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Implementation and Wage Rates and Housing Cost Adjustment

Any job orders for non-range job opportunities submitted to the OFLC National Processing Center (NPC) in connection with an Application for Temporary Employment Certification for H-2A workers before the effective date of the IFR will be processed using the 2010 H-2A Final Rule methodology, under which the AEW for all non-range H-2A job opportunities is equal to the annual average hourly gross wage rate for field and livestock workers (combined) in the State or region as reported by FLS. That means employers must pay the wage rate listed in a currently certified job order to all H-2A workers and all workers in corresponding employment for the duration of the work contract period provided it is still higher than the applicable AEW published under the IFR.

The methodology established by the IFR, applies to any job orders for non-range job opportunities submitted to the NPC in connection with an Application for Temporary Employment Certification, as set forth in 20 CFR 655.121, on and after the effective date of the IFR, including job orders filed concurrently with an Application for Temporary Employment Certification to the NPC for emergency situations under 20 CFR 655.134.

Table—Statewide Hourly AEWs Determined Under § 655.120 (b)(1)(i) and Compensation Adjustment for H-2A Workers ONLY			
State	Skill Level I (Entry-Level)	Skill Level II (Experience-Level)	H-2A Adverse Compensation Adjustment
Alabama	\$11.25	\$14.95	- \$1.20
Alaska	\$14.79	\$20.01	- \$1.90
Arizona	\$15.32	\$18.01	- \$2.10
Arkansas	\$13.40	\$16.18	- \$1.13
California	\$16.45	\$18.71	- \$3.00
Colorado	\$16.28	\$20.02	- \$2.18
Connecticut	\$15.93	\$18.20	- \$2.06
Delaware	\$14.61	\$19.63	- \$1.85
District of Columbia	\$17.47	\$23.80	- \$2.64
Florida	\$12.47	\$15.06	- \$2.29
Georgia	\$12.27	\$16.22	- \$1.75

Guam	\$9.70	\$10.89	- \$2.35
Hawaii	\$14.36	\$18.49	- \$3.18
Idaho	\$12.92	\$17.07	- \$1.84
Illinois	\$15.48	\$18.75	- \$1.79
Indiana	\$14.93	\$19.22	- \$1.27
Iowa	\$14.20	\$18.87	- \$1.15
Kansas	\$12.69	\$18.14	- \$1.26
Kentucky	\$13.94	\$17.99	- \$1.24
Louisiana	\$9.59	\$14.84	- \$1.35
Maine	\$14.81	\$18.95	- \$1.60
Maryland	\$15.35	\$18.21	- \$2.31
Massachusetts	\$15.29	\$17.57	- \$2.42
Michigan	\$13.78	\$17.47	- \$1.32
Minnesota	\$14.60	\$19.33	- \$1.68
Mississippi	\$9.74	\$14.92	- \$1.15
Missouri	\$14.56	\$18.74	- \$1.28
Montana	\$13.03	\$18.48	- \$1.80
Nebraska	\$14.20	\$19.26	- \$1.24
Nevada	\$14.54	\$18.40	- \$2.15
New Hampshire	\$13.99	\$16.14	- \$1.96
New Jersey	\$16.05	\$19.41	- \$2.28
New Mexico	\$12.51	\$16.20	- \$1.44
New York	\$15.68	\$18.75	- \$2.40
North Carolina	\$12.78	\$16.39	- \$1.69
North Dakota	\$12.31	\$18.98	- \$1.27
Ohio	\$14.38	\$18.11	- \$1.23
Oklahoma	\$11.27	\$16.01	- \$1.22
Oregon	\$15.25	\$17.62	- \$2.11
Pennsylvania	\$13.88	\$17.99	- \$1.52

Puerto Rico	\$9.50	\$10.37	- \$0.71
Rhode Island	\$14.15	\$17.17	- \$1.87
South Carolina	\$12.14	\$15.92	- \$1.54
South Dakota	\$13.19	\$17.48	- \$1.20
Tennessee	\$12.44	\$16.64	- \$1.60
Texas	\$11.81	\$15.67	- \$1.84
Utah	\$12.48	\$16.86	- \$1.84
Vermont	\$15.96	\$19.23	- \$1.61
Virgin Islands	\$10.98	\$14.34	- \$1.59
Virginia	\$13.90	\$18.40	- \$2.08
Washington	\$16.53	\$19.00	- \$2.49
West Virginia	\$12.00	\$16.15	- \$1.12
Wisconsin	\$13.29	\$18.22	- \$1.29
Wyoming	\$11.34	\$17.23	- \$1.32

