



National Prevailing Wage Center

H-2B Wage Surveys: Concepts and Filing Tips

Webinar April 3, 2018

**Office of Foreign Labor Certification
Employment and Training Administration
United States Department of Labor**

Disclaimer

This presentation is intended for training use only and does not carry the force of legal opinion.

The Department of Labor is providing this information as a public service. This information and any related materials are presented to give the public access to information on the Department of Labor programs. You should be aware that, while we try to keep the information timely and accurate, there will often be a delay between official publications of the materials and the modification of these pages. Therefore, we make no express or implied guarantees. The *Federal Register* and the *Code of Federal Regulations* remain the official source for regulatory information published by the Department of Labor. We will make every effort to keep this information current and to correct errors brought to our attention.

Webinar Outline

Part 1: Wage Survey Concepts

Part 2: General Filing Tips

Note: Questions may be submitted throughout the presentation via the Webinar “chat” feature.



“Webinar chat”

Chat

- You will see the responses from the Panelists here.
- Questions and Answers will be presented in this format:

Q: This is the question you sent? A: Here is the answer we provide.

- You may see other questions answered before yours.

Send to: All Panelists

Send

Select 'All Panelists'

Part 1: Wage Survey Concepts

Topics:

1. Who to Survey – Universe and Sample
2. Where to Survey – Area of Intended Employment
3. What to Survey – Job Duties
4. Pay/Wage Data

Employers / Workers to Survey: Universe and Sample

Topic 1: Who to Survey - Universe and Sample

- Survey must include all workers in the occupation
- The employer/workers sampled must not be limited by:
 - industry sector of the employer/worker;
 - skill level or experience, education, and length of employment;
 - the immigration status; or
 - factors relating to the nature of the employer, such as whether the employer is public or private, for profit or nonprofit, large or small, charitable, a religious institution, a job contractor, or a struggling or prosperous firm

ETA-9165, Section E

- E.1: Estimated Universe of Employers
 - Who employs workers doing the tasks in the duties being surveyed?
 - How many employers are in the area surveyed?

- E.4: Number of employers who were contacted
 - Who did you ask to collect wages?
 - How many employers were asked?

- E.9: Number of employers providing usable results
 - Who responded?
 - How many employers responded?

- E.9: Number of worker wages used to get the reported wage value
 - Who responded?
 - How many workers' wages were in those responses?

ETA-9165, Section E

E. Survey Methodology

1. It was determined that _____ employers employ workers in the occupation and geographic area surveyed. *	
2. The following sources were used to determine the number of employers employing workers in the occupation and geographic area surveyed: *	
3. Did the surveyor attempt to contact all employers employing workers in the occupations in the geographic area surveyed or a sample of employers in the geographic area? *	<input type="checkbox"/> All Employers <input type="checkbox"/> Sample
3a. If a sample, was the sample selected randomly? §	<input type="checkbox"/> Yes <input type="checkbox"/> No
3b. If a sample, provide a brief summary of the procedures used to randomize the sample: §	
4. The surveyor attempted to solicit responses from _____ employers in conducting the survey. *	
9. The hourly, weekly, or monthly wage reported from the survey is based on data from _____ employers (minimum of 3), and reflects wages from _____ workers (minimum of 30) within the occupation in the geographic area surveyed. *	

Area of Intended Employment

Topic 2: Where to Survey –

Area of intended employment (AIE):

- The geographic area within normal commuting distance of the place of intended employment (worksite address)
- There is no rigid measure of distance that constitutes a normal commuting distance or normal commuting area
- The borders of Metropolitan Statistical Areas (MSAs) are not necessarily controlling but any place within an MSA is deemed to be within normal commuting distance
- Office of Management and Budget (OMB) establishes statistical areas (See OMB Bulletin No. 17-01 (August 15, 2017), available at <https://www.whitehouse.gov/sites/whitehouse.gov/files/omb/bulletins/2017/b-17-01.pdf>)

