducting  
9 a public relations program among civic, business and church  
10 organizations.
- 11 4. Improve worker relations by expressing appreciation of a job well  
12 done.
- 13 5. Promote such projects that will improve the general welfare and  
14 well being of the workers.
- 15 6. Improvement of labor management skills including:
  - 16 • The use of handbooks or written policies;
  - 17 • Providing training sessions and workshops related to current  
18 labor issues;
  - 19 • Keeping informed of changes in laws that affect the  
20 agricultural labor supply; and
  - 21 • Emphasis should be placed on the proper approaches to  
22 prepare for agency hearings.

23 We encourage an accelerated program which provides information  
24 related to the rights and responsibilities of workers and employers during

25 inspections by agencies and during labor disputes or any organized labor  
26 activity.

27 We are opposed to any effort to allow criminal penalties or civil suits  
28 against employers for workplace safety violations which occur without  
29 criminal intent.

**Family Leave**

**11.021**

1 We oppose the development and or expansion of the Family and  
2 Medical Leave Act for agricultural operations. (07) We oppose legislation  
3 that would require employers to pay a family leave benefit for farm  
4 workers. Farmers operate on extremely thin margins and would be  
5 unduly burdened by a requirement to pay for family leave or track unpaid  
6 family leave for seasonal farm workers. (16)

**Mandatory Paid Sick Leave**

**11.022**

1 We oppose mandating paid sick leave for farm workers. There are  
2 times on a farm when everybody's presence is critical to a farm  
3 operation. Food safety is not jeopardized when a worker can move to a  
4 job where there is no direct food handling. Mandating farm operators to  
5 pay someone's sick time wages and their replacement wages, places an  
6 undue hardship on the farm owner. (14)

7 We oppose the requirement to track, record and report hours of  
8 unpaid sick time that have been accrued and used. The allowance of  
9 unpaid sick time was provided to lessen the burden on employers, but  
10 requiring onerous tracking and adherence to all provisions of the paid  
11 sick time law, puts an unfair burden on farmers and ranchers.(16).

1

**Mandatory Predictable Scheduling**

**11.025**

2 We oppose mandating predictable schedules. Weather, livestock,  
3 and crop maturity are uncontrollable, and perishable crops must be  
4 picked in a timely manner. Farmers need a reliable and available  
5 workforce during the harvest period and require "all hands on deck."  
6 Mandating predictable schedules does not recognize the unique needs  
7 of agriculture and burdens the farm owner. Agriculture should be exempt  
8 from any statewide or local policy that mandates predictable schedules.  
9 (15)

**Mandatory Flexible Schedules**

**11.026**

1 We oppose mandating flexible scheduling. Requirements for crop  
2 and livestock work vary daily with weather conditions, life cycles, and  
3 markets. Thus, farmers have a "bona fide" business reason for not  
4 providing every employee with a flexible schedule at their request.  
5 Agriculture should be exempt from any statewide or local policy  
6 mandating flexible schedules. (15)

**Labor Poster**

**11.030**

1 We request state agencies to coordinate and consolidate, into one  
2 poster size sheet, all of the posters that employers are required to  
3 display. (07)

**Head Start Services**

**11.040**

1 We support expansion of the Migrant Head Start programs to include  
2 families of seasonal agricultural workers who do not currently receive  
3 Migrant Head Start Services solely because of their failure to meet  
4 migrant eligibility requirements. (08)

**Farm Labor Housing**

**11.050**

1 We favor continuing the property tax exemption for nonprofit  
2 corporate seasonal farm labor housing.

3 We favor the uniformity of regulations, enforcement and reporting  
4 regarding farm labor housing standards. It must also be recognized by  
5 regulatory agencies that farm labor housing often meets all legal  
6 requirements at the beginning of the season, but wear and tear may take  
7 it out of compliance from one day to another.

8 State health and sanitation standards should not be more restrictive  
9 than federal standards.

10 It is our position that migrant labor housing is not a part of the work  
11 place and thus should not be subject to regulation under the Oregon  
12 State Employment Act (OSEA).

13 A labor camp should be defined to include only housing that is  
14 occupied by migrant seasonal workers.

15 All temporary seasonal farm labor housing should be classified as  
16 agricultural buildings, not dwellings, for the purposes of construction or  
17 occupational permits.

18 State and County Building Codes should make provision for  
19 reasonable standards for temporary seasonal migrant labor housing.  
20 Items such as insulation for summer housing and handicap provisions  
21 should not be required.

22 Enforcement activities and construction controls of farm labor camps  
23 should be coordinated through one agency. The agency should also  
24 have the responsibility for educational programs and technical  
25 assistance. These programs should be implemented before any fines  
26 and penalties are levied.

