

The Montana Agricultural Outreach Plan for 2014 provides valuable information concerning where the state is with its agricultural activity and what the state plans to do as far as Montana's responsibilities in regard to certain programs. Please consider the following questions and observations as an effort to improve this document and clarify the information contained within.

First, a clearer understanding of how the number of MSFW's in Montana is being estimated and related to the total number of agricultural workers. On page 4, the Agricultural Outreach Plan (AOP) states, *"the employment rates in agriculture are very difficult to predict due to consistent unknown factors inherent to crop production and at times livestock production."* Then on page 5 the AOP states, *"the 2007 Census of Agriculture shows that 22,377 individuals worked for 6,492 farm and/or ranch employers in Montana."* Also on page 5, in the previous paragraph, it states, *"As a result they are more likely to count permanent agricultural workers than migrant and seasonal farm workers."* On page 7 of the AOP, the following is stated, *"the best estimate of MSFWs in Montana is 22,377."* MSFW is migrant seasonal farm worker (MSFW). The definition of a seasonal farm worker according to Title 20, CFR 651.10 is *"a person who during the preceding 12 months worked at least an aggregate of 25 or more days or parts of days in which some work was performed in farmwork, earned at least half of his/her earned income from farmwork, and was not employed in farmwork year round by the same employer. For the purposes of this definition only, a farm labor contractor is not considered an employer. Non-migrant individuals who are full-time students are excluded."* The definition of a migrant farmworker according to Title 20, CFR 651.10 is *"a seasonal farmworker who had to travel to do the farmwork so that he/she was unable to return to his/her permanent residence within the same day. Full-time students traveling in organized groups rather than with their families are excluded."* Given the definitions and the numbers provided in the AOP, the item that is causing confusion is whether the estimate of MSFW's (stated on pg. 7) is over and above the 22,377 agricultural workers who worked for 6,492 farms and/or ranches, or is inclusive, which means they are all migrant or seasonal and none are permanent contrary to the statement on page 5.

The AOP document references the Labor Day Report, the 2007 Census of Agriculture and Rural Employment Opportunities (REO) in arriving at the best estimate. On page 7 of the AOP it is stated, *"This report provides a best estimate of the number of MSFWs in Montana in 2012 since data unavailability and limitations preclude making a precise estimate. This best estimate references the Montana Department of Labor and Industry's Labor Day Report, 2007 Census of Agriculture and Rural Employment Opportunities."* The Labor Day Report, while informative, does not contain any direct reference to MSFW populations. The 2007 Census of Agriculture, provided by the United States Department of Agriculture, National Agriculture Statistics Service (USDA NASS), only asks 2 questions on their survey (pg. 19) in regard to employment:

- 1) *How many hired farm or ranch workers, including paid family members and office workers-*
 - a. *Worked less than 150 days on this operation in 2007? Exclude contract labor.*
 - b. *Worked 150 days or more on this operation in 2007? Exclude contract labor.*
- 2) *Were any migrant workers on this operation in 2007? Include hired and contract workers. A migrant worker is a farm worker whose employment required travel that prevented the migrant worker from returning to his/her permanent place of residence the same day.*

a. *Yes or No*

These two questions do not provide sufficient detail to make a determination of whether they qualify as MSFW's (refer to definition above). The second question could be interpreted by the farm/ranch owners to include foreign labor under the H2A program, which are also not counted as MSFW's. A phone call to REO will confirm their estimate does not align with the estimated MSFW's represented in the AOP.

In regard to farm worker wages, the AOP, on page 6, states "*the majority of Montana farm workers earn extremely low wages.*" Just above this last paragraph, there is information contradictory to this fact, providing mean hourly wage data above the minimum wage and higher than the average wage of a service industry employee. The paragraph indicates the low salary applies to Montana National Farm Worker Jobs Program (NFJP) participants. Is there a number to indicate the population of NFJP participants residing in the state? Is the population of NFJP participants a 'majority' of the agricultural workers in Montana?

The labor intensive crops mentioned in the AOP seem to lack further investigation as to their role with the MSFW population. As is stated on page 7, "*Montana has two particularly labor intensive crops; sweet cherries and huckleberries.*" These crops, which would seem to be the most likely to attract the migrant or seasonal farm worker, are not mentioned again in the AOP. Are these crops (and the MSFW's associated with their activity) not of a sufficient population to warrant further exploration? Furthermore, on page 7 it states, "*demand for farm workers tends to be highly seasonal, with peak periods of demand often lasting for a short duration.*" What seasons are associated with these crops and should they be identified with a date range? If the demand is highly seasonal, it would seem outreach conducted every month (pg. 10) would yield minimal results and not be an effective use of public employee time and effort?