Area of Intended Employment

- MSA:
 - Have at least one urbanized area of **50,000** or more population, plus adjacent territory that has a high degree of social and economic integration with the core as measured by commuting ties
 - Defined in terms of whole counties (or equivalent entities)
 - May have Metropolitan Divisions
 - Those that contain a single core with a population of 2.5 million or more may be subdivided to form smaller groupings of counties referred to as Metropolitan Divisions
- Micropolitan Statistical Areas (μSA):
 - Have at least one urban cluster of at least 10,000 but less than 50,000 population, plus adjacent territory that has a high degree of social and economic integration with the core as measured by commuting ties
 - Defined in terms of whole counties (or equivalent entities)

Area of Intended Employment

- Combined Statistical Areas (CSA)
 - A CSA may comprise two or more MSA's, and MSA and a μ SA, two or more μ SA's , or multiple MSA's or μ SA's that have social and economic ties as measured by commuting but at lower levels than are found among counties within MSA's or μ SA's
 - Combinations for adjacent areas with an employment interchange of 25% or more are automatic
 - Combinations for adjacent areas with an employment interchange of at least 15% but less than 25% are based on local opinion as expressed through the Congressional delegations

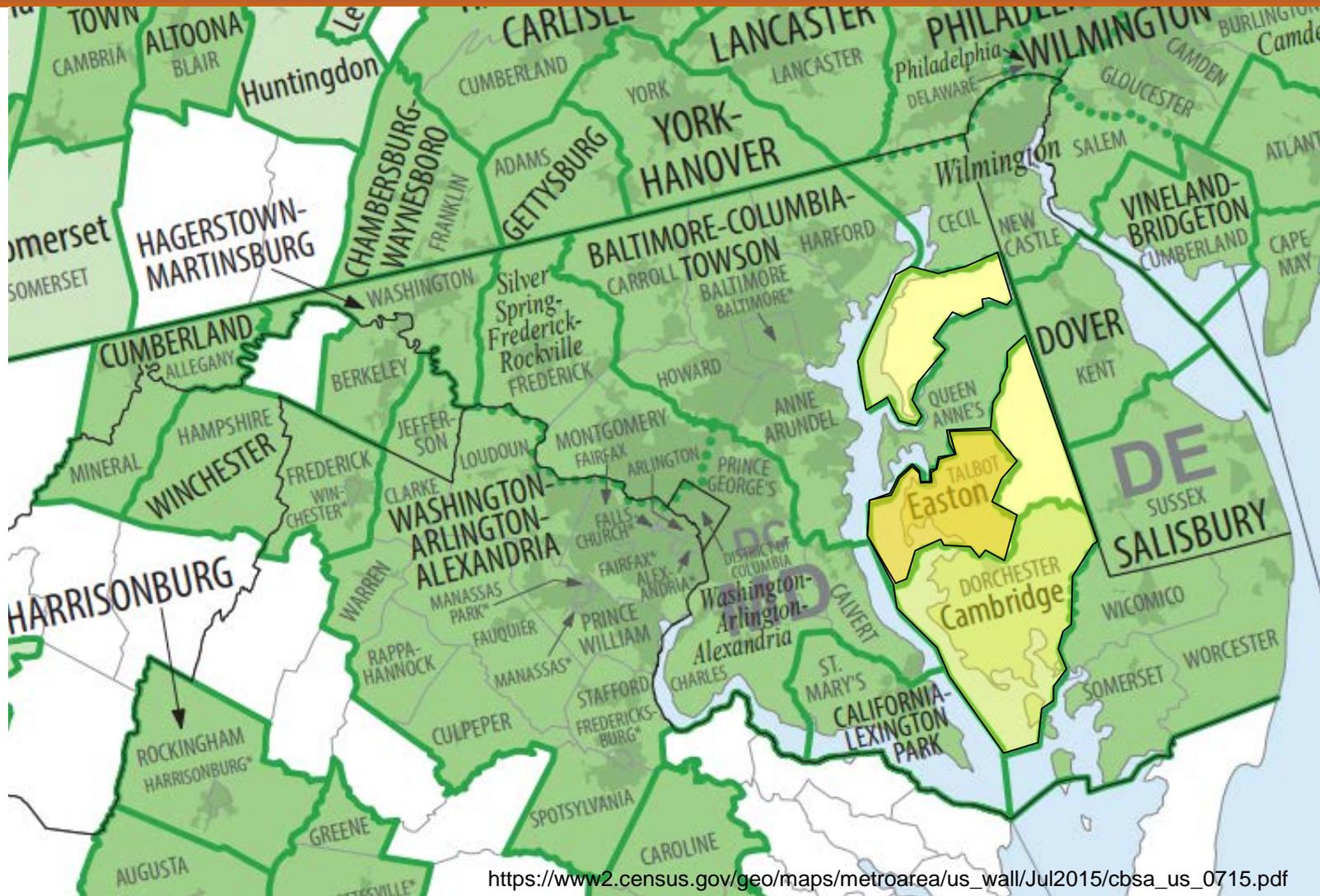
Area of Intended Employment

- Non-metropolitan Area:
 - Not an OMB Area
 - Created for the Occupational Employment Statistics (OES) program
 - Each state may have up to six
 - The State Workforce Agency (SWA) Labor Market Information Units work with the Bureau of Labor Statistics (BLS) to establish names and counties
 - Need not be contiguous
 - Do not represent a commuting area
 - May contain a μ SA

