



H-2A Agricultural Worker Program

GAP Connections Training – Raleigh, NC

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

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Department of Labor

Overview of the Immigration Process



- ▶ Immigration and Nationality Act (INA) regulates the admission of foreign nationals into the U.S.
- ▶ Secretaries of Homeland Security (DHS) and State (DOS) designated as principal administrators of the INA.
- ▶ Several types of employment-based visas require employers to first obtain a labor certification from the Secretary of Labor (DOL).
- ▶ DOL plays a statutory role in certifying to DHS and DOS that:
 1. There are not sufficient qualified U.S. workers who are available for the job; and
 2. Employment of the foreign worker will not adversely affect the wages and working conditions of U.S. workers similarly employed.

STEP 1



Obtain a labor certification from **DOL**

- Generally, requires conducting a labor market test with the State Workforce Agency (SWA) where work will be performed.

STEP 2



Obtain an approved petition from **DHS** for a specific worker or number of workers in the visa classification.

STEP 3



After receiving DHS petition approval, the employer typically engages foreign labor recruiters and the worker(s) apply with a **DOS** consulate abroad for a visa.

STEP 4



After receiving the visa from a DOS consulate, workers arrive at a port of entry where **DHS's Customs and Border Protection** verifies eligibility for admission and length of stay.

Department of Labor

Office of Foreign Labor Certification - Overview



- ▶ OFLC *electronically* processes labor certification applications through the Foreign Labor Application Gateway (FLAG) at <https://flag.dol.gov> and the PERM Case Management System at <https://www.plc.doleta.gov>.
- ▶ OFLC programs are administered through National Processing Centers and divided, by visa classification, into two major types:

Immigrant

Permanent (PERM) Program
“Green Card”

