

GROWERTALKS

JZ on D.C.

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H-2A Adverse Effect Wage Rates Published

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The Department of Labor's Employment and Training Administration has published the new Adverse Effect Wage Rates (AEWRs) for range and non-range occupations in the Federal Register for the H-2A visa program.

The range monthly rates took effect immediately and higher monthly rates apply in California, Colorado and Oregon. The non-range rates were effective as of Monday, December 16 for employers who aren't covered by the injunction in the case of *Kansas, et al. vs. U.S. Department of Labor*, No. 2:24-cv-00076-LGW-BWC (S.D. Ga., Aug. 26, 2024).

For entities and states subject to the Kansas injunction, the rates became effective on December 30. States covered by the Kansas injunction include Arkansas, Florida, Georgia, Idaho, Indiana, Iowa, Kansas, Louisiana, Missouri, Montana, Nebraska, North Dakota, Oklahoma, South Carolina, Tennessee, Texas and Virginia.

—*Tal Coley, Florida Nursery, Grower & Landscape Association*

Save the Date!

AmericanHort's Impact Washington Fly-In Summit will be held September 15-17 this year with special hotel rates at the Holiday Inn Washington Capitol – National Mall. With a new administration, it's even more important to connect with policymakers, advocate for your business and hear from political experts. Registration opens soon, so stay tuned!

—JZ

Corporate Transparency Act Update

The U.S. Court of Appeals for the Fifth Circuit has reinstated a nationwide preliminary injunction against the Corporate Transparency Act (CTA) and its Reporting Rule, halting enforcement and associated reporting deadlines. This decision, issued on December 26, 2024, reverses an earlier December 23 ruling that had temporarily stayed the injunction, which would have required Reporting Companies to submit beneficial ownership information (BOI)

reports by January 13, 2025.

In early January, a series of legal back-and-forth rulings caused significant confusion for businesses trying to navigate compliance with the CTA. The circuit court emphasized maintaining the constitutional status quo while it expedites its review of the CTA's constitutionality, with oral arguments scheduled for March 25, 2025.

Meanwhile, following the December 26 decision, the Department of Justice escalated the matter by filing an emergency application with the Supreme Court, requesting the suspension of the nationwide preliminary injunction that declared the CTA unconstitutional. This could potentially reinstate enforcement of the act while broader legal arguments continue.

As a result, no BOI filings are currently required, though voluntary submissions remain permissible. The legal ping-pong has left businesses uncertain about their obligations, as enforcement status has shifted repeatedly. Businesses are encouraged to monitor legal updates closely and prepare for possible filing requirements should the injunction be lifted. Advocates are also pursuing administrative delays, potentially extending the timeline for compliance further into 2025.

If you decide to file voluntarily, you can visit the FinCEN FAQ page and access the filing portal at boiefiling.fincen.gov.

If you're an AmericanHort Premium Member, you have access to Pinion's Express-file BOI Reporting Service. If you aren't a premium member and want to learn more, contact Vice President of Advocacy & Government Affairs Matt Mika at MattM@AmericanHort.org.

— Kamron Newberry & Matt Mika, AmericanHort

AmericanHort Files Official Comments to the Federal Register on DOL Heat Rule

AmericanHort submitted comments to the Federal Register on the Occupational Safety & Health Administration's proposed rule "Heat Injury and Illness Prevention in Outdoor and Indoor Work Settings" (Heat Rule). The Heat Rule will disrupt AmericanHort members' operations across the United States.

Many of our members, including those in states without existing heat standards, already employ robust measures to safeguard their workforce, such as acclimatization protocols, access to water and shade, heat illness training, and monitoring—all consistent with the Proposed Standard. However, as currently drafted, the Heat Rule risks being overly restrictive in some climates, potentially increasing compliance costs beyond OSHA's projections. This could result in workforce shortages during crucial harvest seasons, further driving up food costs already affected by inflation.

—Rachel Pick, AmericanHort

DHS Finalizes H-2 Visa Reforms: Stronger Worker Protections & Stricter Employer Oversight

The Department of Homeland Security (DHS) finalized new regulations for the H-2A and H-2B visa programs that took effect on January 17, 2025. The rule strengthens worker protections, including stricter penalties for charging

prohibited fees, expanded whistleblower safeguards and new grounds for petition denial targeting employers with labor violations. It also provides greater flexibility for H-2 workers, such as extended grace periods before and after employment contracts and the ability to seek new jobs while maintaining visa status. Permanent adoption of COVID-era flexibilities allows workers to begin new employment immediately upon filing a non-frivolous petition and dual intent provisions now permit pursuit of permanent residency without losing H-2 status.

However, the rule has sparked criticism, particularly for its expanded restrictions on employers with prior labor violations, which can lead to mandatory petition denials for up to five years. Employers must also demonstrate proactive efforts to prevent and address fee violations. AmericanHort has voiced concerns over these measures and is currently exploring options to challenge the rule, particularly regarding its restrictive measures for employers with prior violations.

— *Frida Mendez, DCLRS*

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