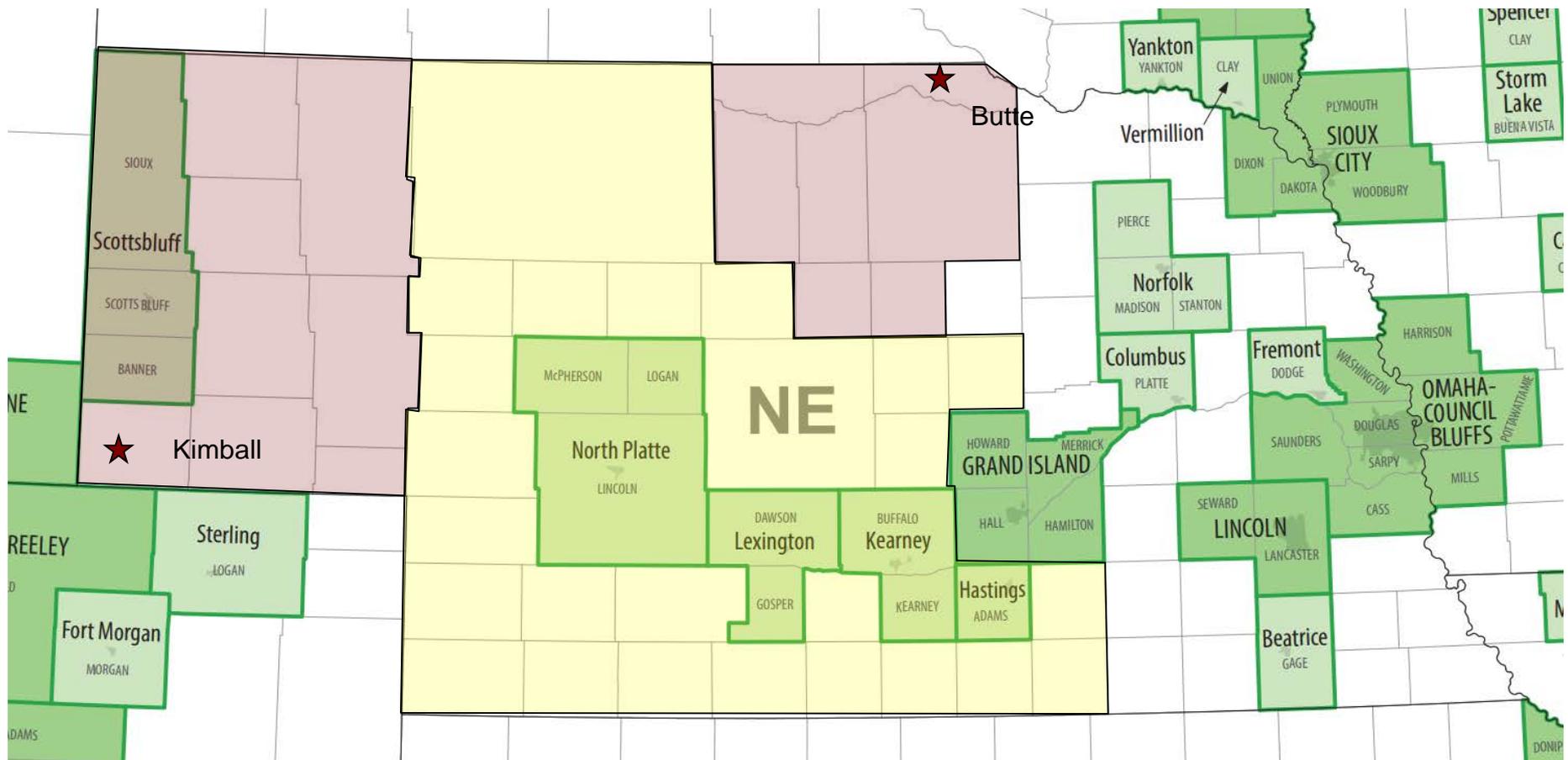
Area of Intended Employment Examples

- Maryland Example:
 - MSA
 - μ SA
 - non-MSA
- Nebraska Example:
 - MSA
 - μ SA
 - non-MSA
- Worksite Near the Border of MSA