Immigrant and Non-Immigrant

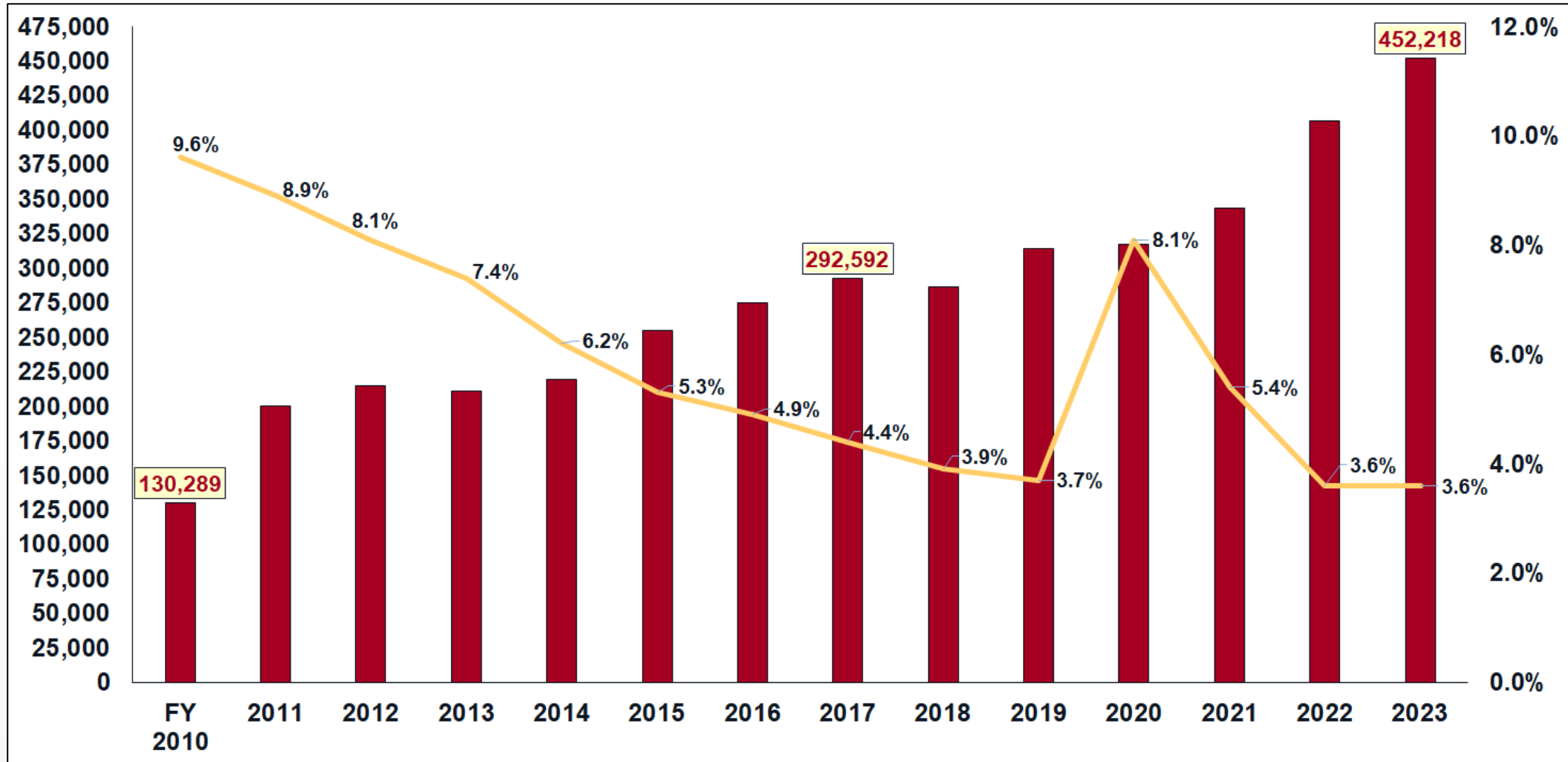
Prevailing Wage Determination

Non-Immigrant

H-1B, H-1B1, E-3 Skilled Occupations Visas
H-2A Temporary Agricultural Visa
H-2B Temporary Non-Agricultural Visa
CW-1 Temporary Non-Immigrant CNMI

Department of Labor

OFLC Labor Certification Workload Trends, FY 2010 – 2023



Important Note: Excludes H-1B, H-1B1, and E-3 programs (averaging 500,000 to 600,000 applications annually over last 5 years) because those visas do not require a labor certification.

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H-2A Agricultural Visa Program

General Overview of Labor Certification Process



- **Step 1**: Employer submits a job order to the State Workforce Agency (SWA) where work will be performed to initiate state recruitment (60 – 75 days before work starts)
- **Step 2**: Employer submits H-2A application & supporting documentation to DOL for review (no less than 45 days before work starts)
- **Step 3**: If approved, employer conducts additional recruitment for U.S. workers and DOL posts job on seasonaljobs.dol.gov/jobs (generally, 5 – 7 days after application filed)
- **Step 4**: Employer submits a report of recruitment efforts and any other required documentation to DOL for final review
- **Step 5**: DOL issues a final determination to certify or deny the H-2A/H-2B application (No later than 30 days before works starts)

Electronic Filing/Processing Mandatory!

Except in limited circumstances, OFLC requires electronic filing and processing services through the Foreign Labor Application Gateway (FLAG) system at <https://flag.dol.gov/>