27 So long as the state inspects and approves electrical and plumbing  
28 installations in order that they meet code in farm labor housing, Oregon  
29 law should be amended to delete the requirement that licensed  
30 electricians and plumbers must be used during the construction or  
31 rehabilitation of farm labor housing. (07), (11)

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**Policy No. 11.080, Farm Labor Recruitment, was deleted in 2008**

**Seasonal Labor Force 11.100**

1 We support an adequate supply of authorized temporary seasonal  
2 agricultural workers. We favor a temporary seasonal worker program  
3 that:  
4 1. Insures the supply of authorized temporary seasonal agricultural  
5 workers;  
6 2. Respects self determination on the part of the worker; and  
7 3. Has an advisory commission with representation from the  
8 employment sector of Northwest agriculture community.  
9 4. Develops and implements guest worker programs that provide a  
10 streamlined easy access of foreign workers which allows for a  
11 special status to come and go but not stay, where the H2A  
12 program isn't viable. (11), (Referred to AFBF, 11)

13  
14 It is our position that the State of Oregon Employment Department (state  
15 workforce agency) and other state agencies should assist and not inhibit  
16 Oregon agriculture efforts to acquire and use legal guest workers.  
17 Housing inspection for guest worker programs should only be  
18 administered through one state agency. (16)

**I 9 Verification 11.120**

1 The Employment Department should complete the I-9 verification  
2 process for all agricultural employees, including special agricultural  
3 workers and replacement workers, before referring them to a job. (11)

**Illegal Immigration 11.150**

1 Agriculture should not be required to be an enforcement arm of  
2 immigration policy. Known undocumented workers should be reported to  
3 those responsible for enforcing those laws. (07)

**Workers' Compensation Insurance 11.200**

1 We support remedial legislation and administrative changes that will  
2 reduce the cost of workers compensation insurance. We support  
3 voluntary safety programs to reduce accidents. We request that  
4 information being used to establish Workers' Compensation rates for the  
5 State Accident Insurance Fund be made available to the public.

6 Employees should be responsible for fifty percent of the premium for  
7 their coverage under workers' compensation insurance. The appropriate  
8 amount should be deducted from each paycheck and transmitted in the  
9 same manner as money withheld for Oregon income tax.

10 We request that standards developed under the Oregon Safe  
11 Employment Act be reasonable and practical. Employers should exercise  
12 their rights to participate in establishing or modifying these standards.

13 The state standards should be modified to include exemptions or  
14 changes made in the federal act or standards.

15 An employee who refuses to follow his employer's instructions with  
16 respect to compliance with safety standards, and who thus jeopardizes  
17 himself or his fellow employees, should be subject to citation. In such  
18 cases, any penalty that might be imposed on the employer should be  
19 assessed against the negligent employee.

20 Workers' compensation risk should be based on the number of hours  
21 worked in each work classification, not the amount of wage in each work  
22 classification. Therefore, Workers' Compensation premiums should be  
23 computed on a per-hour basis, much the same as the Workers' Benefit  
24 Fund. The formula for determining the workers' compensation benefit's of  
25 injured workers should reflect the historical wage level of the worker and  
26 the fact that most agricultural employees do not work 12 months a year.

27 Workers should have a maximum 48 hours time limit for reporting an  
28 on the job injury accident to the employer.

29 In order to help eliminate fraudulent claims, we recommend that  
30 injuries claimed later than 30 days after employment termination be  
31 confirmed by at least two or more physicians.

32 Workers on permanent total disability should be transferred to state  
33 and federal disability programs rather than being paid by workers'  
34 compensation.

35 An injured employee, after a doctor's work-release, should not be  
36 required to return to the same employer and the exact same job in order  
37 for wage loss compensation to be discontinued.

38 We support ongoing education programs provided by workers'  
39 compensation service providers to minimize industrial accidents.

40 We oppose a state monopoly in compensation insurance (state and  
41 self insured coverage only). (05)

**Workers' Compensation Rates 11.220**

1 The Workers' Compensation Classification Guide for reporting wages  
2 should be changed to more accurately reflect the risk, and to provide that  
3 the same premium rate is applied to the reported activity regardless of  
4 the end use of the commodity being produced. (07)

**OR-OSHA 11.250**

1 We support state and federal exemptions from regular occupational  
2 safety and health inspections of farming operations employing 10 or  
3 fewer employees, unless a labor camp is maintained by such an  
4 operation.

5 We support the mandatory inspection of farming operations only in  
6 the event of a:

- 7 1. Serious and disabling accident;
- 8 2. Fatality; and/or
- 9 3. Valid complaint signed and revealed to the operator.

