



# H-2A Agricultural Worker Program

## Adverse Effect Wage Rate (AEWR)

### *Labor Management Webinar*

March 21, 2024

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Office of Foreign Labor Certification  
Employment and Training Administration  
United States Department of Labor

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# Background on the AEW



## Statutory Mandate to Protect Worker Wages

- DHS cannot grant admission unless DOL determines that employment of H-2A workers ***will not adversely affect the wages and working conditions of U.S. workers similarly employed*** (8 USC 1188(a)(1)(B)).

## What is an Adverse Effect Wage Rate (AEWR)?

- A unique prevailing wage rate required of employers seeking to employ temporary foreign workers under the H-2A visa classification.

## Brief History of the AEW

- Concerns about adverse wage effects appeared during 1930-1940s.
- 1952 McCarran-Walter Act incorporates adverse wage effect mandate into the INA.
- 1953 DOL starts setting AEWs.
- AEWs first set for a small group of states based on use of the H-2 visa program.
- 1987 DOL begins setting AEWs each year in the H-2A visa program using the average hourly wage for field and livestock workers from the USDA Farm Labor Survey (FLS).
- A single hourly AEW is set for each state (except Alaska) covering all H-2A jobs.

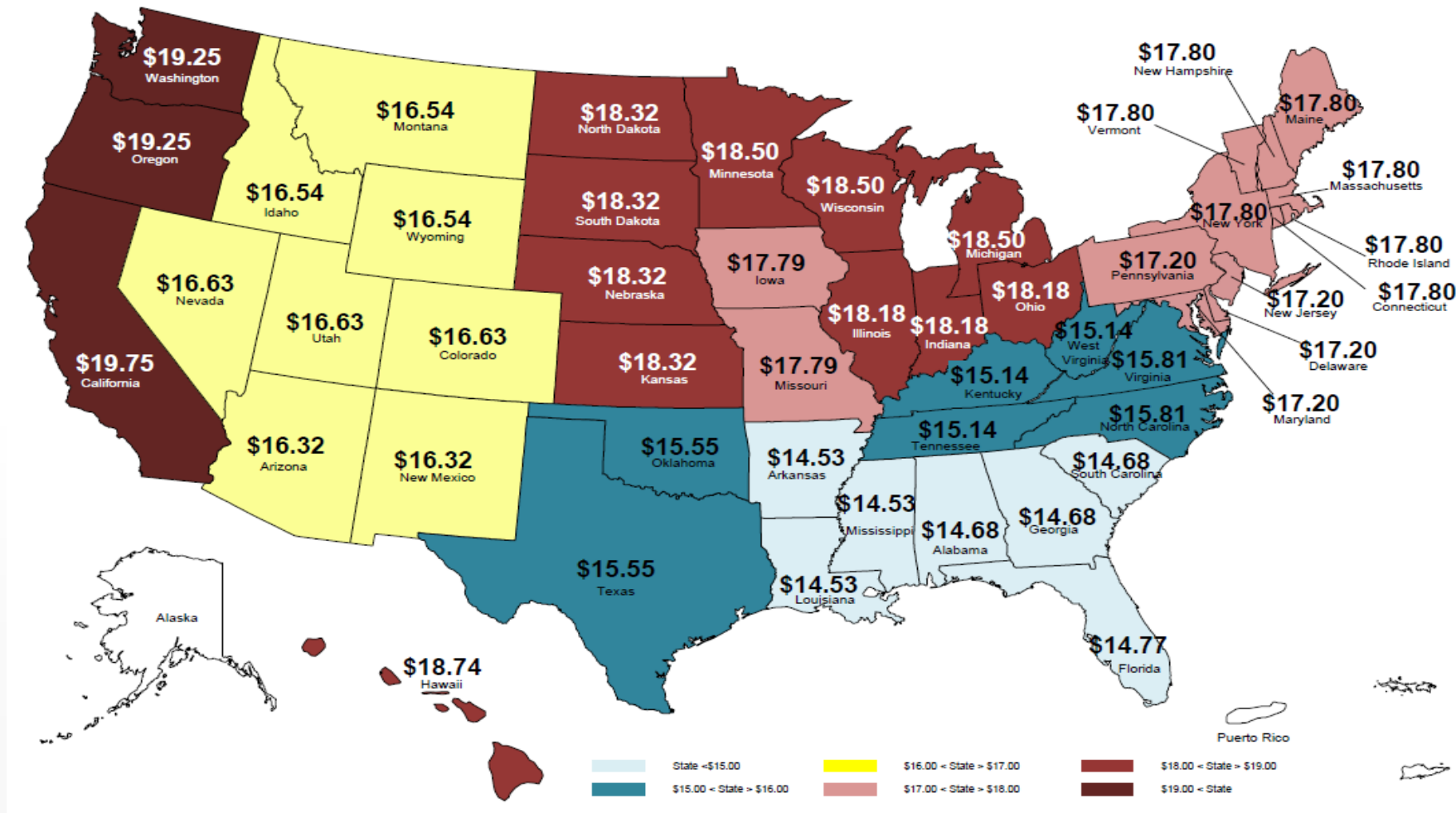


# Overview of the New AEWB Rule

## What is the new rule?

- On February 28, 2023, Department published a final rule establishing a new methodology for determining the Adverse Effective Wage Rates (AEWRs) for non-range occupations.
- The Final Rule amends the AEWB methodology using a combination of wage data reported by USDA's Farm Labor Survey (FLS) and the Bureau of Labor Statistics (BLS) Occupational Employment and Wage Statistics (OEWS) survey.
- New regulations help prevent an adverse effect on the wages paid to workers in jobs outside the Standard Occupational Classification (SOC) codes (e.g., supervisors, construction, logging, tractor-trailer truck drivers); and accurately reflect the wages paid to workers in every State or region (e.g., Alaska or Puerto Rico).

# 2024 USDA-FLS AEWRs – Effective January 1, 2024



# 2023 H-2A AEWB Rule



## ▶ USDA FLS-Based AEWBs

- The Department will continue to determine AEWB for field and livestock workers using USDA FLS data (same as 2010 rule) when reported.