The state seems to have employed considerable man-hours and resources to locate and identify MSFW's. On page 8 of the AOP it states, "*There are 21 Outreach workers located in Job Services throughout the state who conduct a variety of MSFW outreach activities year-round.*" The AOP, page 9, states, "*The data gathered by the outreach workers on the number of MSFWs contacted through outreach activities and by other agencies in the area are recorded and submitted to the Monitor Advocate in Central Office.*" Wouldn't these figures provide a clearer picture of the results of these efforts were they included in the AOP? It would seem this data would provide a better tool for estimating the MSFW population. Furthermore, these statements do not support the statement on page 7 of the AOP, "*This report provides a best estimate of the number of MSFWs in Montana in 2012 since data unavailability and limitations preclude making a precise estimate.*"

While unemployment is decreasing as we recover from the economic conditions that plagued us since 2007, it appears to run unabated in the MSFW community. In the AOP on page 9, it states, "*...especially during the economic downturn which has resulted in high unemployment rates in many MSFW areas.*" On page 6 it states, "*The agricultural jobs in Montana are not necessarily concentrated in regional pockets but are spread throughout the state.*" This seems contradictory. In addition, according to the Board of Governors of the Federal Reserve System, a healthy unemployment rate is 5.2% to 5.8%.

According to the Bureau of Labor Statistics, Montana's unemployment rate is 5.1%. According to the Labor Day Report (pg. 23), the regional unemployment rate is:

- Northwest 8%
- North Central 5.7%
- Southwest 5.5%
- South Central 4.9%
- Eastern 4.2%

This information does not support the argument being made in the AOP. In fact, the Labor Day Report states on page 9, "*Montana's unemployment rate has outperformed the U.S. rate, remaining more stable with smaller spikes than the national average.*" In addition, according to the Labor Day Report on page 22, "*The Northwest and Southwest regions were hardest hit by the recession because the national housing crisis resulted in significant job losses in construction and wood products manufacturing, two industries that were concentrated in the western portion of Montana.*" How do these industries relate to the MSFW population in regard to unemployment?

The contact goal outlined in the AOP seems aggressive given the guidelines provided by the U.S. Department of Labor (USDOL). The AOP on page 9 states, "*The minimum number of MSFW contacts by outreach staff per day, according to the Department of Labor guidelines, is a minimum of five contacts per eight hours worked. In the past, Montana has not made this contact minimum a priority. That being said, the outreach employees that are assigned to local offices are not full time outreach staff. Each of these staff members has several duties that must be met each day. Our goal for PY 2014-2015 is to meet that minimum.*" Is the goal of five contacts per eight hours worked to indicate the outreach performed for eight hours will target five contacts? If this is the case, the goal on page 10, of five to ten contacts (depending on location) within 1.5 to 4 hours does not mathematically work out to five contacts per eight hours worked. The stated goal seems particularly aggressive given DOL guidelines mentioned.

Further in the document, there are some claims which are confusing. The AOP states on page 10, "*Montana is required to make the services of the Job Service centers available to all job seekers, including MSFW, in an equitable manner. Each Job Service site must offer the full range of employment services, benefits and protections, including the full range of counseling, testing and job training referral services to MSFWs, the same services provided to non-MSFWs.*" What 'benefits and protections' are offered through Job Service? The requirement for Montana is, according to Title 20, CFR 653.100, "*This subpart sets forth the principal regulations of the United States Employment Service (USES) for counseling, testing, and job and training referral services for migrant and seasonal farmworkers (MSFWs) on a basis which is qualitatively equivalent and quantitatively proportionate to services provided to non-MSFWs.*" In addition, this seems to indicate services are "*qualitatively equivalent and quantitatively proportionate,*" and not "*in an equitable manner.*"

Furthermore, on the next page, the AOP makes a claim that seems to lack clarification. On page 11 of the AOP, it states, "*The Job Service sites provide special services to employers on an individual and*

as needed basis.” What do these “special services” include? There is no clarification provided as the paragraph just goes into discussion about MontanaWorks.