H-2A Agricultural Visa Program

FY 2023 Workload Statistics and Historical Trends

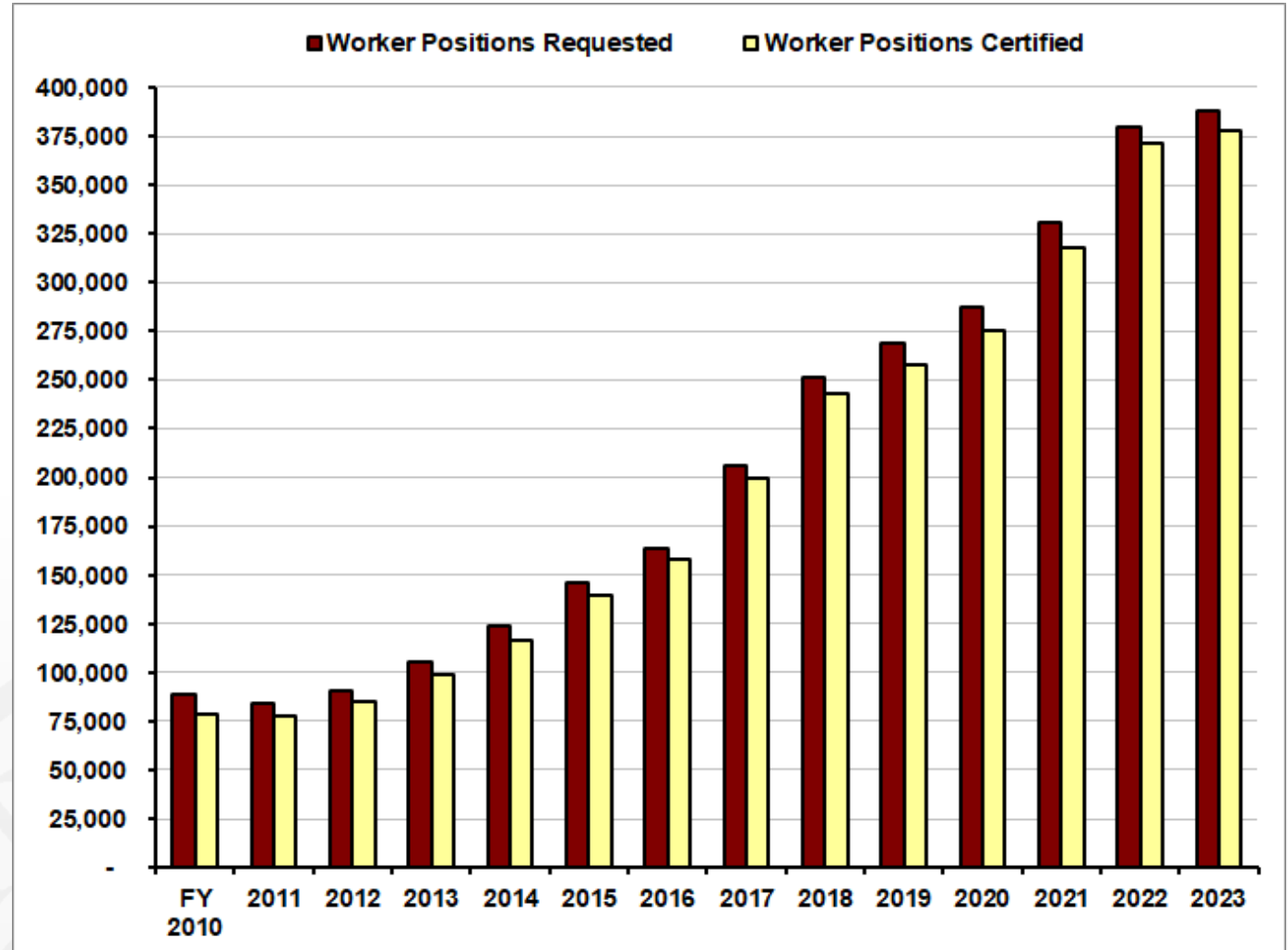


► FY 2023 Workload Statistics

- 21,018 applications received
(+ 1,982 over FY22)
- 98% certification rate
- 378,500 workers certified
(+ 7,000 over FY22)
 - 55% Farms/ranches
 - 42% H-2A labor contractors
 - 3% Ag Associations

