



The Honorable DeFazio
US House of Representatives
Washington, DC 20515

Dear Congressman DeFazio,

We write you today and ask for your support on HR 1387. This legislation, introduced by Congressman Kurt Schrader, is critical to Oregon's producers. HR 1387 would allow continued practices by the US Department of Labor (USDOL) at the same time providing agricultural producers with an avenue of due process. The legislation only limits USDOL's use of hot goods objections only on perishable agricultural products. It does not take away their authority to continue with inspections, worker interviews, assessing fines/penalties/back wages or any other tool to seek worker justice. As an industry, we firmly believe wage and hour laws and other employee protections are essential and employers must comply with them. We believe USDOL has a legitimate and important role in communicating these standards and investigating complaints and enforcing the law when violations are proven through due process.

In 2012 the U.S. Department of Labor threatened "hot goods" objections on Oregon farms, denying the farms due process, contacting and warning customers that the farmers' products might no longer be bought, shipped or sold. At the peak of harvest and with fresh market produce at risk of spoilage the only realistic option for growers to continue harvest was a blanket confession which did not enumerate any specific allegations. The confession form included a waiver of all rights to appeal, even if findings of fact or law later exonerated the farmer. In addition to the blank confession form, USDOL assessed one farm over \$156,000 in fines and back wages it never substantiated to growers or legal counsel, and demanded immediate payment.

USDOL used a new statistical method for assuming wage violations. USDOL established a production standard of what workers could harvest per hour. In cases where overage occurred beyond the USDOL determined production standard, the overage was credited to a "ghost worker." USDOL's actions in Oregon have left growers with best practices in place in the impossible position of either under-paying top-producing employees or paying them for their full production and risking violating USDOL's arbitrary hourly production maximum.

The use of a hot goods objection, doesn't only hurt the farmer and economy, it also does harm to the worker. One of the effects of a hot goods objection is that it suspends harvest. If a grower can't sell or transport their commodity, they also can't pick, thereby leaving employees without work often at the peak of harvest and income.

Again, HR 1387 only limits USDOL's use of hot goods objections only on perishable agricultural products. This legislation is critical for the industry, individual farmer and employees and we ask that you support HR 1387 as a co-sponsor today.

A white paper explaining the issue in more detail has been included. Please do not hesitate to contact any one of our organizations should you have any questions.

Sincerely,

Leigh Bartholomew
President, Oregon Winegrowers Association

Barry Bushue
President, Oregon Farm Bureau Federation

Bryan Ostlund
Administrator, Oregon Blueberry Commission

Jeff Stone,
Executive Director, Oregon Association of Nurseries