10 This inspection should be conducted only in the accident or  
11 complaint area of the farm.

12 If an OR-OSHA inspector finds a safety violation on a piece of  
13 equipment that is being operated as it was delivered from the factory, the  
14 employer should not be subject to a fine for the violation but should be  
15 required to fix the violation. OR-OSHA should also be required to notify  
16 the equipment manufacturer of the safety violation. The equipment  
17 manufacturer and OR-OSHA should work together to best solve the  
18 safety violation on the manufacturer's equipment. Employers should then  
19 be notified of the potential safety violation and how to correct the  
20 problem. (08)

#### **Hazard Communication Rules Applied to Employers 11.275**

1 Application of hazard communication rules to agriculture must be  
2 limited to permanent employees and seasonal employees involved in  
3 pesticide application. Individual written programs detailing how an  
4 employer is going to comply with the law must not be required of  
5 agricultural employers for employees who are not exposed to pesticides.

#### **Re Entry Standards for Pesticide Application 11.290**

1 We support using the EPA registered label recommendation, as the  
2 legal re entry standard for farm workers. Enforcement of the standard  
3 should be uniform and coordinated by one agency.

#### **Unemployment Insurance 11.300**

1 The salaries of family held agriculture corporation's corporate officers  
2 and their family members should be exempt from unemployment tax  
3 assessments.

4 We recommend the farm gross quarterly threshold for the payroll tax  
5 limit be raised from \$20,000.00 to \$80,000.00 immediately and be  
6 indexed for inflation and for minimum wage. (07), (10), (11)

#### **Unemployment Benefits 11.320**

1 Unemployment benefits should only be for workers who are  
2 unemployed through no fault of the worker. (07)

#### **Seasonal Unemployment Compensation 11.340**

1 We oppose implementing the unemployment compensation program  
2 for seasonal agricultural workers and any notification requirements  
3 regarding program coverage.

4 We support efforts to restrict benefits to those who have no  
5 employment or assurance of returning to employment after a layoff and  
6 to require recipients to work in any available position. We support efforts  
7 to strengthen incentives for recipients to seek employment and reduce  
8 fraud in the program. (07)

**Contractor Liability** **11.400**

1 We seek legislation providing that when the terms of a contract  
2 delegates responsibilities to a labor contractor for providing all or any  
3 part of the required field sanitation facilities for workers including any  
4 responsibilities regarding hazard communication rules, I 9 forms and  
5 housing facilities, the licensed labor contractor, not the producer, should  
6 be held liable under the law for any penalty or lawsuit resulting from  
7 noncompliance.

8 When a producer contracts with a licensed labor contractor for  
9 seasonal employment, the licensed labor contractor should be held  
10 solely liable under the law for any penalty or lawsuit resulting from  
11 noncompliance with state wage and hour law and state sick time law. If a  
12 joint employment relationship exists, we seek clarification that licensed  
13 labor contractors are required to share wage and hour and paid sick time  
14 records at the request of the secondary employer.(16)

15 We support legislation to exempt from state regulation associations  
16 and co-op's who act as farm labor contractors to recruit a workforce for  
17 themselves or their members' entirely through federally regulated guest  
18 worker programs. (00)

**Farm Labor Contractor Bonding** **11.425**

1 We support a maximum bond of \$10,000 for labor contractors  
2 employing 20 or fewer workers and a bond not to exceed \$30,000 for  
3 labor contractors without experience hiring more than 20 workers, and a  
4 bond not to exceed \$20,000 for labor contractors with five years of good  
5 performance, if hiring more than 20 workers.

6 An individual who co-signs for the bond of a labor contractor should  
7 not be held to be a joint employer because of the co-sign.

**Harvest Picketing** **11.500**

1 We recommend that legislation be maintained which limits an  
2 employee of a crop owner from picketing during the harvest of a  
3 perishable crop.

**Policy No. 11.520, Cannery Strikes, was deleted in 2003.**

**Secondary Boycott** **11.530**

1 We oppose the use of secondary boycotts. Every means possible  
2 should be used to stop an illegal secondary boycott including criminal  
3 penalties, fines and/or imprisonment.

**Collective Bargaining** **11.550**

1 We support collective bargaining legislation that would establish  
2 guidelines to protect workers and employers from unfair labor practices  
3 during union organizing and bargaining efforts.

4 We support secret ballot elections as the means to determine  
5 whether employees want to be represented by a union.

6 We support the right of employers to communicate freely with  
7 employees, without coercion or threats, what the effect of unionization  
8 would be in the workplace. (99), (04), (08)

**Minimum Wage Indexing 11.580**

1 "While we oppose a minimum wage, we support legislative action  
2 that would mitigate the financial effects for agriculture employers of the  
3 annual indexing of the state minimum wage.

4 We believe that minimum wage increases based on Consumer Price  
5 Index (CPI) growth should also be subject to minimum wage decreases  
6 during periods of negative CPI downturns.