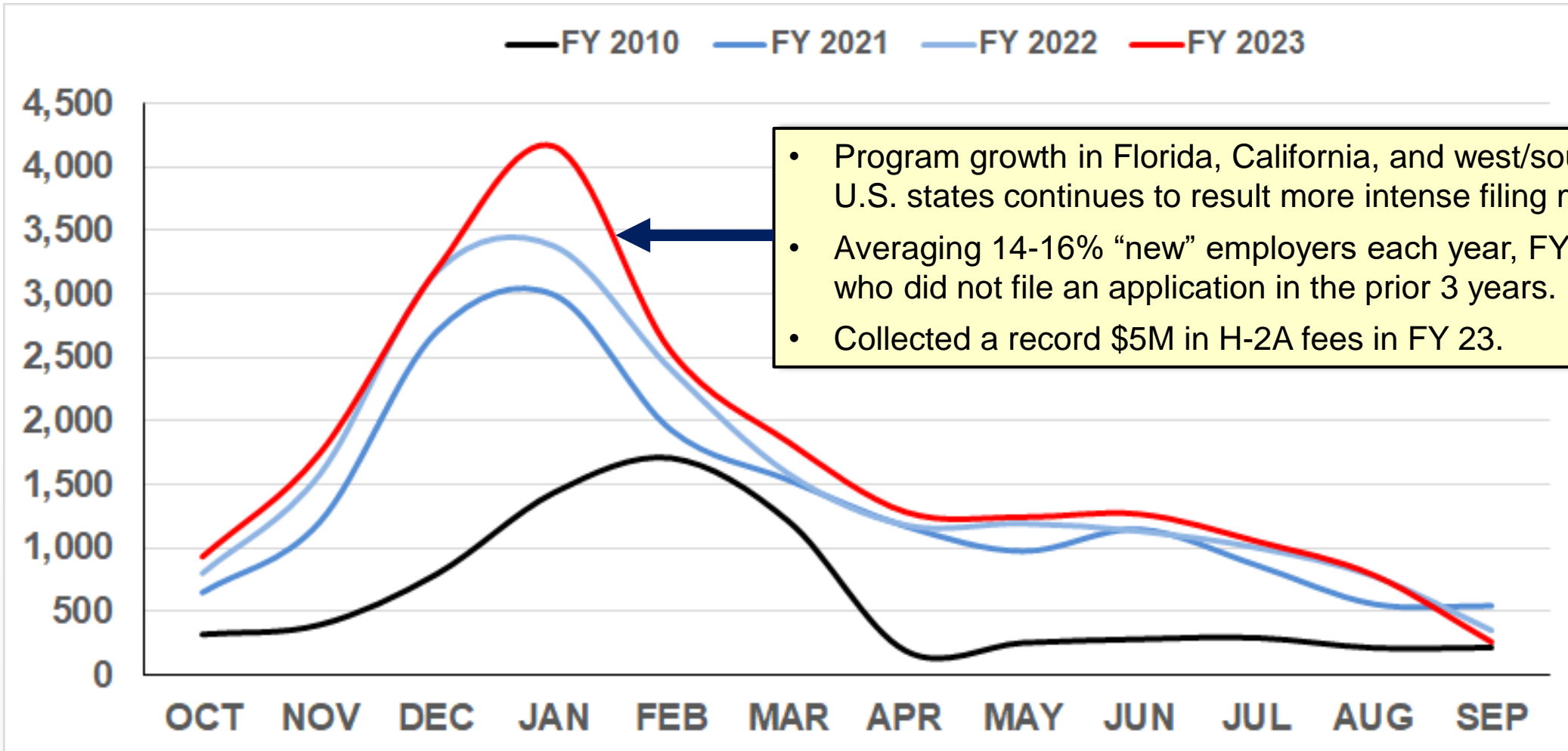
► Top 5 States of Employment

	<u>FY 2010</u>	<u>FY 2023</u>
Florida	4,542	51,987
California	2,839	40,758
Georgia	4,874	37,536
Washington	4,248	35,680
North Carolina	18,299	25,146



H-2A Agricultural Visa Program

Historical Trends in Monthly Applications Received



- Program growth in Florida, California, and west/southwest U.S. states continues to result more intense filing months.
- Averaging 14-16% “new” employers each year, FY 20-23, who did not file an application in the prior 3 years.
- Collected a record \$5M in H-2A fees in FY 23.

H-2A Agricultural Visa Program

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 effect 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)?

