

APPENDIX—Continued

[18 TAA petitions instituted between 11/12/12 and 11/16/12]

TA-W	Subject Firm (Petitioners)	Location	Date of institution	Date of petition
82160 .....	Redman Card Clothing Company (State/One-Stop).	Andover, MA .....	11/16/12	11/15/12
82161 .....	Remington Medical Inc. (Workers) .....	Alpharetta, GA .....	11/16/12	11/15/12

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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: 2013 Adverse Effect Wage Rates**

**AGENCY:** Employment and Training Administration, Department of Labor.  
**ACTION:** Notice.

**SUMMARY:** The Employment and Training Administration (ETA) of the Department of Labor (Department) is issuing this notice to announce the 2013 Adverse Effect Wage Rates (AEWRs) for the employment of temporary or seasonal nonimmigrant foreign workers (H-2A workers) to perform agricultural labor or services.

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 agricultural job and area so that the wages of similarly employed U.S. workers will not be adversely affected. 20 CFR 655.100(b). In this notice, the Department announces the AEWRs for 2013.

**DATES:** *Effective Date:* This notice is effective January 8, 2013.

**FOR FURTHER INFORMATION CONTACT:** William L. Carlson, Ph.D., Administrator, Office of Foreign Labor Certification, U.S. Department of Labor, Room C-4312, 200 Constitution Avenue NW., Washington, DC 20210. Telephone: 202-693-3010 (this is not a toll-free number).

**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 agricultural workers in the U.S. unless the petitioner has received from the Department an H-2A labor certification. 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 U.S. similarly employed. 8 U.S.C. 1101(a)(15)(H)(ii)(a), 1184(c)(1), and 1188(a); 8 CFR 214.2(h)(5).

**Adverse Effect Wage Rates for 2013**

The Department's H-2A regulations at 20 CFR 655.120(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, if applicable; or (v) the Federal or State minimum wage rate, in effect at the time the work is performed.

Except as otherwise provided in 20 CFR part 655, subpart B, the region-wide AEWR for all agricultural employment (except those occupations deemed inappropriate under the special procedure provisions of 20 CFR 655.102) 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 annually by the United States Department of Agriculture (USDA). 20 CFR 655.120(c) requires that the Administrator of the Office of Foreign Labor Certification publish the USDA field and livestock worker (combined) wage data as AEWRs in a **Federal Register** notice. Accordingly, the 2013 AEWRs to be paid for agricultural work performed by U.S. and H-2A workers on or after the effective date of this notice are set forth in the table below:

TABLE—2013 ADVERSE EFFECT WAGE RATES

State	2013 AEWRs
Alabama .....	\$9.78
Arizona .....	9.73
Arkansas .....	9.50

TABLE—2013 ADVERSE EFFECT WAGE RATES—Continued

State	2013 AEWRs
California .....	10.74
Colorado .....	10.08
Connecticut .....	10.91
Delaware .....	10.87
Florida .....	9.97
Georgia .....	9.78
Hawaii .....	12.72
Idaho .....	9.99
Illinois .....	11.74
Indiana .....	11.74
Iowa .....	11.41
Kansas .....	12.33
Kentucky .....	9.80
Louisiana .....	9.50
Maine .....	10.91
Maryland .....	10.87
Massachusetts .....	10.91
Michigan .....	11.30
Minnesota .....	11.30
Mississippi .....	9.50
Missouri .....	11.41
Montana .....	9.99
Nebraska .....	12.33
Nevada .....	10.08
New Hampshire .....	10.91
New Jersey .....	10.87
New Mexico .....	9.73
New York .....	10.91
North Carolina .....	9.68
North Dakota .....	12.33
Ohio .....	11.74
Oklahoma .....	10.18
Oregon .....	12.00
Pennsylvania .....	10.87
Rhode Island .....	10.91
South Carolina .....	9.78
South Dakota .....	12.33
Tennessee .....	9.80
Texas .....	10.18
Utah .....	10.08
Vermont .....	10.91
Virginia .....	9.68
Washington .....	12.00
West Virginia .....	9.80
Wisconsin .....	11.30
Wyoming .....	9.99

Pursuant to the H-2A regulations at 20 CFR 655.173, the Department will publish a separate **Federal Register** notice in early 2013 to announce (1) the allowable charges for 2013 that employers seeking H-2A workers may charge their workers for providing them three meals a day; and (2) the maximum travel subsistence reimbursement that a worker with receipts may claim in 2013.

Signed in Washington, DC on this 13th day of December, 2012.

Jane Oates,

Assistant Secretary, Employment and Training Administration.