7 If Oregon's minimum wage index is not adjusted downward during  
8 periods of negative CPI growth, any subsequent increase in the  
9 minimum wage calculation should not include growth in CPI that is only  
10 recovery from a prior rate. In years following negative CPI growth, for  
11 purposes of calculating the minimum wage, only CPI growth above the  
12 preceding highest rate should be included in the calculation. (06), (09),  
13 (11)

**Minimum Wage Increase 11.590**

1 While we do not support a minimum wage, if there is one it should be  
2 no greater than the federal minimum wage. (01), (11)

**Minimum Wage Averaging 11.600**

1 We support the principle that earnings from farm work should be  
2 determined by the productivity of the worker and not based on a  
3 minimum wage.

4 We support the concept of piecework which offers wholesome  
5 summer employment in the fields for so many of Oregon's youth and  
6 which is responsible for many of the jobs in Oregon's processing plants.

7 We favor legislation to provide that, where workers are employed on  
8 a piece-rate basis, the employer should be considered to be in compliance if  
9 the crew average meets or exceeds the minimum hourly wage required  
10 to be paid. (05), (11)

**Farm Worker Meal and Rest Periods 11.605**

1 We support allowing agricultural workers to choose if and when they  
2 want to take a rest period or a meal period. (04)

**Wage Penalty Claims 11.610**

1 We support legislation that would eliminate wage penalties that allow  
2 employees to benefit financially from failing to report an underpayment to  
3 their employer. However, we realize that there must be an adequate  
4 penalty for those employers who willfully underpay employees. (00)

**Prevailing Wage Rate** **11.625**

1 We oppose the Davis Bacon Act and any other law that would  
2 establish a "prevailing wage rate" for labor in either the public or private  
3 work force.

**Health Insurance** **11.630**

1 We oppose proposals that require employers to provide mandatory  
2 health insurance coverage for employees.

3 We support health savings accounts. (06), (10), (11), (Referred to  
4 AFBF, 09)

**Christmas Trees** **11.650**

1 The growing, tending and cutting of Christmas trees should be  
2 defined as an agricultural activity under the Fair Labor Standards Act.  
3 (08)

**Overtime** **11.675**

1 We support including the nursery industry in the definition of  
2 agriculture for purposes of labor laws and overtime. (07)

**Right-to-Work** **11.700**

1 No person should be deprived of his right-to-work because of  
2 membership or lack of membership in any organization. We support  
3 Section 14(b) of the Taft Hartley Act.

4 We support right to work legislation that would eliminate closed union  
5 shops. (02)

**Farmer's Right to Manage** **11.725**

1 We support the farmer's right to produce, harvest, process and  
2 distribute their commodity in the manner most economically  
3 advantageous to their particular operation.

**At-Will Employment** **11.730**

1 It should be the policy of the State of Oregon to provide for the right  
2 of an agricultural employer to both hire and discharge employees as it  
3 suits the overall needs of the farm operation.

4 An at-will employment policy should recognize the right of an  
5 employee to discuss working conditions without fear of reprisal.

**Political Contributions** **11.740**

1 We support legislation to prohibit any employer or union from  
2 exacting any dues, contributions or services of any kind from employees  
3 for contribution to political candidates.

**Youth Employment****11.800**

1 There is a social need to develop a sense of economic responsibility  
2 among youth. It is equally important that youth have a beneficial means  
3 of utilizing their time. We support provisions which maintain and increase  
4 young people's opportunity for employment. Such employment  
5 opportunities, however, should be in productive enterprises and not  
6 "make work" relief schemes.

7 We support labor legislation which would set a special lower  
8 minimum wage for employees under age 18.

9 We support repealing the federal labor laws which restrict the  
10 opportunity for our nation's youth to be employed in agricultural related  
11 work. (05)

**Legal Aid Services****11.820**

1 When Legal Aid Services brings a suit, the cost of the defendant's  
2 legal and court costs should be paid by Legal Aid Services if the  
3 defendant is cleared of a majority of the charges.

**U.S. DOL Due Process for Investigations 11.900**

1 We support increased transparency of the investigation practices by  
2 the U.S. Department of Labor (DOL). When DOL notifies a grower of  
3 apparent wage and hour violations, the department must inform the  
4 grower that its requests are strictly voluntary, must accurately represent  
5 its legal authority and the rights of the grower, and must provide to the  
6 grower all information it relied on to determine the alleged violations.  
7 DOL should cite the grower only for violations that investigators actually  
8 observed, not ones based on the department's belief or conjecture. DOL  
9 should seek hot goods orders only when a grower has demonstrated  
10 repeated and willful violations and lack of cooperation with DOL. In such  
11 cases, the federal government must not contact the grower's customers  
12 unless the department has already secured the necessary court orders.  
13 (Refer to AFBF 2012) (12)