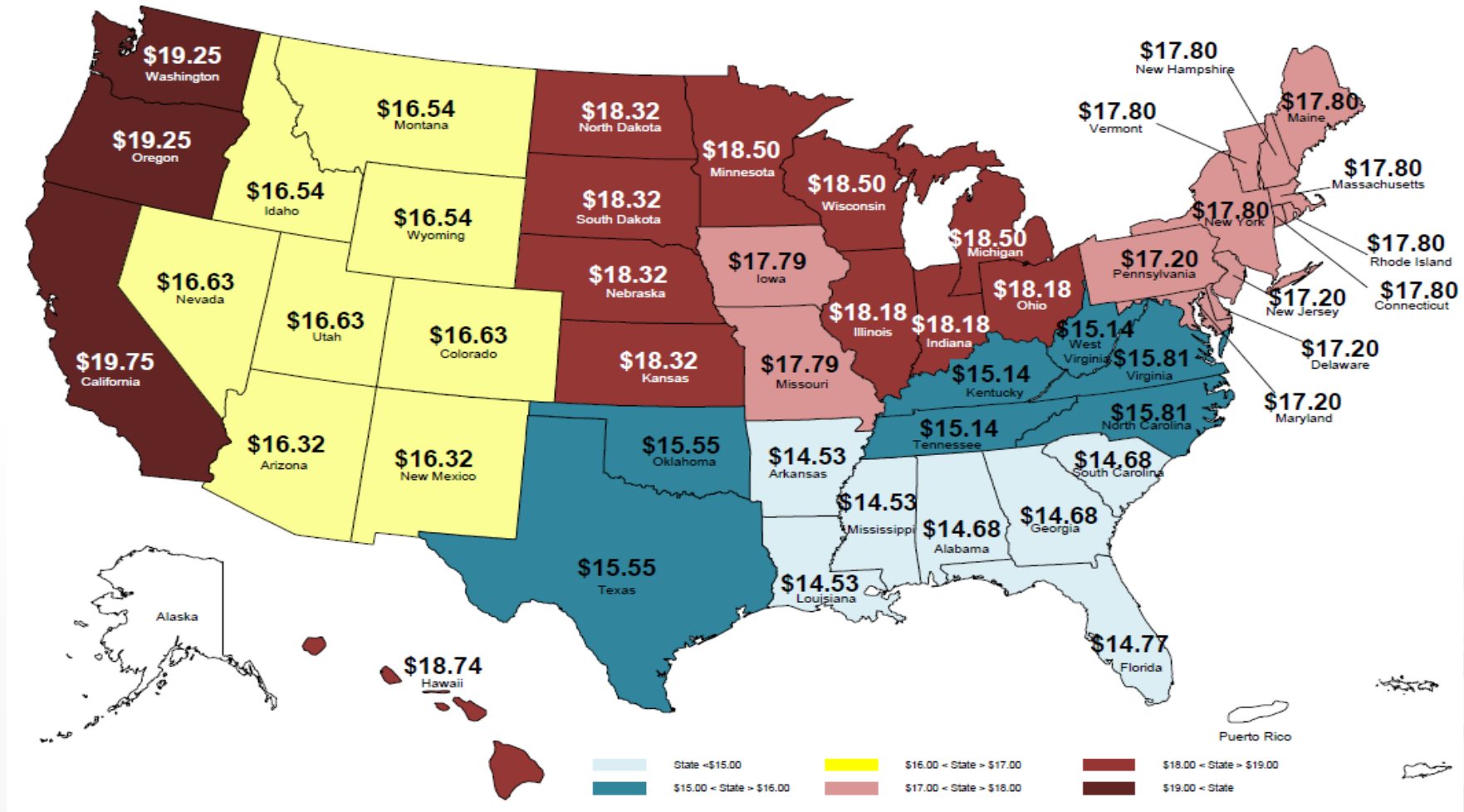
- A unique prevailing wage rate required of employers seeking to employ temporary foreign workers under the H-2A visa classification.

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.