- Applies to six (6) SOC codes:
  - 45-2041: Graders and Sorters
  - 45-2091: Agricultural Equip. Operators
  - 45-2092: Farmworkers and Laborers
  - 45-2093: Ranch/Livestock Workers
  - 45-2099: All Other Agricultural Workers
  - 53-7064: Packers and Packagers
- Updated annually by DOL around January 1<sup>st</sup>

## ▶ USDOL BLS OEWS-Based AEWBs

- For all other H-2A occupations, AEWBs will be set using the OEWS statewide annual average hourly wage for the SOC code.
- In cases where the OEWS survey does not report a statewide hourly wage for the SOC, the national annual average hourly OEWS wage rate is used to determine AEWB.
- Examples of H-2A jobs subject to OEWS-based AEWBs include construction workers, truck drivers, farm equipment mechanics and farm supervisors and managers.
- Updated annually by DOL around July 1<sup>st</sup>

*Important:* OEWS survey is used to set statewide AEWBs for all jobs only in Alaska, District of Columbia, Guam, Puerto Rico, and Virgin Islands.



# 2023 H-2A AEWL Rule



## ▶ FLAG System AEWL Information

- Please visit the AEWL page to identify the applicable AEWLs based on SOC codes at <https://flag.dol.gov/wage-data/adverse-effect-wage-rates>
  - **Section II** is dedicated to determining the AEWL for the six field and livestock worker SOC Codes (typically associated with the FLS-based method).
  - **Section III** is dedicated to determining the AEWL for each SOC Code other than the six field and livestock workers SOC codes (typically associated with the OEWS-based method).

## ▶ Assigning Multiple SOC Codes to the Job

- A job may require work duties that cannot be classified within a single SOC code, and two or more distinct SOC codes will be assigned.
- If the applicable SOC codes are subject to different AEWLs (e.g., an FLS-based AEWL and an OEWS-based AEWL or two OEWS-based AEWLs):
  - The State Workforce Agency or OFLC will note the SOC code with the highest applicable AEWL at the time of processing the job order (Form ETA-790A) or H-2A application.
  - That AEWL will govern the employer's wage obligations **unless** a subsequent AEWL update for any of the applicable SOC codes changes which of the applicable AEWLs is highest.

