



This presentation is not legal advice. AgWorks H2, LLC is not a law firm and does not give legal advice. The information and materials are meant to bring certain topics to your attention only. Please consult an attorney for legal advice.

AgWorks

- Has been helping employers navigate the H-2A program since 1998
- Helps hundreds of seasonal employers bring over 15,000 temporary foreign workers to fill vacant jobs each year
- Takes a compliance based approach to help employers gain necessary approvals and pass Wage and Hour audits



Program Updates - Wages

- Current Wage
 - AEW
 - Farm Labor Survey
 - Prevailing Wages
- Previously Published Wage Rules (Not effective)
 - Currently Blocked
 - Mix of FLS and OES Wages
 - Wage Freeze
 - ECI Adjustments
 - Prevailing Wages (Survey Methodology)
- Future Wage



Program Updates – DOL Regulations

- Current DOL Regulation – March 2010
- Proposed Regulation (Combined Program and Wage Rule) – July 2019, Not effective
- Wage Rule – November 2020, Not effective
 - UFW, State of CA
- Wage Rule 2021? – At Office of Management and Budget (OMB), Office of Information and Regulatory Affairs (OIRA)
 - Reviews drafts of proposed and final regulations
- Future DOL Program Regulation – Not proposed at this time



Program Updates – COVID 19

- Agricultural Workers qualify under critical infrastructure (food and agriculture)
- Waiver of interview for certain workers from certain countries
- Flight barriers/Travel restrictions
- Potential vaccine mandates



Program Updates – DOL Interpretations

- Farm Labor Contractor
 - Driving
 - Packing shed
 - Outside product
 - Overtime
- Temporary need
 - Seasonal need
 - Changes in season
 - Related companies



Program Updates – Department of Homeland Security

- Current Fee Schedule and Forms
- Proposed Fee Schedule and Forms (November 2019), Blocked
- Proposed Forms (August 2021)
 - Comment period closed 10/18/2021
 - Named Worker Supplement
 - Joint Employer Supplement
- Flexibility related to I-9 compliance
 - Extended through 12/31/21



Program Updates – DOS Land Border

- Electronic I-94
- Relaxed travel restrictions for vaccinated air travelers



Program Updates – OSHA Heat

- Advance Notice of Proposed Rulemaking on heat injury and illness prevention in outdoor and indoor work settings.
- Program will build on the existing regional emphasis program for Heat Illnesses in OSHA's Region VI (AR, LA, NM, OK, TX)



Useful Links

- Review the instructions for the ETA Form 790 at the following link:
<https://www.dol.gov/sites/dolgov/files/ETA/offic/pdfs/ETA-790-790A%20General%20Instructions.pdf>
- Review the Agricultural Employment Practice Survey Library at:
https://www.foreignlaborcert.doleta.gov/aowl_survey_pdf.cfm
- Review the OSHA Housing standards at:
<https://www.osha.gov/laws-regs/regulations/standardnumber/1910/1910.142>
- Review the Agricultural Online Wage Library at:
<https://www.foreignlaborcert.doleta.gov/aowl.cfm>
- Review the instructions for the ETA Form 9142 at the following link:
https://www.dol.gov/sites/dolgov/files/ETA/offic/pdfs/ETA_Form_9142A_General_Instructions_7369.pdf
- Review the instructions for the I-129 Form at:
<https://www.uscis.gov/sites/default/files/document/forms/i-129instr.pdf>
- Review the optional checklist for H-2A I-129 Filings at:
<https://www.uscis.gov/sites/default/files/document/forms/m-1097.pdf>
- Review the form details for the I-129 form including the edition date, where to file, filing fee, checklist of required initial evidence, and special instructions at:
<https://www.uscis.gov/i-129>
- AEWR
<https://www.dol.gov/sites/dolgov/files/ETA/offic/pdfs/AWER-webpage-instructions.pdf>
- Seasonal Jobs
<https://seasonaljobs.dol.gov/>
- Proposed USCIS Form Update
<https://www.federalregister.gov/documents/2021/08/18/2021-17724/agency-information-collection-activities-new-collection-petition-for-a-nonimmigrant-worker-h-1>



Thank you!

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