

In accordance with §§ 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the investigation must be served on all other parties to the investigation (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

*Authority:* This investigation is being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to § 207.21 of the Commission's rules.

By order of the Commission.

Issued: February 18, 2021.

**Lisa Barton,**

*Secretary to the Commission.*

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## DEPARTMENT OF LABOR

### Employment and Training Administration

#### Labor Certification Process for the Temporary Employment of Aliens in Agriculture in the United States: 2021 Adverse Effect Wage Rates for Non-Range Occupations

**AGENCY:** Employment and Training Administration (ETA), Labor.

**ACTION:** Notice.

**SUMMARY:** The Employment and Training Administration (ETA) of the Department of Labor (Department) is issuing this notice to announce the 2021 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 the Department has determined must be offered and paid by employers to H-2A workers and workers in corresponding employment for a particular occupation and area so that the wages and working conditions of similarly employed workers in the United States will not be adversely affected. In this notice, the Department announces updates of the AEWRs, which are effective immediately pursuant to a recent federal court order. Supplemental Order Regarding Preliminary Injunctive Relief, *United Farm Workers, et al. v. U.S. Dep't of Labor, et al.*, No. 20-cv-1690 (E.D. Cal. Jan. 12, 2021), ECF No. 39.

**DATES:** These rates are applicable February 23, 2021.

**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). Individuals with hearing or speech impairments may access the telephone numbers above via TTY/TDD by calling the toll-free Federal Information Relay Service at 1 (877) 889-5627.

**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 United States unless the petitioner has received an H-2A labor certification from the Department. 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 United States similarly employed. 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.

#### Adverse Effect Wage Rates for 2021

The Department's 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: (i) The AEWR; (ii) the prevailing hourly wage rate; (iii) the prevailing piece rate; (iv) the agreed-upon collective bargaining wage rate; or (v) the federal or state minimum wage rate in effect at the time the work is performed. Further, when the AEWR is adjusted during a work contract and is higher than the highest of the previous AEWR, the prevailing rate, the agreed-upon collective bargaining wage, the Federal minimum wage rate, or the state minimum wage rate, the employer must pay that adjusted AEWR upon the effective date of the new rate, as provided in the applicable **Federal Register Notice**. See 20 CFR 655.122(l) (requiring the applicable AEWR or other wage rate to be paid based on the AEWR or rate in effect "at the time work is performed").

On November 5, 2020, the Department published a final rule, *Adverse Effect Wage Rate Methodology for the*

*Temporary Employment of H-2A Nonimmigrants in Non-Range Occupations in the United States*, 85 FR 70445 (2020 AEWR final rule), to establish a new methodology for setting hourly AEWRs, effective December 21, 2020. On December 23, 2020, the U.S. District Court for the Eastern District of California issued an order enjoining the Department from implementing the 2020 AEWR final rule and ordering the Department to operate under the 2010 rule, *Temporary Agricultural Employment of H-2A Aliens in the United States*, 75 FR 6884 (Feb. 12, 2010). Order Granting Plaintiffs' Motion for a Preliminary Injunction, *United Farm Workers, et al. v. U.S. Dep't of Labor, et al.*, No. 20-cv-1690 (E.D. Cal.), ECF No. 37. On January 12, 2021, the district court issued a supplemental order requiring the Department to publish the AEWRs for 2021 in the **Federal Register** on or before February 25, 2021, using the methodology set forth in the 2010 rule, and to make those AEWRs effective upon their publication. Supplemental Order Regarding Preliminary Injunctive Relief, *United Farm Workers, et al. v. U.S. Dep't of Labor, et al.*, No. 20-cv-1690 (E.D. Cal.), ECF No. 39. Pursuant to the district court's supplemental order, the Department notified state workforce agencies (SWAs), employers, and the general public that the AEWRs in effect on December 20, 2020, remained in effect during the interim period until the Department published this update of the AEWRs for 2021 in the **Federal Register**. See, e.g., Announcements, *OFLC Announces Updates to Implementation of the H-2A Adverse Effect Wage Rate Methodology for Non-Range Occupations Final Rule; Compliance with District Court Order* (Jan. 15, 2021), available at <https://www.dol.gov/agencies/eta/foreign-labor/news>. As reflected in the Department's announcement on the OFLC website at <https://www.dol.gov/agencies/eta/foreign-labor/news>, the district court's supplemental order also reserved decision on whether an award of backpay to affected H-2A workers may be warranted based on the difference, if any, between the applicable 2020 AEWRs and the 2021 AEWRs announced in this notice.

Accordingly, the 2021 AEWRs for all agricultural employment (except for the herding or production of livestock on the range, which is covered by 20 CFR 655.200-235) for which temporary H-2A certification is being sought is equal to the annual weighted average hourly wage rate for field and livestock workers (combined) in the state or region as

published by the U.S. Department of Agriculture (USDA) in the 2020 Farm Labor Report on February 11, 2021.