Maryland Example: μ SA



Nebraska Example: MSA, non-MSA, μ SA



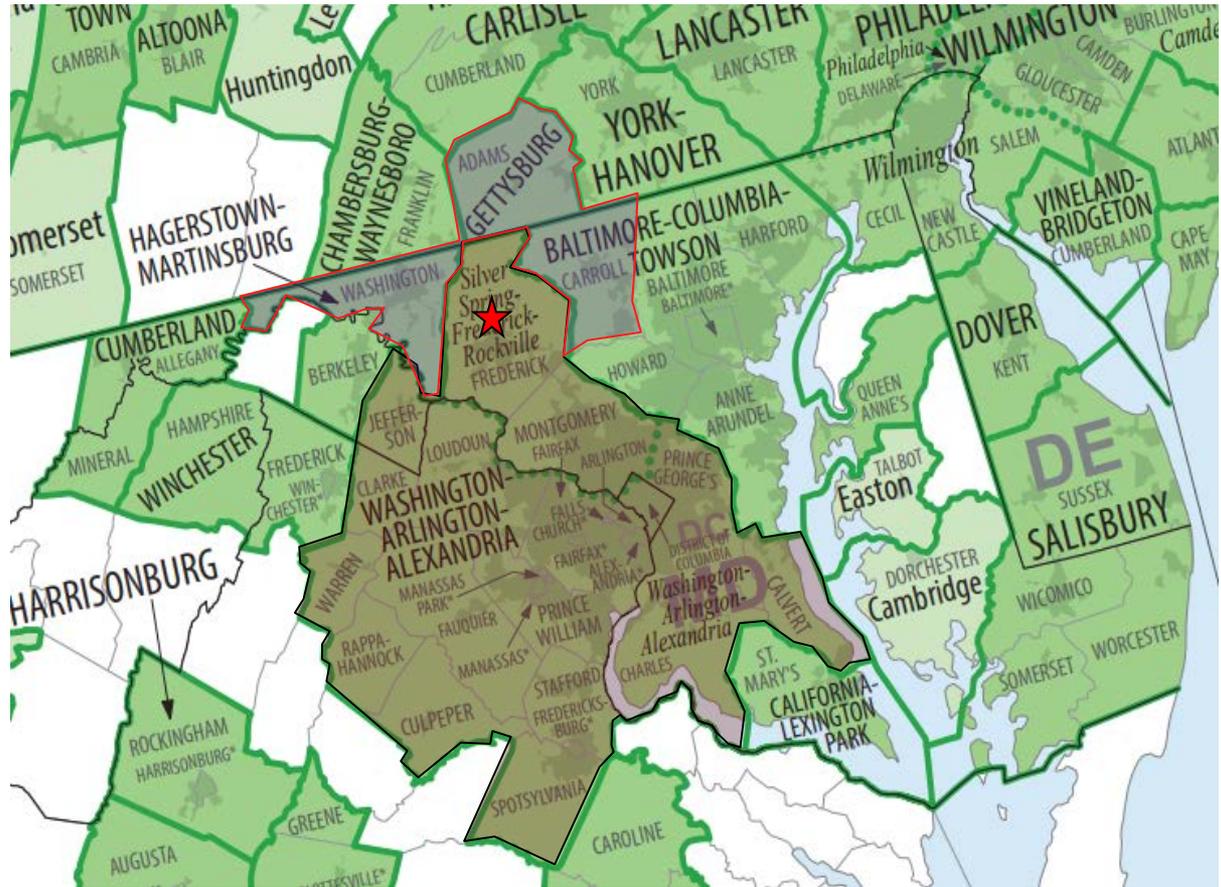
https://www2.census.gov/geo/maps/metroarea/us_wall/Jul2015/cbsa_us_0715.pdf

