



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 (ETA) 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 in non-range occupations. AEWRs are the minimum wage rates that must be offered, advertised in recruitment, and paid by employers to H-2A workers and workers in corresponding employment to ensure that the wages and working conditions of workers in the United States similarly employed are not adversely affected.

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* (749 F. Supp. 3d 1363 (S.D. Ga. 2024)), 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 (OFLC), email: ETA.OFLC.Forms@dol.gov.

SUPPLEMENTARY INFORMATION: Consistent with the methodology established in the interim final rule, *Adverse Effect Wage Rate Methodology for the Temporary Employment of H-2A Nonimmigrants in Non-Range Occupations in the United States* (2025 AEWR IFR),¹ this notice updates AEWRs using wage data from the Bureau of Labor Statistics' (BLS)

¹ See 90 FR 47914 (Oct. 2, 2025).

Occupational Employment and Wage Statistics (OEWS) survey as the basis for all non-range AEW R determinations. This methodology establishes AEW Rs based on two skill-based categories, with corresponding housing adjustments that only apply when compensating H-2A workers under temporary agricultural labor certifications, consistent with regulatory requirements. In this notice, DOL also announces an update to the average AEW R, which is used to calculate adjustments to required bond amounts for H-2A Labor Contractors.

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 655.120 and 655.122(l) provide that, for non-range occupations, employers must pay their H-2A workers and workers in corresponding employment at least the highest of various specified wage sources, including the AEW R. Further, when the AEW R is updated during a work contract, the employer must pay at least that updated AEW R upon the effective date of the new AEW R, if the updated AEW R is higher than the highest of the previous AEW Rs, 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)(5). Similarly, when the AEW R 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)(6).

Pursuant to the 2025 AEWI IFR, AEWIs for non-range agricultural occupations are determined using wage data from the BLS OEWS survey. This methodology determines the AEWIs for H-2A job opportunities using the annual average hourly gross wage for each U.S. state or territory, differentiated by two skill or qualification levels: Skill Level I (Entry-Level) and Skill Level II (Experience-Level). A Skill Level I AEWI applies to job opportunities with minimum qualifications consistent with entry-level positions, in which workers are not required to possess formal education or specialized training credentials. A Skill Level II AEWI applies to job opportunities requiring qualifications commensurate with experienced or otherwise fully proficient workers, who through education, training, or experience, have demonstrated the skills or knowledge necessary to perform the duties of the H-2A job opportunity. AEWIs for most job opportunities will continue to be classified within the five Standard Occupational Classification (SOC) codes comprising the field and livestock workers (combined) category.²

Current regulation requires the OFLC Administrator to publish a *Federal Register* notice at least once in each calendar year to establish each set of AEWIs and corresponding housing compensation adjustments. *See* 20 CFR 655.120(b)(4).

AEWI Determinations Using OEWS Data

In accordance with 20 CFR 655.120(b)(1)(i), AEWIs for occupations within the field and livestock workers (combined) category are calculated using statewide³ annual average hourly wages reported by the OEWS survey for the relevant SOC codes. Where a statewide annual average hourly gross wage in the U.S. state or territory at either skill level is not reported by the OEWS, the AEWI for the field and livestock workers (combined) category shall be the national annual average hourly gross wage at that skill level, as reported by the OEWS survey.

² The OEWS reports the annual average hourly gross wage for each U.S. state or territory aggregated across the following SOCs contained within the field and livestock (combined) category: 45-2041 Graders and Sorters, Agricultural Products; 45-2091 Agricultural Equipment Operators; 45-2092 Farmworkers and Laborers, Crop, Nursery, and Greenhouse; 45-2093 Farmworkers, Farm, Ranch, and Aquacultural Animals; and 53-7064 Packers and Packagers, Hand.

³ *See* 20 CFR 655.120(b)(1)(iv) (“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.”)

Similarly, and consistent with 20 CFR 655.120(b)(1)(ii), AEWs for all other occupations are determined using the statewide annual average hourly gross wage for the SOC code for the State, or equivalent district or territory, as reported by the OEWS survey. Where a statewide annual average hourly gross wage in the State at either skill level is not reported by the OEWS survey, the AEW for each SOC shall be the national annual average hourly gross wage for that occupation at that skill level, as reported by the OEWS survey.

Based on the most recently published OEWS survey,⁴ the OFLC Administrator is publishing the statewide hourly AEWs applicable to all non-range H-2A job opportunities. Additionally, DOL is updating and disclosing the statewide downward compensation adjustments to the applicable AEWs that can only be applied to H-2A workers who are provided with housing at no cost pursuant to 20 CFR 655.120(b)(3). All hourly AEWs determined under 20 CFR 655.120(b) 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 U.S. state or territory and SOC code for the OEWS-based AEW applicable to an H-2A job opportunity.

Average AEW Determination

Section 20 CFR 655.103(b) defines “average AEW” as “the simple average of the [AEW] applicable to the SOC 45-2092 ... and published by the OFLC Administrator in accordance with § 655.120.” Accordingly, the calculation of the average AEW requires the simple average of the AEWs applicable to SOC 45-2092 across all U.S. states and territories, as reported by the OEWS survey, and published by the OFLC Administrator. Because the regulatory text specifies that the simple average must be taken across the AEWs “applicable to the SOC 45-2092,” the calculation encompasses the sum of the complete set of applicable

⁴ See Bureau of Labor Statistics, Occupational Employment and Wage Statistics (OEWS) data, OEWS Databases (May 15, 2026), *available at* <https://www.bls.gov/oes/data.htm>. Note that the OEWS data released represent May 2025 estimates.

AEWRs across both skill levels without any standardized adjustments referenced above divided by the number of AEWRs applicable to SOC 45-2092 included in the published searchable spreadsheet at the aforementioned URL. Therefore, the current average AEWR determined under 20 CFR 655.103(b), which is used to calculate the bond amounts required under 20 CFR 655.132(c)(2)(ii), is \$15.96 and is also available at the following URL: <https://flag.dol.gov/wage-data/adverse-effect-wage-rates>.

(Authority: 20 CFR 655.120(b)(4); 20 CFR 655.103(b))

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