# 2023 H-2A AEWB Rule



## ▶ General Scope of Farm Worker Jobs

- Some example work tasks include:
  - Harvest crops by hand or tractors; apply pesticides/fertilizers.
  - Direct/monitor seasonal workers and inform farm supervisor of crop conditions.
  - Inspect, grade, sort, store, and perform post-harvest treatment of crops.
  - Repair and maintain farm vehicles, implements, and mechanical equipment.
  - Load crops into trucks, and drive trucks to market or storage facilities.
  - Regulate greenhouse conditions; and set up/operate irrigation systems.
  - Repair farm buildings, fences, and other structures.

## ▶ **WATCH OUT!** Other Work Tasks May Cover a Different Occupation and Minimum Wage

- Some examples include:
  - **Supervisor (45-1011)** – Generally involves directly supervising workers, planning work schedules, handling personnel matters
  - **Farm Mechanics (49-3041)** – Generally involves diagnosing, disassembling, overhauling farm machinery and vehicles, such as tractors, harvesters, and irrigation systems.
  - **Heavy Trucking (53-3032)** – Operate trucks above 13-ton capacity over open roads, weigh stations, maintain vehicle logs, couple and uncouple trailers, secure cargo and follow procedures to provide food/water to livestock



# 2023 H-2A AEWB Rule



## ▶ Ensure Accuracy of Work Tasks/Job Details

- Become very familiar with the O\*Net Online descriptions of SOC codes found at: <https://www.onetonline.org/>.
- Ensure Job duties listed on Form ETA-790A are accurate and described in detail, then identify the SOC Code you initially feel encompasses all the job duties.
- Check to verify that the job duties listed are all included within the O\*NET job description and summary of the SOC code.
- If job duties are needed for this job opportunity that do not fit the O\*NET job description and summary of the SOC code, locate the SOC code(s) that does encompass those job duties.

## ▶ Provide Details for Any “Driving Duties”

- 1. Type of trucks/vehicles involved** (e.g., ATVs, light trucks, flatbeds, custom combine machinery, or 18-wheeler/semi tractor trailers);
- 2. How the trucks or vehicles will be used** (e.g., harvesting and/or hauling crops; transporting tools, equipment, and other workers);
- 3. Where the trucks or vehicles will be used** (e.g., on a farm and/or around farm properties during workday; off farm to storage facilities or wholesale/retain centers along public roads not owned/operated by employer); and
- 4. What special qualifications/requirements needed to operate the trucks or vehicles** (e.g., CDL, operate CB radios/GPS or idle reduction or auxiliary power systems).

# Occupational Network (O\*NET)



O\*NET OnLine

Occupation keyword search  
electrician Go

Help Find Occupations Advanced Searches O\*NET Data Crosswalks Share Sites

O\*NET OnLine features

More career sites & resources

Introduction

Occupation Keyword Search

dental assistant

Examples: 25-1011.00, dental assistant

Search O\*NET-SOC occupations

"I want to be a..."

Start the career you've dreamed about, or find one you never imagined. Discover your interests with the [O\\*NET Interest Profiler](#) and find more exploration options at [My Next Move](#).

Find your career at My Next Move

ATTN: VETERANS

## Farmworkers and Laborers, Crop, Nursery, and Greenhouse

45-2092.00 Updated 2023

Manually plant, cultivate, and harvest vegetables, fruits, nuts, horticultural specialties, and field crops. Use hand tools, such as shovels, trowels, hoes, tampers, pruning hooks, shears, and knives. Duties may include tilling soil and applying fertilizers; transplanting, weeding, thinning, or pruning crops; applying pesticides; or cleaning, grading, sorting, packing, and loading harvested products. May construct trellises, repair fences and farm buildings, or participate in irrigation activities.

**Sample of reported job titles:** Farm Laborer, Farmer, Field Irrigation Worker, Gardener, Greenhouse Worker, Grower, Harvester, Nursery Worker, Orchard Worker, Picker

Summary Details Custom Easy Read Veterans Español

Contents

### Occupation-Specific Information

#### Tasks

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Importance	Category	Task
78	Core	Record information about crops, such as pesticide use, yields, or costs.
77	Core	Direct and monitor the work of casual and seasonal help during planting and harvesting.
76	Core	Participate in the inspection, grading, sorting, storage, and post-harvest treatment of crops.