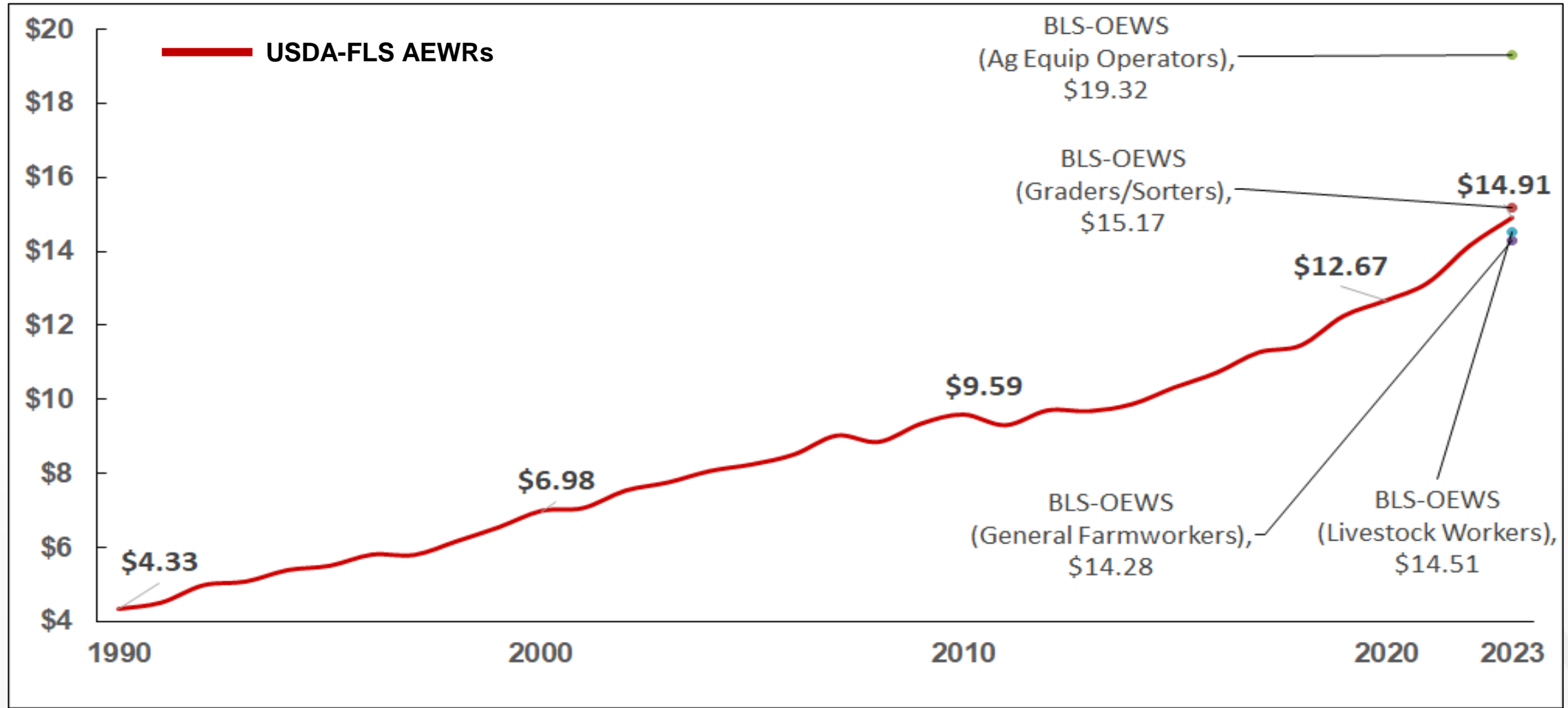
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NEW 2024 USDA-FLS AEWRs – Effective January 1, 2024



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USDA-FLS AEW R Trends vs. 2023 BLS-OEWS Data for NC



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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 1st

▶ 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 1st

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

H-2A Agricultural Visa Program

2023 H-2A AEWB Rule – National Impacts (as of 1.28.2024)



State of Employment	H-2A Applications	Workers Requested	Workers Certified	% Jobs Certified USDA-FLS	Jobs Certified BLS-OEWS AEWB		
					Most Common Job	Jobs Certified	Average Wage Offer
FLORIDA	862	44,534	38,692	97%	Heavy Truck Drivers	420	\$23.89
GEORGIA	521	23,635	13,467	99%	Shuttle/Van Drivers	49	\$14.64
CALIFORNIA	715	22,204	16,876	97%	Shuttle/Van Drivers	233	\$19.54
WASHINGTON	264	19,148	17,406	98%	Veg Pesticide Sprayers/Applicators	124	\$23.71
NORTH CAROLINA	423	12,309	8,495	99%	Bus Drivers	13	\$17.85
LOUISIANA	1,285	12,179	9,832	86%	Heavy Truck Drivers	1324	\$23.07
MICHIGAN	411	11,090	9,845	99%	Heavy Truck Drivers	36	\$25.09
TEXAS	1,137	11,072	8,283	94%	Heavy Truck Drivers	309	\$23.82
ARIZONA	197	10,002	9,805	97%	Heavy Truck Drivers	119	\$24.72
NEW YORK	639	8,627	7,337	99%	Helpers - Maintenance/Repair Workers	32	\$20.76
All Other States	10,704	98,781	77,486	96%	Heavy Truck Drivers	929	\$25.22
TOTALS	17,158	273,581	217,524	97%			

