

August 25, 2025. Office of Foreign Labor Certification Announces Rescission of 2011 Frequently Asked Question Prohibiting the Staggered Entry of H- 2A Workers

On Monday, August 25, 2025, the Office of Foreign Labor Certification (OFLC) published a notice in the *Federal Register* notice (FRN) announcing the rescission of a Frequently Asked Questions (FAQ) issued on July 22, 2011, that provided informal guidance prohibiting employers from filing a single *Application for Temporary Employment Certification* for staggered dates of need.

- [View the *Federal Register* notice](#)

In rescinding the July 2011 FAQ, OFLC recognizes that employers, particularly those in the specialty crop sector, may have challenges accurately predicting their labor needs because the timing of their diversified agricultural work is highly sensitive to unpredictable weather conditions, and the H-2A regulations require employers to start the labor certification process at least two months in advance of the season. As a result of these circumstances, some employers need additional flexibility in the H-2A process to employ workers onto their farming operations starting at different times within the season. To better reflect its seasonal labor needs and without any undue burden, an employer can use existing fields on the job order (Form ETA-790A) to disclose the total number of H-2A worker positions being requested for temporary labor certification and period of intended employment and, for any job duties related to specific crops or agricultural activities, identify other subsequent date(s) of need using Field A.8.a on the job order to more accurately represent their seasonal labor demands, so prospective U.S. applicants are better informed and have a fair opportunity to fill these jobs.