- O\*NET is sponsored by DOL through a grant to the NC Department of Commerce.
- Gathers data using worker surveys of job tasks, experience, education, and other working conditions.
- A detailed report is available outlining the job tasks, tools, work activities, education, experience, skills, and related knowledge commonly associated with each occupation.

# 2023 H-2A AEWB Rule



## ► Distinctions Between “Directing/Monitoring” Farmworkers vs. “Supervising” Farmworkers

Sample Job Duties or Work Tasks	Farmworker "Team Lead" 45-2092	Farmworker Supervisor 45-1011
Assign work tasks, issue equipment, and communicate to coordinate overall work	YES	YES
Monitor crop progress and report status to farmer or farm supervisor/manager	YES	YES
Provide training to workers on crop/farming techniques	YES	YES
Record information about crops, such as pesticide use, yields, or costs	YES	YES
Maintain inventory/order materials as required by farmer or farm supervisor/manager	YES	YES
Plan/schedule work crews, equipment, or transportation for worksite(s)	NO	YES
Confer with farmer or farm manager to make operational decisions	NO	YES
Train workers in food safety and/or occupational health regulations	NO	YES
Evaluate employee performance and take necessary personnel actions	NO	YES
Maintain personnel records and/or financial transactions	NO	YES

# 2023 H-2A AEWB Rule – Job Example 1



## ▶ Key Work Tasks Identified on Form ETA-790A

- Use hand tools, such as shovels, trowels, hoes, tampers, pruning hooks, shears, and knives for tilling soil and applying pesticide and fertilizers; transplanting, weeding, thinning, or pruning crops
- Repair and maintain farm vehicles, equipment, fences, and other structures.
- Direct and monitor the work of casual and seasonal help during planting and harvesting.
- Load agricultural products into trucks, and drive trucks to market or storage facilities.
- Driver's license required.

### **SOC Assignment:**

Based on work tasks/requirements listed in O\*NET OnLine, the SOC code is

- 45-2092 – Farmworkers and Laborers, Crop, Nursery, and Greenhouse

# 2023 H-2A AEWR Rule – Job Example 2



## ▶ Key Work Tasks Identified on Form ETA-790A

- Use hand tools, such as shovels, trowels, hoes, tampers, pruning hooks, shears, and knives for tilling soil and applying pesticide and fertilizers; transplanting, weeding, thinning, or pruning crops.
- Repair and maintain farm vehicles, equipment, fences, and other structures.
- Direct and monitor the work of casual and seasonal help during planting and harvesting.
- Load agricultural products into trucks, and drive trucks to market or storage facilities.
- Driver's license required.
- Operate trucks or other multi-purpose vehicles to transport workers from housing (whether on or off farm) to the farm properties; haul tools, supplies, or crops; transport workers from place to place around the farm properties during the workday (including on public roads to reach farmer's fields); and/or transport workers to the grocery store, bank, or laundry facilities on an as-needed basis.

### **SOC Assignment:**

Based on work tasks/requirements listed in O\*NET OnLine, the SOC code is a combination of

- 45-2092 – Farmworkers and Laborers, Crop, Nursery, and Greenhouse; **and**
- 45-2091 – Agricultural Equipment Operator

# 2023 H-2A AEWB Rule – Job Example 3



## ▶ Key Work Tasks Identified on Form ETA-790A

- Use hand tools, such as shovels, trowels, hoes, tampers, pruning hooks, shears, and knives for tilling soil and applying pesticide and fertilizers; transplanting, weeding, thinning, or pruning crops.
- Repair and maintain farm vehicles, equipment, fences, and other structures.
- Direct and monitor the work of casual and seasonal help during planting and harvesting.
- Load agricultural products into trucks, and drive trucks to market or storage facilities.
- Driver's license required.
- Operate passenger-only vehicles to pick-up other farmworkers based on a regular or arranged daily/weekly schedule from employer-provided housing or a centralized pick-up point(s) and drop-off at worksites and return farmworkers back to such locations at the end of the workday.