Section 5 of the AOP on page 12 does not contain any comments by key stakeholders. In this section there is a statement, *“The Workforce Services Division has duly afforded the Monitor Advocate with the opportunity to comment on the Agricultural Outreach Plan as required by Title 20 CFR part 653.111(h).”* According to Title 20, CFR 653.111 (h) it states, *“State EEO staff shall have the responsibility for developing affirmative action plans. The State MSFW Monitor Advocate(s) shall comment on the plan to the State Administrator. Upon submission of the affirmative action plan as part of the State agency’s PBP submittal, the Regional MSFW Monitor Advocate shall review the affirmative action plan(s) as it pertains to MSFWs and comment to the Regional Administrator. As part of his/her regular reviews of State agency compliance, the Regional MSFW Monitor Advocate shall monitor the extent to which the State has complied with its affirmative action plan(s) as it pertains to MSFWs. The Regional MSFW Monitor Advocate’s finding as to the adequacy of the plan(s) and as to the State’s compliance with the plan(s) shall be considered in PBP decisions involving future funding of the State agency.”* There is no mention of the requirement to afford the Monitor Advocate an opportunity to comment on the Agricultural Outreach Plan, just the affirmative action plan as it relates to MSFW’s.

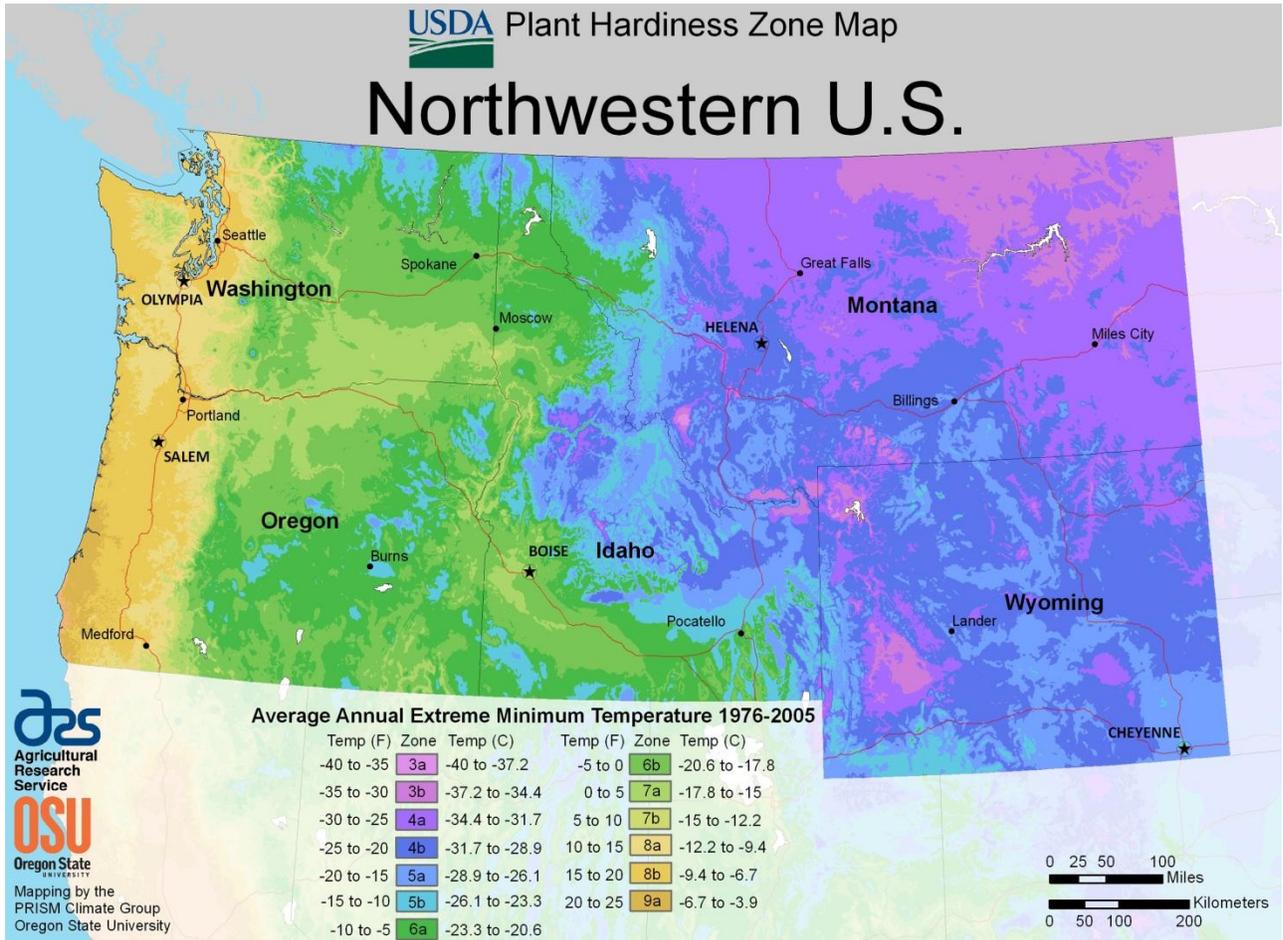
There are some grammatical issues in the AOP document. The reference to *Job Services* (pages 8 & 9) should state “Job Service Offices.” In addition, reference to Job Service “sites,” “centers” and “offices” should be consistent throughout the document as Job Service Offices. Also on page 7, in the last sentence of the third paragraph it states *“official agricultural employment data offer”* should read “official agricultural employment data offer.” On the top of page 8, it reads *“who are otherwise who are not being reached”* and should be edited. Also on page 8, the second paragraph, first sentence has “Outreach” capitalized and it should be lower case. Page 11, the second paragraph should state “proportionate” not “proportional.” On page 12, it states, *“Provide Rapid Response services due to plan closure or mass layoffs.”* The sentence should be changed to *“planned closures or mass layoffs.”*

