



DEPARTMENT OF LABOR

Employment and Training Administration

Labor Certification Process for the Temporary Employment of Foreign Workers in Agriculture in the United States: Adverse Effect Wage Rate Updates for Non-Range Occupations

AGENCY: Employment and Training Administration, Department of Labor.

ACTION: Notice.

SUMMARY: The Employment and Training Administration of the Department of Labor (DOL) is issuing this notice to announce updates to the Adverse Effect Wage Rates (AEWR) for the employment of temporary or seasonal nonimmigrant foreign workers (H-2A workers) to perform agricultural labor or services other than the herding or production of livestock on the range. AEWRs are the minimum wage rates DOL has determined must be offered, advertised in recruitment, and paid by employers to H-2A workers and workers in corresponding employment so that the wages and working conditions of workers in the United States (U.S.) similarly employed will not be adversely affected. In this notice, DOL announces the AEWRs based on wage data reported by DOL's Bureau of Labor Statistics (BLS) Occupational Employment and Wage Statistics (OEWS) survey. The AEWRs established in this notice are applicable to H-2A job opportunities classified: (1) in Standard Occupational Classification (SOC) codes other than the six SOC codes comprising the field and livestock workers (combined) group, and (2) in the field and livestock workers (combined) occupational group that are located in States or regions, or equivalent districts or territories, for which the United States Department of Agriculture's (USDA) Farm Labor Report (better known as the Farm Labor Survey, or FLS) does not report a wage.

DATES: These rates are effective [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]. However, for entities and states subject to the court order in *Kansas et al. v. U.S.*

Dep't of Labor, these rates are effective [INSERT DATE 14 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

FOR FURTHER INFORMATION CONTACT: Brian Pasternak, Administrator, Office of Foreign Labor Certification, Employment and Training Administration, U.S. Department of Labor, 200 Constitution Avenue, NW, Room N-5311, Washington, DC 20210, telephone (202) 693-8200 (this is not a toll-free number). For persons with a hearing or speech disability who need assistance to use the telephone system, please dial 711 to access telecommunications relay services.

SUPPLEMENTARY INFORMATION: The U.S. Citizenship and Immigration Services of the Department of Homeland Security will not approve an employer's petition for the admission of H-2A nonimmigrant temporary and seasonal agricultural workers in the U.S. unless the petitioner has received an H-2A labor certification from DOL. The labor certification provides that: (1) there are not sufficient U.S. workers who are able, willing, and qualified and who will be available at the time and place needed to perform the labor or services involved in the petition; and (2) the employment of the foreign worker(s) in such labor or services will not adversely affect the wages and working conditions of workers in the U.S. similarly employed. *See* 8 U.S.C. 1101(a)(15)(H)(ii)(a), 1184(c)(1), and 1188(a); 8 CFR 214.2(h)(5); 20 CFR 655.100.

DOL H-2A regulations at 20 CFR 655.122(l) provide that employers must pay their H-2A workers and workers in corresponding employment at least the highest of various specified wage sources, including the AEW. Further, when the AEW is updated during a work contract, the employer must pay at least that updated AEW upon the effective date of the new AEW, if the updated AEW is higher than the highest of the previous AEWs, a prevailing rate for the crop activity or agricultural activity and, if applicable, a distinct work task or tasks performed in that activity and geographic area, the agreed-upon collective bargaining wage, the Federal minimum wage rate, or the State minimum wage rate. *See* 20 CFR 655.120(b)(3).

Similarly, when the AEW is updated during a work contract and is lower than the wage rate that is guaranteed on the job order, the employer must continue to pay at least the wage rate guaranteed on the job order. *See* 20 CFR 655.120(b)(4).

Pursuant to the final rule, *Adverse Effect Wage Rate Methodology for the Temporary Employment of H-2A Nonimmigrants in Non-Range Occupations in the United States*, 88 FR 12760 (Feb. 28, 2023), most AEWs will continue to be based, as they have been since 1987, on the USDA FLS. The OEWS-based AEWs apply to H-2A job opportunities classified: (1) in SOC codes other than the six SOC codes comprising the field and livestock workers (combined) group, or (2) in the field and livestock workers (combined) occupational group that are located in States or regions, or equivalent districts or territories, for which the USDA FLS does not report a wage.¹

The final rule, noted above, requires the OFLC Administrator to publish a *Federal Register* Notice at least once in each calendar year to establish each set of AEWs. *See* 20 CFR 655.120(b)(2). The OFLC Administrator provides this notice by publishing two separate announcements in the *Federal Register*, one to update the non-range AEWs based on the wage data reported by the USDA's FLS and a second to update the AEWs based on data reported by the BLS OEWS survey. *See* 88 FR at 12775.