Additionally, in the May 2026 data collection of the BLS OEWS survey the Department is including on-farm wages. The traditional argument against the OEWS was that it only surveys non-farm occupations, to include only farm labor contractors under the 45-2092 SOC code. However, with the OEWS now surveying on-farm operations it becomes the most comprehensive survey available. Also, because the FLS surveyed the gross hourly wages of farms to include overtime and bonus payments it grossly inflated the wage. The OEWS, on the other hand, has traditionally surveyed the gross wage, not including incentive payments, of EACH worker in the SOC code at the location. So, the FLS traditionally asked the farmer for the total wages and hours worked, while the OEWS surveys the actual wages of each worker without incentive pay included within the SOC code.

Explanation of Two Wage Level System

The Level I “entry level” represents the mean of the lower one-third of workers in a given occupational wage distribution, and the Level III “experienced” represents the mean of all workers in a given occupational wage distribution, which is a computation that has been used to set AEWs in the H-2A program for many decades.

Because the statute uniquely mandates that qualifications contained in an employer's job offer must be "normal and accepted qualifications required by non-H-2A-employers in the same or comparable occupations and crops," a Level III wage will continue to provide the most reasonable computation of the AEWRs in circumstances where the employer's desired qualifications align with what is normally required for a given occupation based on the O*NET system. Having additional qualifications over the Level I wage, such as additional experience requirements (which is generally less than 3 months) will result in a Level III wage. The Level III wage level will now be considered the "Level II" wage level for purposes of the H-2A program. However, the IFR assumes that the vast majority of applications will be certified with Level I wages, unless additional experience is required such as being able to determine when first pick is ready to harvest, generally more than 3 months of experience on farm, certifications for pesticides, or if additional supervisory requirements are included.

Majority Duties Performed on the Majority of Workdays During the Contract

The IFR adopts a "majority duties on the majority of workdays" test to set the wage for H-2A jobs that involve multiple tasks. Instead of defaulting to the highest wage tied to any listed duty, the Department now looks at which duties are performed more than half the workdays across the contract period. That occupation determines the wage classification, with the skill level based on the qualifications required in the job order. Because the measure is based on workdays, a day counts toward the primary duty even if other tasks are performed for part of it. If duties are split evenly, DOL may assign the higher wage. Employers should describe duties carefully in job orders and avoid overstating occasional tasks, since the majority duty will drive the applicable AEWR. So, if it is described in the job order that half the time workers will be hand harvesting and the other half they will be delivering the harvest to market or storage, that may get coded with a non-FLS job code such as heavy tractor trailer.

Other than the Big "5/6" SOC Codes

For FY 2024, the Department issued labor certifications across more than 60 different SOC codes containing a wide array of qualifications ranging from crop and nursery work to supervisors, animal trainers, equipment mechanics and technicians, heavy truck drivers, and commercial pilots. The Department is clarifying that it will deeper dive into O*NET and the duties of each SOC code. The Department expects much greater detail in job orders about the equipment, training, and credentialing required for the job. They give several examples from pages 96 to 106 in the IFR, with extensive detail of what is in the Big "5/6" SOC codes, but also in other SOC codes such as construction and heavy tractor trailer driving, and how certain things in a job order can move you out of the Big "5/6" SOC codes regardless of the majority duties test. Additionally, the IFR is removing SOC code 45-2099, All Other Agricultural Workers from the list of SOC codes to use the "combined" SOC code wage. There reasoning was that there was not enough information on O*NET in SOC code 45-2099, All Other Agricultural Workers to provide meaningful guidance, so it is now the Big 5. The Department still intends to issue non-Big 5 SOC codes such as construction, first line supervisor, farm mechanic, etc. This will follow the same skill level methodology.

Housing Credit

The Department is proposing to include to a compensation deduction for those H-2A workers living in employer provided housing. The deduction is done by state and is set annually, the current deduction ranges \$0.71 to \$3.00 per hour. This deduction appears to be taken as a straight approved deduction of the actual wage paid to the H-2A worker living in employer housing. If the worker decides to live in other housing the deduction is not allowed to be taken, and the employer must pay the full AEWR at the time.