Other Thoughts

According to the Training and Employment Guidance Letter No. 13-13 (TEGL 13-13), Attachment A, it is stated the AOP should include in its Assessment of Need, *“identify each major labor-intensive crop activity in the previous year, indicating the months of heavy activity and the geographic area of prime activity.”* Further, it states, *“Estimate the agricultural labor employed in each of the crops identified in item (i) above. Estimate the number of MSFWs involved in each, and indicate crop areas that experienced labor shortages.”* The current outreach plan does not appear to specifically address these items.

According to the TEGL 13-13, Attachment A, the AOP should also include data analysis including the *“number of agricultural job orders and openings received, number of agricultural job orders filled, percent to be filled, number of interstate clearance orders received, and number of interstate clearance orders initiated.”* As well as what is planned for the upcoming year in these same areas. The current AOP does not contain any reference to any data analysis as referenced in the TEGL 13-13.

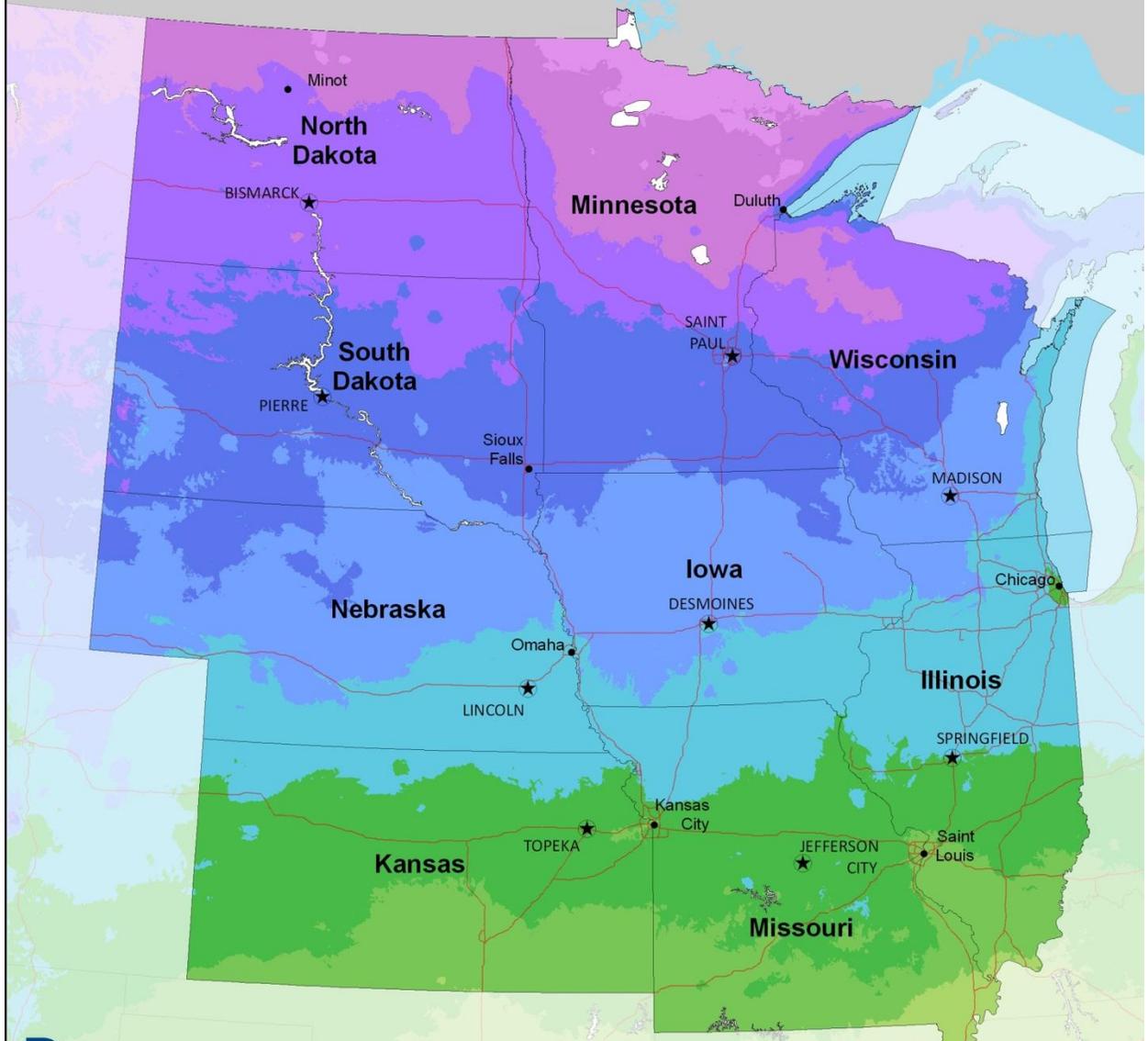
The USDA provides a map demonstrating plant hardiness (see Attachment A). This map displays, by color, the zones associated with "Average Annual Extreme Minimum Temperature 1976 – 2005." A comparison of the colors associated with Montana (with the exception of a small region in Western Montana) to other states in the Northwestern and North Central regions will result in similarities to