Example: MSA near Border

Depending on the location of the worksite, area(s) outside the MSA may also be considered to be within normal commuting distance.

MSA + additional areas within normal commuting distance = AIE

Important Note: This is not authorization to use this as the AIE.



https://www2.census.gov/geo/maps/metroarea/us_wall/Jul2015/cbsa_us_0715.pdf

Prerequisites for Expanding Survey Beyond AIE

- The surveyor must first attempt to gather wage data from within the AIE
- The geographic area surveyed may be expanded beyond the AIE if the survey of the AIE includes wage data from:
 - Fewer than 30 workers wages; or
 - Fewer than 3 employers

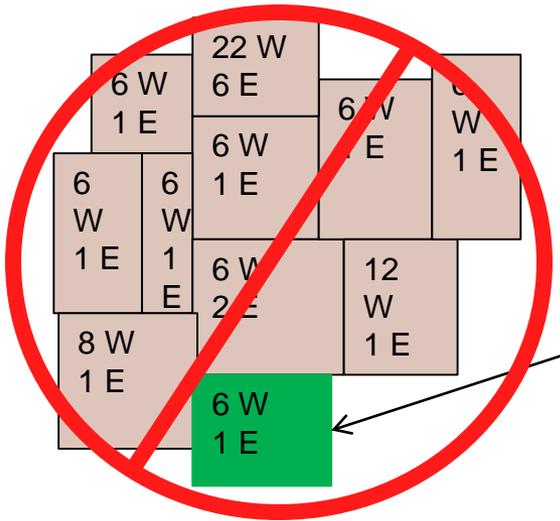
When Permitted – Limited Expansion

- If expansion is permitted, the survey area may expand only as necessary to include wage data from:
 - At least 30 workers; and
 - At least 3 employers.

Guidelines for Expansion of Survey Area

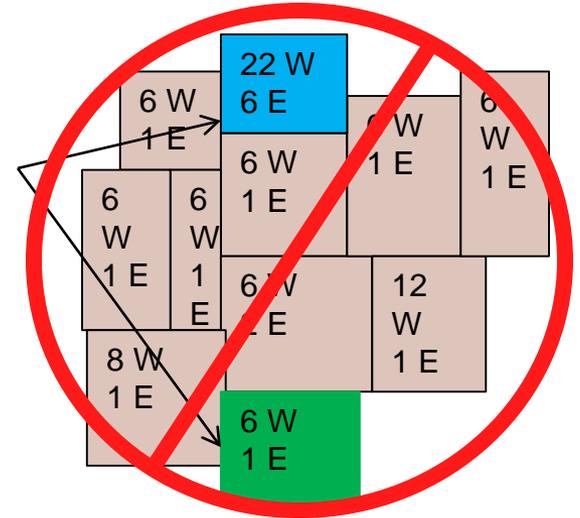
- Smallest area to meet standards
- Contiguous area (areas with economic and commuting ties have priority)
- May cross state lines
- For work locations in one of the OMB CSAs, this is usually the most appropriate first expansion direction

