

EMPLOYMENT AND TRAINING ADMINISTRATION ADVISORY SYSTEM U.S. DEPARTMENT OF LABOR Washington, D.C. 20210	CLASSIFICATION Foreign Labor Certification
	CORRESPONDENCE SYMBOL OFLC
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**ADVISORY: TRAINING AND EMPLOYMENT GUIDANCE LETTER NO. 15-06,
Change 1**

TO: CHICAGO NATIONAL PROCESSING CENTER PROGRAM DIRECTOR
STATE WORKFORCE AGENCY ADMINISTRATORS

FROM: JANE OATES /s/
Assistant Secretary

SUBJECT: Special Procedures: Labor Certification Process for Occupations Involved in the Open Range Production of Livestock under the H-2A Program

1. **Purpose.** To transmit special procedures, updated to reflect regulatory and organizational changes in the H-2A Program, for employers who apply to the Department of Labor (Department) to obtain labor certifications to hire temporary agricultural foreign workers in occupations involved in the open range production of livestock in the United States.
2. **References.** 20 CFR Part 655, Subpart B; 20 CFR Part 653, Subparts B and F; and 20 CFR Part 654, Subpart E; and Training and Employment Guidance Letter (TEGL) No. 15-06, Special Procedures for Processing H-2A Applications for Occupations Involved in the Open Range Production of Livestock; and [ETA Handbook No. 385](#).
3. **Background.** In 1986, Congress passed the Immigration Reform and Control Act of 1986 (IRCA) which amended the Immigration and Nationality Act (INA), 8 U.S.C. 1101, et seq., and established the H-2A program. In 1987, the Department issued an Interim Final Rule, promulgating the first H-2A regulations (the 1987 regulations) in accordance with IRCA. 54 FR 20496 (Jun. 1, 1987). The 1987 regulations provided for the administration of the H-2A program by the ETA Regional Administrators, and instituted procedures to offset the adverse effects of immigration on U.S. workers. The 1987 regulations also established special procedures for certain occupations, as long as they did not deviate from the Secretary's statutory responsibility to determine U.S. worker availability and the adverse effect of foreign workers on the wages and working conditions of U.S. workers.

Due to the unique characteristics of the open range production of livestock, the Department established special procedures for the processing of H-2A applications for certification of temporary employment in those occupations. These special procedures were contained most recently in the TEGL No. 15-06.

The 1987 regulations remained in effect, largely unchanged, until the Department promulgated new H-2A regulations on December 18, 2008. 73 FR 77110 (Dec. 18, 2008)

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(the 2008 Final Rule). The 2008 Final Rule implemented an attestation-based application process and made several substantive changes to the program, but retained the special procedures concept. After the Department determined that the 2008 Final Rule did not meet H-2A program policy objectives, the Department commenced another rulemaking process culminating in the publication of new H-2A regulations on February 12, 2010. 75 FR 6884 (Feb. 12, 2010) (the 2010 Final Rule). The Final Rule implements changes that affect special procedures for the occupations involved in the open range production of livestock. Section 20 CFR 655.102 provides the Office of Foreign Labor Certification (OFLC) Administrator with the authority to establish, continue, revise or revoke special procedures for processing of certain H-2A applications, including those for occupations involved in the open range production of livestock, as long as those procedures do not deviate from the statutory requirements under the INA.

This TEGL updates the special procedures previously established for occupations involved in the open range production of livestock to reflect organizational changes, in addition to new regulatory and policy objectives. It replaces previous guidance disseminated under TEGL No. 15-06, Special Procedures for Processing H-2A Applications for Occupations Involved in the Open Range Production of Livestock.

4. **Special Procedures.** Attachment A outlines special procedures for labor certification applications submitted by employers for occupations involved in the open range production of livestock under the H-2A Program. Attachment B outlines standards for mobile housing applicable to occupations involved in the open range production of livestock under the H-2A Program. Unless otherwise specified in Attachments A and B, applications submitted for these occupations must comply with the requirements for processing H-2A applications contained at 20 CFR Parts 655, Subpart B. Similarly, unless otherwise specified, job orders submitted for these occupations must comply with the requirements of 20 CFR Parts 655, Subpart B, 653 Subparts B and F, and 654.
5. **Action Requested.** The Chicago National Processing Center (Chicago NPC) Program Director and State Workforce Agency (SWA) Administrators are directed to immediately provide copies of these special procedures to all staff involved in processing H-2A labor certification applications from employers in the open range production of livestock occupations. The revised special procedures will apply to all employer applications with a start date of need on or after October 1, 2011.
6. **Inquiries.** Questions from SWA staff should be directed to the Chicago NPC. Questions from the Chicago NPC staff should be directed to the OFLC National Office.
7. **Attachments.**

Attachment A – Special Procedures: Labor Certification Process for Occupations Involved in the Open Range Production of Livestock Under the H-2A Program

Attachment B – Standards for Mobile Housing Applicable to Occupations Involved in the Open Range Production of Livestock