
29 C.F.R. § 501.3

Definitions.

(a) *Definitions of terms used in this part.* The following defined terms apply to this part:

Act. The Immigration and Nationality Act, as amended (INA), 8 U.S.C. 1101 *et seq.*

Administrative Law Judge (ALJ). A person within the Department of Labor's (Department or DOL) Office of Administrative Law Judges (OALJ) appointed pursuant to 5 U.S.C. 3105.

Administrator. See definitions of OFLC Administrator and WHD Administrator in this paragraph (a).

Adverse effect wage rate (AEWR). The annual weighted average hourly wage for field and livestock workers (combined) in the States or regions as published annually by the U.S. Department of Agriculture (USDA) based on its quarterly wage survey.

Agent. A legal entity or person, such as an association of agricultural employers, or an attorney for an association, that:

- (i) Is authorized to act on behalf of the employer for temporary agricultural labor certification purposes;
- (ii) Is not itself an employer, or a joint employer, as defined in this part with respect to a specific application; and
- (iii) Is not under suspension, debarment, expulsion, or disbarment from practice before any court, the Department, the Executive Office for Immigration Review, or DHS under 8 CFR 292.3 or 1003.101.

Agricultural association. Any nonprofit or cooperative association of farmers, growers, or ranchers (including, but not limited to, processing establishments, canneries, gins, packing sheds, nurseries, or other similar fixed-site agricultural employers), incorporated or qualified under applicable State law, that recruits, solicits, hires, employs, furnishes, houses, or transports any worker that is subject to 8 U.S.C. 1188. An agricultural association may act as the agent of an employer, or may act as the sole or joint employer of any worker subject to 8 U.S.C. 1188.

Applicant. A U.S. worker who is applying for a job opportunity for which an employer has filed an *Application for Temporary Employment Certification* and job order.

Application for Temporary Employment Certification. The Office of Management and Budget (OMB)-approved Form ETA-9142A and appropriate appendices submitted by an employer to secure a temporary agricultural labor certification determination from DOL.

Area of intended employment (AIE). The geographic area within normal commuting distance of the place of employment for which the temporary agricultural labor certification is sought. There is no rigid measure of distance that constitutes a normal commuting distance or normal commuting area, because there may be widely

varying factual circumstances among different areas (e.g., average commuting times, barriers to reaching the place of employment, or quality of the regional transportation network). If a place of employment is within a Metropolitan Statistical Area (MSA), including a multi-State MSA, any place within the MSA is deemed to be within normal commuting distance of the place of employment. The borders of MSAs are not controlling in the identification of the normal commuting area; a place of employment outside of an MSA may be within normal commuting distance of a place of employment that is inside (e.g., near the border of) the MSA.

Attorney. Any person who is a member in good standing of the bar of the highest court of any State, possession, territory, or commonwealth of the United States, or the District of Columbia (DC). Such a person is also permitted to act as an agent under this part. No attorney who is under suspension, debarment, expulsion, or disbarment from practice before any court, the Department, the Executive Office for Immigration Review under 8 CFR 1003.101, or DHS under 8 CFR 292.3 may represent an employer under this part.

Certifying Officer (CO). The person who makes a determination on an *Application for Temporary Employment Certification* filed under the H-2A program. The OFLC Administrator is the National CO. Other COs may be designated by the OFLC Administrator to also make the determination required under 20 CFR part 655, subpart B.

Chief Administrative Law Judge (Chief ALJ). The chief official of the Department's OALJ or the Chief ALJ's designee.

Corresponding employment. The employment of workers who are not H-2A workers by an employer who has an approved *Application for Temporary Employment Certification* in any work included in the job order, or in any agricultural work performed by the H-2A workers. To qualify as corresponding employment, the work must be performed during the validity period of the job order, including any approved extension thereof.

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