Survey Area Expanded Examples

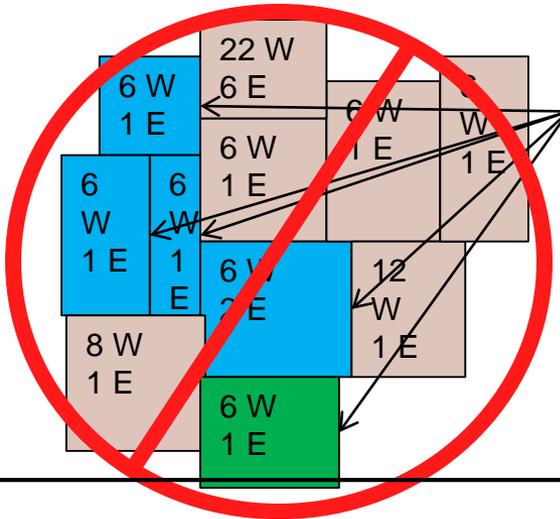


Area does not meet standards

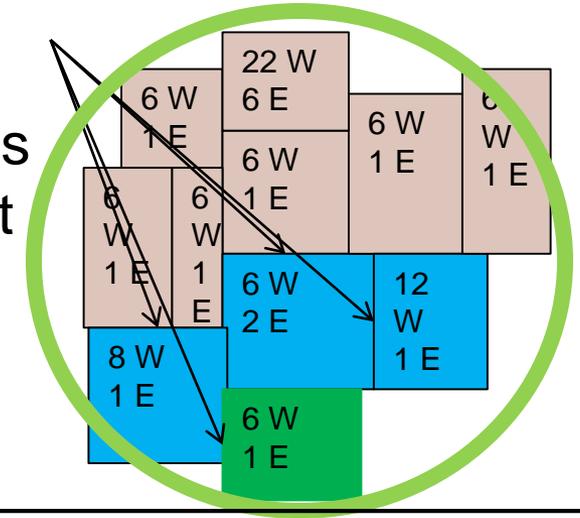
Area not contiguous



Area meets standards & Contiguous & Smallest



Area is not smallest



	Area of Intended Employment	E - Employers
	Area used in Expansion	W - Workers

CSA Example: Maryland μ SA

- 545 Virginia Beach-Norfolk, VA-NC Combined Statistical Area
 - Elizabeth City, NC Micropolitan Statistical Area
 - Kill Devil Hills, NC Micropolitan Statistical Area
 - Virginia Beach-Norfolk-Newport News, VA-NC Metropolitan Statistical Area

- 546 Visalia-Porterville-Hanford, CA Combined Statistical Area
 - Hanford-Corcoran, CA Metropolitan Statistical Area
 - Visalia-Porterville, CA Metropolitan Statistical Area

- 548 Washington-Baltimore-Arlington, DC-MD-VA-WV-PA Combined Statistical Area
 - Baltimore-Columbia-Towson, MD Metropolitan Statistical Area
 - California-Lexington Park, MD Metropolitan Statistical Area
 - Cambridge, MD Micropolitan Statistical Area
 - Chambersburg-Waynesboro, PA Metropolitan Statistical Area
 - Easton, MD Micropolitan Statistical Area
 - Hagerstown-Martinsburg, MD-WV Metropolitan Statistical Area
 - Washington-Arlington-Alexandria, DC-VA-MD-WV Metropolitan Statistical Area
 - Winchester, VA-WV Metropolitan Statistical Area

ETA-9165, Section D

3. Identify the area of intended employment (see definition in instructions) covered by the survey. *	
4. The survey was expanded to include workers beyond the area of intended employment *	<input type="checkbox"/> Yes <input type="checkbox"/> No
4a. If yes to question 4, the geographic area surveyed was §	
4b. If yes to question 4, the survey was expanded beyond the area of intended employment (check all that apply) §	
<input type="checkbox"/> to meet the 30 worker minimum.	
<input type="checkbox"/> to meet the 3 employer minimum.	
<input type="checkbox"/> The area surveyed was expanded for another reason. Provide below (attach additional sheet if necessary):	

Survey Job Duties

Topic 3: What to Survey - Job Duties

- Survey of workers with similar job duties (i.e., employed in the surveyed occupation)
 - Workers who generally perform the duties/tasks of the surveyed occupation
 - Workers may have different job titles
 - Workers' duties may cross occupations

Survey Job Duties

- Survey results by occupation
 - Duties organized occupationally
 - Mean wage for each occupation
- Survey results of job duties that cross occupations must have used wages of workers who perform that combination of duties

Example: Unorganized Survey Job Duties

Factory Worker

Use machines to produce products. Mow grass. Load raw materials into supply hopper. Perform periodic maintenance on equipment. Move raw materials around factory. Monitor factory equipment to ensure the product meets tolerances. Clean and lubricate machines when idle. Load finished products on to truck according to manifest. Move finished products from machines to pallets.