### **SOC Assignment:**

Based on work tasks/requirements listed in O\*NET OnLine, the SOC code is a combination of

- 45-2092 – Farmworkers and Laborers, Crop, Nursery, and Greenhouse; **and**
- 53-3053 - Shuttle Drivers and Chauffeurs



# 2023 H-2A AEWB Rule – Job Example 4



## ▶ Key Work Tasks Identified on Form ETA-790A

- Use hand tools, such as shovels, trowels, hoes, tampers, pruning hooks, shears, and knives for tilling soil and applying pesticide and fertilizers; transplanting, weeding, thinning, or pruning crops
- Record information about crops, such as pesticide use, yields, or costs.
- Repair and maintain farm vehicles, equipment, fences, and other structures.
- **May supervise casual and seasonal help during planting and harvesting.**
- Load agricultural products into trucks, and drive trucks to market or storage facilities.
- Driver's license required.

### **SOC Assignment**

Based on normal tasks and requirements listed in O\*NET OnLine, the SOC code is combination of

- 45-2092 - Farmworkers and Laborers, Crop, Nursery, and Greenhouse, **and**
- **45-1011 - First-Line Supervisors of Farming, Fishing, and Forestry Workers.**

# 2023 H-2A AEWR Rule – Job Example 5



## ▶ Key Work Tasks Identified on Form ETA-790A

- Use hand tools, such as shovels, trowels, hoes, tampers, pruning hooks, shears, and knives for tilling soil and applying pesticide and fertilizers; transplanting, weeding, thinning, or pruning crops
- Record information about crops, such as pesticide use, yields, or costs.
- Repair and maintain farm vehicles, equipment, fences, and other structures.
- Direct and monitor the work of casual and seasonal help during planting and harvesting.
- Load agricultural products into trucks, and drive trucks to market or storage facilities.
- Driver's license required.
- Measure out and dig holes for posts with shovels/posthole diggers for building/installing wood, metal, barbed wire, and/or vinyl fencing around the farm or ranch properties. Set upright and align posts, make rails for fences, attach rails or tension wire. May mix/pour concrete around bases of posts.

### **SOC Assignment**

Based on tasks and requirements listed in O\*NET OnLine, the SOC code is combination of

- 45-2092 - Farmworkers and Laborers, Crop, Nursery, and Greenhouse, **and**
- 47-4031 - Fence Erectors

# 2023 H-2A AEWR Rule – Job Example 6



## ▶ Key Work Tasks Identified on Form ETA-790A

- Use hand tools, such as shovels, trowels, hoes, tampers, pruning hooks, shears, and knives for tilling soil and applying pesticide and fertilizers; transplanting, weeding, thinning, or pruning crops
- Record information about crops, such as pesticide use, yields, or costs.
- Repair and maintain farm vehicles, equipment, fences, and other structures.
- Direct and monitor the work of casual and seasonal help during planting and harvesting.
- **Load agricultural product into semi-trucks and drive semi-trucks to market or storage facilities.**
- **Must possess a valid Commercial Drivers' License (CDL).**

### **SOC Assignment**

Based on tasks and requirements listed in O\*NET OnLine, the SOC code is a combination of:

- 45-2092 - Farmworkers and Laborers, Crop, Nursery, and Greenhouse, **and**
- **53-3032 - Heavy and Tractor-Trailer Truck Drivers.**

# 2023 H-2A AEWR Rule – Job Example 7



## ▶ Key Work Tasks Identified on Form ETA-790A

- Will drive a tractor-trailer combination with a gross vehicle rating (GVW) of 26,001 pounds or more to deliver vegetable and horticultural products over public roads to storage or market.
- Must check all load-related documentation for completeness and accuracy.
- Operating equipment CB radios/GPS equipment to exchange necessary information with supervisors or other drivers, and idle reduction or auxiliary power systems.
- Couple or uncouple trailers by changing trailer jack positions, connecting or disconnecting air or electrical lines, or manipulating fifth-wheel locks.
- Follow special cargo-related procedures, such as refrigeration systems for crops/commodities.
- Drive trucks to weigh stations before and after loading and along routes in compliance with state regulations.
- Standard drivers' license; Ag CDL exemption.

### **SOC Assignment:**

Based on tasks and requirements listed in O\*NET OnLine, the SOC code is

- 53-3032 - Heavy and Tractor-Trailer Truck Drivers.