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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: Prevailing Wage Rates for Certain Occupations Processed Under H-2A Special Procedures

**AGENCY:** Employment and Training Administration, Labor.

**ACTION:** Notice.

**SUMMARY:** The Department of Labor (we or the Department) is issuing this notice to announce new prevailing wage and piece rates covering the employment of temporary or seasonal nonimmigrant foreign workers (H-2A workers) and corresponding employees to perform agricultural labor or services in certain occupations with special procedures established under 20 CFR 655.102 in the H-2A program, including open range production of livestock, itinerant animal shearing, sheepherding, goatherding, and custom combine operations. The new prevailing wages are based on surveys conducted by State Workforce Agencies (SWA) of employers and transmitted to the Department between May 1, 2012 and June 1, 2012 in accordance with the Department's Training and Employment Guidance Letters (TEGLs) for these occupations. For open range production of livestock, sheepherding, and goatherding occupations, which are characterized by other than a reasonably regular workday or workweek, the prevailing wage results, reflected as monthly or daily prevailing wage rates, are deemed to be the Adverse Effect Wage Rates (AEWR) for those occupations.

**DATES:** This notice is effective January 8, 2013.

**FOR FURTHER INFORMATION CONTACT:** For further information, contact William L. Carlson, Ph.D., Administrator, Office of Foreign Labor Certification, Employment and Training Administration, U.S. Department of Labor, 200 Constitution Avenue NW., Room C-4312, Washington, DC 20210; Telephone (202) 693-3010 (this is not a toll-free number). Individuals with hearing or speech impairments may

access the telephone number above via TTY by calling the toll-free Federal Information Relay Service at 1-800-877-8339.

**SUPPLEMENTARY INFORMATION:** The H-2A nonimmigrant worker visa program enables United States (U.S.) agricultural employers to employ foreign workers on a temporary basis to perform agricultural labor or services. Section 101(a)(15)(H)(ii)(a) of the Immigration and Nationality Act (INA or the Act), 8 U.S.C. 1101(a)(15)(H)(ii)(a); see also 8 U.S.C. 1184(c)(1) and 1188. The INA authorizes the Secretary of the Department of Homeland Security (DHS) to permit employers to import foreign workers to perform temporary agricultural labor or services of a temporary or seasonal nature if the Secretary of the U.S. DOL (Secretary) certifies 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 U.S. similarly employed. 8 U.S.C. 1188(a)(1). The Department's H-2A regulations at 20 CFR 655.120(a) 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 or piece rate; (iii) the agreed-upon collective bargaining wage, if applicable; or (iv) the Federal or State minimum wage, in effect at the time the work is performed, except where a special procedure has been approved for use in an occupation or specific class of agricultural employment.

On June 14, 2011, the Department issued four TEGLs revising special procedures for occupations involved in the open range production of livestock, itinerant animal shearing, sheepherding and goatherding, and custom combine operations in the H-2A program. TEGL No. 15-06, Change 1, *Special Procedures: Labor Certification Process for Occupations Involved in the Open Range Production of Livestock under the H-2A Program*; TEGL No. 17-06, Change 1, *Special Procedures: Labor Certification Process for Employers in the Itinerant Animal Shearing Industry under the H-2A Program*; TEGL No. 32-10: *Special Procedures: Labor Certification Process for Employers Engaged in Sheepherding and Goatherding Occupations under the H-2A Program*; and TEGL No. 16-06, Change 1, *Special Procedures: Labor*

*Certification Process for Multi-State Custom Combine Owners/Operators under the H-2A Program.* These revised special procedures clarified the process for establishing the annual prevailing wage and/or piece rates for those occupations, but largely continued industry-specific variances to the offered wage requirement. For example, since occupations involving the open range production of livestock, sheepherding and/or goatherding are characterized by other than a reasonably regular workday or workweek, the Department has continued a special variance to the offered wage requirements contained at 20 CFR 655.120(a) by permitting an employer to offer, advertise in the course of its recruitment, and pay the daily, monthly, weekly, or semi-monthly prevailing wage established by the Department for each State in an approved itinerary. As provided in the H-2A regulations at 20 CFR 655.102, for open range production of livestock, sheepherding, and goatherding occupations, which are characterized by other than a reasonably regular workday or workweek, the prevailing wage results, reflected as monthly or daily prevailing wage rates, are deemed to be the Adverse Effect Wage Rates (AEWR) for those occupations.

As described in each of the TEGLs, the Department continues to use findings from prevailing wage surveys conducted by the SWAs in accordance with the procedures in the *ET Handbook No. 385, Domestic Agricultural In-Season Wage Finding Process*, to determine the prevailing wage and/or piece rates for these occupations. The SWAs transmit their findings for occupations covered by the special procedures to the Office of Foreign Labor Certification (OFLC) between May 1st and June 1st of each calendar year. Upon receipt of the wage findings and review of the SWA-reported survey results, the OFLC publishes the new prevailing rates with an immediate effective date.<sup>1</sup> For occupations involving the open range production of livestock, animal shearing, sheepherding and/or goatherding where the SWA survey results were insufficient to establish a prevailing wage rate for an occupation, due to inadequate sample size or another valid reason, the applicable TEGL's wage setting procedures allow the Department to issue a prevailing

<sup>1</sup> In accordance with *ET Handbook 385*, the SWAs only report the wage findings for occupations that are present in the wage reporting area; prevailing wage rates are established only for those States where the activity subject to the special procedure is actually performed.