H-2A Agricultural Visa Program

2023 H-2A AEWB Rule – Impacts in North Carolina (as of 1.28.2024)



- ▶ Of 298 H-2A certifications issued, 99.5% (8,452 jobs) received USDA FLS-Based AEWBs

Jobs Certified for Work in North Carolina Based on DOL BLS-OEWS Wages

SOC CODE	OCCUPATIONAL TITLE	PRIMARY WORK COUNTY	H-2A JOB ORDERS CERTIFIED	WORKERS CERTIFIED	AVERAGE WAGE OFFER (P/HOUR)
53-3052	Bus Drivers	Bladen, Duplin, Henderson, Pender, Sampson	7	13	\$17.85
53-3053	Shuttle Drivers and Chauffeurs	Edgecombe, Sampson	3	12	\$15.51
53-3032	Heavy Tractor-Trailer Truck Drivers	Cabarrus, Johnston	2	7	\$24.49
49-9098	Helpers-- Maintenance and Repair Workers	Duplin, Wilson	2	6	\$15.86
45-1011	First-Line Supervisor of Farmworkers	Ashe, Sampson, Washington	4	5	\$28.67
TOTALS			18	43	\$20.38

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2023 H-2A AEWB Rule – *Current AEWB Sample Jobs from NC*



▶ USDA FLS-Based AEWB

- **\$15.81** p/hour applies to the following:
 - 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

▶ USDOL BLS OEWS-Based AEWB

- Applies to jobs such as the following:
 - 53-3053: Shuttle Drivers/Chauffeurs
\$14.00 p/hour
 - 53-3052: Bus Drivers
\$17.85 p/hour
 - 53-3032: Heavy Truck/Tractor Trailer Drivers
\$24.49 p/hour
 - 49-9098: Helpers – Maintenance/Repair
\$15.86 p/hour
 - 49-3041: Farm Equipment Mechanics
\$23.69 p/hour
 - 45-1011: Supervisor of Farmworkers
\$29.36 p/hour

Next Update for USDA FLS AEWB: January 1, 2025

Next Update for USDOL OEWS AEWB: July 1, 2024

H-2A Agricultural Visa Program

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

H-2A Agricultural Visa Program

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).

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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

H-2A Agricultural Visa Program

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

H-2A Agricultural Visa Program

2023 H-2A AEWB 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

H-2A Agricultural Visa Program

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

H-2A Agricultural Visa Program

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.**

H-2A Agricultural Visa Program

2023 H-2A AEWB 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

H-2A Agricultural Visa Program

2023 H-2A AEWB 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.**

H-2A Agricultural Visa Program

2023 H-2A AEWB 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.

H-2A Agricultural Visa Program

2023 H-2A AEWB 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.

H-2A Agricultural Visa Program

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

H-2A Agricultural Visa Program

2023 H-2A AEWB 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

H-2A Agricultural Visa Program

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.

H-2A Agricultural Visa Program

Occupational Network (O*NET) <https://www.onetcenter.org>



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.

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 and OTHER 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 indicated 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 worksite
- 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** 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 or the occupation listed in the job order
- Employers **MUST** display this poster where employees can readily see it
- Employer **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) Division of Wage and Hour (WHD) enforces the Immigration and Nationality Act (INA) and the Department of Homeland Security (DHS) regulations that allow for the employment of temporary non-immigrant workers in non-agricultural work (H-2B 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-2B WORKERS and OTHER WORKERS employed on an H-2B work contract or by an H-2B employer in the same non-agricultural work as the H-2B 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 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 on 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, ticket, consular, 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** 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 or the occupation listed in the job order
- Employers **MUST** display this poster where employees can readily see it
- Employer **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.

▶ OFLC Website

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