# 2023 H-2A AEWR Rule – Job Example 8



## ▶ Key Work Tasks Identified on Form ETA-790A

- On farm, perform tasks involving physical labor at construction sites.
- May operate hand and power tools of all types: air hammers, earth tampers, cement mixers, small mechanical hoists, surveying and measuring equipment, and a variety of other equipment and instruments.
- May clean and prepare sites, dig trenches, set braces to support the sides of excavations, erect scaffolding, and clean up rubble, debris, and other waste materials.
- May assist other craft workers.
- Clean up job sites.
- Must be able to lift and carry 50lbs/75yds.

### **SOC Assignment:**

Based on tasks and requirements listed in O\*NET OnLine, the SOC code is

- 47-2061 – Construction Laborers.

# 2023 H-2A AEWB Rule – Job Example 9



## ▶ Key Work Tasks Identified on Form ETA-790A

- Create menus, prepare meals including Breakfast, Lunch & Dinner for farm workers.
- Prep kitchen, and monitor food supplies to ensure safety
- Shop for needed food supplies within allotted budget
- Keep kitchen inventory and clean/inspect all food dining and kitchen areas
- Train new workers and direct activities of other workers preparing/serving meals
- Cook foodstuffs according to menus, special dietary or nutritional restrictions, or numbers of portions to be served.
- Wash pots, pans, dishes, utensils, or other cooking equipment.
- Apportion and serve food to employees.

### **SOC Assignment:**

Based on tasks and requirements listed in O\*NET OnLine, the SOC code is

- 35-2012 – Cafeteria Cooks



# 2023 H-2A AEWR Rule – Job Example 10



## ▶ Key Work Tasks Identified on Form ETA-790A

- Operate, diagnose, tune and overhaul engines, transmissions, components, electrical and fuel systems, etc. for various powered and rolling equipment such as cars, trucks, buses, agricultural equipment and generators.
- Dismantle defective equipment and machines for repair; reassemble following repair; testing and re-testing operations and make operational adjustments, as necessary.
- Agricultural equipment includes tractors, truck tractors, front loaders, skid steers, forklifts, vegetable harvesters, lawn mowers, irrigation systems and trailers hauling vegetables and/or grain to main farm location and/or to plants.
- Workers will keep the inside and outside of the equipment clean, maintain accurate service records, and may drive trucks to haul tools and equipment for on-site (on-farm or off-farm) repair of agricultural equipment and machines.
- Fabricate new metal parts, using drill presses, engine lathes, and other machine tools.

### **SOC Assignment:**

Based on tasks and requirements listed in O\*NET OnLine, the SOC code is

- 49-3041 – Farm Equipment Mechanics and Service Technicians



# Additional AEWB Information

- For more information, see the new [H-2A Adverse Effect Wage Rates](#) resource on the FLAG website
- View OFLC's [Implementation FAQs](#) regarding the 2023 H-2A AEWB Final Rule
- View OFLC's H-2A [FAQ Round 2: AEWB Determination Guidance](#)

# H-2 Visa Programs

## Protecting Workers and Program Integrity



### ▶ Worker Rights Posters

**EMPLOYEE RIGHTS UNDER THE H-2A PROGRAM**  
THE UNITED STATES DEPARTMENT OF LABOR WAGE AND HOUR DIVISION

The Immigration and Nationality Act (INA) allows for the employment of temporary non-immigrant workers in agriculture (H-2A WORKERS) only if the employment of U.S. workers would not be adversely impacted. To ensure that U.S. workers are not adversely impacted, H-2A WORKERS employed on an H-2A work contract or by an H-2A employer in the same agricultural work as the H-2A workers have the following rights:

**DISCLOSURE**

- To receive accurate, **WRITTEN INFORMATION** about the wages, hours, working conditions, and benefits of the employment being offered
- To receive this information prior to getting a visa and no later than on the first day of work
- To receive this information in a language understood by the worker

**WAGES**

- To be **PAID** at least twice per month at the rate related in the work contract
- To be informed, in writing, of all **DEDUCTIONS** (not otherwise required by law) that will be made from the worker's paycheck
- To receive an itemized, written **STATEMENT OF EARNINGS** (pay stub) for each pay period
- To be guaranteed employment for at least **THREE-FOURTHS** (75%) of the total hours promised in the work contract