The 2021 AEWRs to be paid for agricultural work performed by H-2A and U.S. workers on and after the effective date of this notice are set forth in the table below:

TABLE—2021 ADVERSE EFFECT WAGE RATES

State	2021 AEWRs
Alabama	\$11.81
Arizona	13.67
Arkansas	11.88
California	16.05
Colorado	14.82
Connecticut	14.99
Delaware	14.05
Florida	12.08
Georgia	11.81
Hawaii	15.56
Idaho	14.55
Illinois	15.31
Indiana	15.31
Iowa	15.37
Kansas	15.89
Kentucky	12.96
Louisiana	11.88
Maine	14.99
Maryland	14.05
Massachusetts	14.99
Michigan	14.72
Minnesota	14.72
Mississippi	11.88
Missouri	15.37
Montana	14.55
Nebraska	15.89
Nevada	14.82
New Hampshire	14.99
New Jersey	14.05
New Mexico	13.67
New York	14.99
North Carolina	13.15
North Dakota	15.89
Ohio	15.31
Oklahoma	13.03
Oregon	16.34
Pennsylvania	14.05

TABLE—2021 ADVERSE EFFECT WAGE RATES—Continued

State	2021 AEWRs
Rhode Island	14.99
South Carolina	11.81
South Dakota	15.89
Tennessee	12.96
Texas	13.03
Utah	14.82
Vermont	14.99
Virginia	13.15
Washington	16.34
West Virginia	12.96
Wisconsin	14.72
Wyoming	14.55

Dated: February 18, 2021.

Milton A. Stewart,

Acting Secretary of Labor.

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DEPARTMENT OF LABOR

Occupational Safety and Health Administration

Agency Information Collection Activities: Announcement of the Office of Management and Budget (OMB) Control Numbers Under the Paperwork Reduction Act

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Notice; announcement of the Office of Management and Budget's (OMB) approval of information collection requirements.

SUMMARY: The Occupational Safety and Health Administration (OSHA) announces that OMB extended approval for information collection requirements found in OSHA's standards and its regulations on the Student Data Form

and Conflict of Interest and Disclosure Form outlined in this notice. OSHA sought approval of these requirements under the Paperwork Reduction Act of 1995 (PRA), and, as required by that Act, is announcing the approval numbers and expiration dates for these requirements and regulations.

DATES: Applicable February 23, 2021.

FOR FURTHER INFORMATION CONTACT:

Seleda Perryman or Theda Kenney, Directorate of Standards and Guidance, OSHA, U.S. Department of Labor, telephone (202) 693-2222.

SUPPLEMENTARY INFORMATION: In a series of Federal Register notices, the agency provided 60-day comment periods for the public to respond to OSHA's burden hour and cost estimates. The various information collection (paperwork) requirements in the safety and health standards pertain to general industry, construction, shipyards and maritime (i.e., 29 CFR parts 1910, 1915, and 1926), and its regulations on the OSHA Student Data Form and OSHA's Conflict of Interest and Disclosure Form.

In accordance with the PRA (44 U.S.C. 3501-3520), OMB approved these information collection requirements. The table provides the following information for each of these requirements approved by OMB: The title of the Federal Register notice; the Federal Register citation (date, volume, and leading page); OSHA docket number; OMB's Control Number; and the new expiration date.

In accordance with 5 CFR 1320.5(b), an agency cannot conduct, sponsor, or require a response to a collection of information unless the collection displays a valid OMB control number and the agency informs respondents that they need not respond to the collection of information.

Title of the information collection request	Date of Federal Register publication, Federal Register citation, and OSHA Docket No.	OMB control No.	Expiration date
1,3-Butadiene Standard (29 CFR 1910.1051)	December 27, 2019, 84 FR 71477, Docket No. OSHA-2012-0027.	1218-0170	07/31/2023
4,4'-Methylenedianiline for General Industry (29 CFR 1910.1050).	November 12, 2019, 84 FR 61077, Docket No. OSHA-2012-0040.	1218-0184	07/31/3023
Access to Employee Exposure and Medical Records (29 CFR 1910.1020).	February 2, 2020, 85 FR 6580, Docket No. OSHA-2009-0043.	1218-0065	10/31/2023
Aerial Lifts Standard (29 CFR 1926.453)	February 26, 2020, 85 FR 11110, Docket No. OSHA-2009-0045.	1218-0216	10/31/2023
Asbestos in General Industry Standard (29 CFR 1910.1001).	February 6, 2020, 85 FR 6979, Docket No. OSHA-2010-0018.	1218-0133	07/31/2023
Asbestos in Shipyards Standard (29 CFR 1915.1001)	November 29, 2019, 84 FR 65849, Docket No. OSHA-2012-0009.	1218-0195	07/31/2023
Benzene (29 CFR 1910.1028)	November 29, 2019, 84 FR 65848, Docket No. OSHA-2013-0008.	1218-0129	07/31/2023
Cadmium in Construction Standard (29 CFR 1926.1127).	November 29, 2019, 84 FR 65844, Docket No. OSHA-2012-0004.	1218-0186	06/30/2023
Construction Fall Protection Systems Criteria, Practices, and Training Requirements.	February 26, 2020, 85 FR 11118, Docket No. OSHA-2010-0008.	1218-0197	10/31/2023