

Announcements

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Calendar Year 2020

- January 5, 2021. OFLC Conducts Randomization Process on H-2B Applications Submitted Requesting an April 1, 2021, Work Start Date**

The Office of Foreign Labor Certification has completed the [randomization process](#) to randomly assign all H-2B applications submitted during the initial three-day filing window, January 1-3, 2021, requesting an April 1, 2021, work start date for the second half of the Fiscal Year 2021 H-2B statutory visa cap.

OFLC received a total of 5,377 H-2B applications requesting 96,641 worker positions during this filing period.

OFLC will be providing written notification to employers (and the employer's authorized attorney or agent) with their H-2B Assignment Group. On January 7,

2021, OFLC will also publish on its website the list of the H-2B applications assigned to each Assignment Group.

- **December 24, 2020. 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**

On December 23, 2020, the U.S. District Court for the Eastern District of California issued an order in *United Farm Workers, et al. v. DOL, et al.*, No. 20-cv-01690, enjoining the Department of Labor from implementing the Final Rule, *Adverse Effect Wage Rate Methodology for the Temporary Employment of H-2A Nonimmigrants in Non-Range Occupations in the United States* (H-2A AEWR FR), 85 FR 70445 (Nov. 5, 2020). The court's order prevents the Department from further implementing the H-2A AEWR FR, which took effect on December 21, 2020, and ordered the Department to use the methodology established by the Department's 2010 H-2A regulation to establish the hourly AEWRs for all non-range occupations.

Effective immediately, and until further notice, H-2A job orders filed with the State Workforce Agency serving the area of intended employment, as set forth in [20 CFR 655.121](#), on or after December 21, 2020, including job orders filed concurrently with an *Application for Temporary Employment Certification* to the OFLC National Processing Center for emergency situations under [20 CFR 655.134](#), must use the AEWRs in effect on December 20, 2020.

- **December 16, 2020. OFLC Announces H-2B Application Filing Timelines for 2021 Peak Filing Season**

The Office of Foreign Labor Certification (OFLC) reminds employers and other interested stakeholders that the filing window to submit an H-2B *Application for Temporary Employment Certification* (Form ETA-9142B and appendices) requesting work start dates of April 1, 2021, or later, **will open on January 1, 2021, at 12:00 a.m. Eastern Time.**

Following OFLC's standard operating procedures, H-2B applications requesting an April 1, 2021, work start date **will be denied if they are filed before January 1, 2021, at 12:00 a.m. Eastern Time.**

OFLC will randomly order for processing all H-2B applications requesting a work start date of April 1, 2021, that are filed during the initial three calendar days (January 1-3, 2021) using the [randomization procedures](#) published in the Federal Register on March 4, 2019. Each day, from January 2, 2021 through January 4, 2021, OFLC will publish on the [Foreign Labor Application Gateway System](#) website the number of H-2B applications it has received to date and the total number of requested worker positions on those applications.

- **December 15, 2020. The Department of Labor Publishes New 2021 H-2A Monthly Adverse Effect Wage Rate (AEWR) for Herding or Production of Livestock on the Range**

The Department of Labor (DOL) has published a notice in the *Federal Register* announcing the new AEWR for herding or production of livestock on the range for the H-2A Program. The AEWR is the minimum wage rate DOL has determined must be offered and paid by employers to H-2A workers and workers in corresponding employment, so that the wages of similarly employed U.S. workers will not be adversely affected. The notice announces the new national monthly AEWR for herding or production of livestock on the range.

- [View the *Federal Register* notice announcing the 2021 AEWR for herding or production of livestock on the range.](#)

- [View the AEWR page for the new rate for herding or production of](#)
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