**TRANSPORTATION**

- To be provided or, upon completion of 50 percent of the work contract period, reimbursed for reasonable costs incurred for transportation and daily meals to the place of employment
- Upon completion of the work contract, to be provided or paid for return transportation and daily meals
- For workers living in employer-provided housing, to be provided **TRANSPORTATION**, at no cost to the worker, between the housing and the workplace
- All employer-provided transportation must meet applicable safety standards, be properly insured, and be operated by licensed drivers

**HOUSING**

- For any worker who is not reasonably able to return to his/her residence within the same day, to be provided **HOUSING AT NO COST**
- Employer-provided housing must meet applicable safety standards
- Workers who live in employer-provided housing must be offered three meals per day at no more than a DOL-specified cost, or provided free and convenient cooking and kitchen facilities

**ADDITIONAL PROVISIONS**

- To be provided state **WORKERS' COMPENSATION** insurance or its equivalent
- To be provided, at no cost, all **TOOLS, SUPPLIES, AND EQUIPMENT** required to perform the assigned duties
- To be **FREE FROM DISCRIMINATION** or discharge for filing a complaint, testifying, or exercising your rights in any way or helping others to do so
- Employers and their agents **MUST NOT** request or receive payment from any worker for any costs related to obtaining the H-2A certification (such as application and recruitment fees)
- Employers **MUST NOT** have sought H-2B workers during a strike or lockout at any of the employer's workplaces within the geographic area listed in the job order
- Employers **MUST NOT** place H-2B workers outside the geographic area(s) or the occupation listed in the job order
- Employers **MUST** display this poster where employees can readily see it
- Employers **MUST NOT** lay off or displace similarly employed U.S. workers within 120 days before the job order through the end of the job order
- Employers **MUST** hire any eligible U.S. worker who applies until 21 days before the start of the job order
- Employers **MUST** comply with all other applicable Federal, State, and local laws (including the prohibition against holding workers' passports or other immigration documents)

Workers who believe their rights under the program have been violated may file confidential complaints.

For additional information:  
**1-866-4-USWAGE**  
(1-866-487-9243) TTY: 1-877-889-5627  
**WWW.WAGEHOUR.DOL.GOV**

U.S. Department of Labor | Wage and Hour Division

**EMPLOYEE RIGHTS UNDER THE H-2B PROGRAM**  
THE UNITED STATES DEPARTMENT OF LABOR WAGE AND HOUR DIVISION

The Department of Labor (DOL) allows for the employment of temporary non-immigrant workers in non-agricultural labor or services (H-2B WORKERS) only if the employment of U.S. workers would not be adversely affected. Two types of workers have rights under this program:

- H-2B WORKERS** and
- OTHER WORKERS** performing substantially the same work indicated in the H-2B job order or substantially the same work as that performed by the H-2B workers, except for certain long-term existing employees and certain employees under a collective bargaining agreement or individual employment contract.

**DISCLOSURE**

- To receive accurate, **WRITTEN INFORMATION** about the wages, hours, working conditions, and benefits of the employment being offered
- To receive this information before getting a visa (in the case of H-2B workers outside the U.S.) but no later than the first day of work (for other workers)
- To receive this information in a language understood by the worker

**WAGES**

- To be **PAID** at least every two weeks at the rate indicated in the job order for all hours worked
- To be informed in writing of all **DEDUCTIONS** (not otherwise required by law) that will be made from the worker's paycheck
- To receive an itemized, written **STATEMENT OF EARNINGS** (pay stub) for each pay period
- To be guaranteed employment or payment for at least **THREE-FOURTHS** (75%) of the hours promised in the job order every 12-week period (or 6-week period for job orders under 120 days)