OEWS-based AEW Updates

In accordance with 20 CFR 655.120(b)(1)(ii), AEWs for agricultural employment not represented by the six SOC codes comprising the field and livestock worker (combined) group² for which temporary H-2A certification is being sought is determined using the statewide annual average hourly gross wage for the SOC code for the State, or equivalent district or territory, as

¹ In the event an employer's job opportunity requires the performance of agricultural labor or services that are not encompassed in a single SOC code's description and tasks, the applicable AEW will be the highest AEW for all applicable SOC codes. *See* 20 CFR 655.120(b)(5).

² The FLS survey's field and livestock workers (combined) category reports aggregate wage data for the following six SOC titles and codes: Farmworkers and Laborers, Crop, Nursery, and Greenhouse (45-2092); Farmworkers, Farm, Ranch, and Aquacultural Animals (45-2093); Agricultural Equipment Operators (45-2091); Packers and Packagers, Hand (53-7064); Graders and Sorters, Agricultural Products (45-2041); and All Other Agricultural Workers (45-2099).

reported by the OEWS survey. In the event the OEWS survey does not report an average hourly gross wage for the SOC code for the State, or equivalent district or territory, the AEWR is determined using the national average hourly gross wage for the SOC as reported by the OEWS survey.

Using the most recently published OEWS survey,³ the OFLC Administrator is publishing the statewide hourly AEWRs applicable to H-2A job opportunities classified using an SOC code not included in the field and livestock workers (combined) group.⁴ The hourly AEWRs determined under 20 CFR 655.120(b)(1)(ii) are available for each SOC code and geographic area at the following URL: <https://flag.dol.gov/wage-data/adverse-effect-wage-rates>. At the URL, DOL provides a searchable spreadsheet and other resources that enable interested parties to search by State and SOC code for the OEWS-based AEWR applicable to an H-2A job opportunity.

In addition, where the FLS survey does not report an annual average gross wage for the field and livestock workers (combined) group in a State or region, or equivalent district or territory, the AEWRs applicable to the field and livestock workers (combined) group is established using the statewide annual average hourly gross wage for the field and livestock workers (combined) group in the State, or equivalent district or territory, as reported by the OEWS survey. *See* 20 CFR 655.120(b)(1)(i)(B). OFLC establishes these AEWRs by computing data reported in the OEWS, and utilizing a methodology devised by BLS. A summary of the methodology is available at <https://flag.dol.gov/wage-data/adverse-effect-wage-rates>. In the event the OEWS survey does not report a statewide average hourly gross wage for the field and livestock workers (combined) group for the State, or equivalent district or territory, the AEWR is

³ *See* Bureau of Labor Statistics, Occupational Employment and Wage Statistics (OEWS) data, OEWS Databases (Apr. 2, 2025), *available at* <https://www.bls.gov/oes/data.htm>. Note that the OEWS data released in April 2025 represent May 2024 estimates.

⁴ *See* 20 CFR 655.120(b)(1)(iii) (“For purposes of paragraphs (b)(1)(i) and (ii) of this section, the term State and statewide include the 50 States, the District of Columbia, Guam, Puerto Rico, and the U.S. Virgin Islands.”)

determined using the national average hourly gross wage for field and livestock workers (combined) group as reported by the OEWS survey. *See* 20 CFR 655.120(b)(1)(i)(C).

Using the most recently published OEWS survey, the OFLC Administrator is publishing the hourly AEWRs applicable to H-2A job opportunities classified in the field and livestock workers (combined) group, in States or regions, or equivalent districts or territories, where an annual average hourly gross wage is not reported by the FLS. These hourly AEWRs are available at <https://flag.dol.gov/wage-data/adverse-effect-wage-rates> and in the table below:

TABLE—ADVERSE EFFECT WAGE RATES FOR FIELD AND LIVESTOCK WORKERS
(COMBINED)

State/District/Territory AEWRs

Alaska	\$20.04
District of Columbia	\$20.79
Guam	\$10.67
Puerto Rico	\$10.36
U.S. Virgin Islands	\$13.69

Authority: 20 CFR 655.120(b)(2); 20 CFR 655.103(b).

Susan Frazier,

Acting Assistant Secretary for Employment and Training, Labor.

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