North Dakota, South Dakota, Minnesota, and Wyoming. Review of the Agricultural Outreach Plan's for North Dakota and South Dakota reveal the following goals. According to the South Dakota Plan, page 87 states, *"based on prior history and the nature of South Dakota agriculture, it is estimated that total number of MSFWs in the state will remain around 75 and the state DLR staff will make contact and provide services to approximately 45 during the course of PY12."* The North Dakota Plan states on page 61, *"700 migrant and seasonal farm workers are estimated to be available in North Dakota for PY 2012."* On page 53 of the same plan it states in regard to outreach, *"with a state goal of 250 MSFWs annually."* Given the similar crops, growing seasons, climate and weather, it would seem reasonable to assume the MSFW population would also be similar. However, Montana's Agricultural Plan states on page 10, a statewide outreach goal of 1,764 and on page 7 an estimated MSFW population of 22,377!





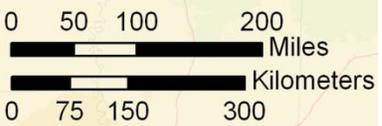
Plant Hardiness Zone Map

North Central U.S.



Average Annual Extreme Minimum Temperature
1976-2005

Temp (F)	Zone	Temp (C)	Temp (F)	Zone	Temp (C)
-40 to -35	3a	-40 to -37.2	-15 to -10	5b	-26.1 to -23.3
-35 to -30	3b	-37.2 to -34.4	-10 to -5	6a	-23.3 to -20.6
-30 to -25	4a	-34.4 to -31.7	-5 to 0	6b	-20.6 to -17.8
-25 to -20	4b	-31.7 to -28.9	0 to 5	7a	-17.8 to -15
-20 to -15	5a	-28.9 to -26.1	5 to 10	7b	-15 to -12.2



Agricultural Research Service



Mapping by the PRISM Climate Group Oregon State University