**TRANSPORTATION AND TRAVEL EXPENSES**

- To be provided or, upon completion of 50 percent of the job order period, reimbursed for reasonable costs incurred for transportation and subsistence (including lodging incurred in the employer's behalf and meals from the worker's home to the place of employment)
- H-2B workers must be provided or reimbursed for all visa, border-crossing, and visa-related fees in the first workweek of employment
- Upon completion of the job order or if dismissed early for any reason, to be provided or paid for return transportation and subsistence
- All employer-provided transportation must meet applicable safety standards
- To be provided, at no cost, all **TOOLS, SUPPLIES, AND EQUIPMENT** required to perform the assigned duties
- To be **FREE FROM DISCRIMINATION** or discharge for filing a complaint, testifying, or exercising your rights in any way or helping others to do so
- Employers and their agents **MUST NOT** request or receive payment from any worker for any costs related to obtaining the H-2B certification (such as application and recruitment fees)
- Employers **MUST NOT** have sought H-2B workers during a strike or lockout at any of the employer's workplaces within the geographic area listed in the job order
- Employers **MUST NOT** place H-2B workers outside the geographic area(s) or the occupation listed in the job order
- Employers **MUST** display this poster where employees can readily see it
- Employers **MUST NOT** lay off or displace similarly employed U.S. workers within 120 days before the job order through the end of the job order
- Employers **MUST** hire any eligible U.S. worker who applies until 21 days before the start of the job order
- Employers **MUST** comply with all other applicable Federal, State, and local laws (including the prohibition against holding workers' passports or other immigration documents)

Workers who believe their rights under the program have been violated may file confidential complaints.

For additional information:  
**1-866-4-USWAGE**  
(1-866-487-9243) TTY: 1-877-889-5627  
**WWW.DOL.GOV/WHD**

U.S. Department of Labor | Wage and Hour Division

### ▶ Worker Rights' Cards

**WHD** U.S. Department of Labor  
WAGE AND HOUR DIVISION

This card summarizes legal protections and requirements for H-2A workers.

**H-2A** For more information call toll-free: **1-866-4US-WAGE (1-866-487-9243)** or visit our website at **www.dol.gov/whd**

**Legal Protections for H-2A Workers**

Available in [English](#) and [Spanish](#)

**WHD** U.S. Department of Labor  
WAGE AND HOUR DIVISION

This card summarizes legal protections and requirements for H-2B workers.

**H-2B** For more information call toll-free: **1-866-4US-WAGE (1-866-487-9243)** or visit our website at **www.dol.gov/whd**

**Legal Protections for H-2B Workers**

Available in [English](#) and [Spanish](#)

- H-2A poster in English/Spanish/Haitian Creole at: <https://www.dol.gov/agencies/whd/agriculture/h2a>
- H-2B available in English and Spanish at: <https://www.dol.gov/agencies/whd/immigration/h2b>

# H-2 Visa Programs

## *Protecting Workers and Program Integrity*



### ▶ Reporting Violations of H-2 Labor Certifications

- File a complaint with the DOL Wage and Hour Division (WHD) by calling the toll-free helpline at **1-866-4US-WAGE (1-866-487-9243)**.
- Visit the WHD for more information at <http://www.dol.gov/agencies/whd>

### ▶ Reporting Violations of Discrimination Based on Immigration Status or Citizenship

- For questions about the anti-discrimination provisions of the INA, call the DOJ Immigrant and Employee Rights (IER) section using the toll-free helpline at **1-800-255-8155**.
- Visit the DOJ-IER to file a charge at <https://www.justice.gov/crt/filing-charge>

### ▶ Reporting Human Trafficking

- File a report with the National Human Trafficking Hotline (NHTH) by calling the toll-free helpline at **1-888-373-7888**.
- Visit the NHTH for more information at <https://humantraffickinghotline.org/>

### ▶ Reporting DOL Immigration Fraud or Program Abuse

- File a report with the DOL Office of Inspector General (OIG) by calling the helpline at **1-202-693-6999** or toll-free at **1-800-347-3756**.
- Visit the DOL-OIG to file a report at <https://www.oig.dol.gov/hotlinecontact.htm>

# How Can We Help You?



## ▶ FLAG System Support

- Contact Login.gov at <https://www.login.gov> for technical issues with account creation, signing in, or changing Login.gov settings.
- Contact DOL FLAG Helpdesk for any technical problems filing applications at <https://flag.dol.gov/support/contact>.

## ▶ H-2A/H-2B Program Support

- Contact the OFLC Program Helpdesk for any questions related to the processing of H-2A/H-2B applications at [tlc.chicago@dol.gov](mailto:tlc.chicago@dol.gov).

## ▶ OFLC Website

- “Subscribe” to receive program updates via e-mail at <https://www.dol.gov/agencies/eta/foreign-labor>.