Example: Organized Survey Job Duties

✓ Production Worker

- Use machines to produce products
- Monitor factory equipment to ensure the product meets tolerances
- Move finished products from machines to pallets
- Load raw materials into supply hopper

✓ Maintenance Worker

- Perform periodic maintenance on equipment
- Mow grass
- Clean and lubricate machines when idle

✓ Warehouse Worker

- Move raw materials around factory
- Load finished products on to truck according to manifest
- Load raw materials into supply hopper using a skid loader

Pay/Wage Data

Topic 4: Pay/Wage Data

- Survey pay/wage data must have been paid within 24 months of the survey's submission to the National Prevailing Wage Center (NPWC):
 - Make sure the employers being surveyed know the date range
 - Make sure the documentation explicitly states the oldest and youngest dates when the wages in the average calculation were paid to the workers

- Survey must gather all types of pay/wages paid to workers including, but not limited to: base rate pay, commissions, cost-of-living allowance, deadheading pay, guaranteed pay, hazard pay, incentive pay, longevity pay, piece rate, portal-to-portal rate, production bonus, and tips

Pay/Wage Data

- For surveys converting all types of pay/wages into an hourly rate:
 - The surveyor may provide a chart showing the **total compensation paid** during the period and the **hours worked** for that pay, then summing those values across all employers and **dividing the total hours into the total pay** resulting in an hourly rate

Example: Table Converting Pay/Wages to Hourly

Employer: Fill this column with whatever designation the survey uses to represent a particular employer

Workers: Fill this column with the count of workers whose hours and wages from any portion of the period reported were used in the next two columns

Compensation: Fill this column with the sum of all wages paid during the period reported. Use the definition below to decide what to include

Total Hours: The sum of all the hours worked to earn the pay under the Compensation column

Total Row: Sum the values in the Total Compensation column and then sum the values in the Hours column

Hourly Rate Row: Divide the Total Hours into the Total Compensation (Compensation in \$/Hours) giving a \$/hr value

Employer	Workers	Compensation	Hours
A	5	\$8,272.08	802
B	7	\$11,189.18	918
C	23	\$42,002.76	3678
D	19	\$38,890.72	3344
E	4	\$8,042.66	794
Total		\$108,397.40	9536
Hourly Rate		\$11.37 per hour	

Part 2: General Filing Tips

Topics:

1. General Filing Tips
2. H-2B Prevailing Wage Determination (PWD) Appeals
3. Survey Tips

General Filing Tips

Topic 1: General Filing Tips

- File Early:
 - Receive longest validity period shortly after OES update (July 1, 2018)
 - Anticipate longer processing times during H-2B heavy filing season

- Tips for using the “reuse” option:
 - Ensure the content is relevant to the new application
 - Incorporate the Request for Information (RFI) details from the previous case to avoid an RFI
 - Check the job duties for accuracy, do not include information that is irrelevant to the new application

General Filing Tips

- When requesting the NPWC consider an employer-provided survey as the wage source, submit Form ETA-9165 and the survey documents

- Provide specific job duties addressing:
 - Types of products
 - Projects or services
 - Work Environment
 - Processes
 - Materials
 - Equipment or tools

- Vague job duties may result in an RFI

Note: The employer may elaborate on job duties in an RFI response but cannot remove duties.

Specific vs. Vague Job Duties

Vague Tasks in Job Duties	Clarifying Job Description Entries or Considerations	Candidate Occupation Names
Clean Buildings	<ul style="list-style-type: none"> • Heavy cleaning duties <ul style="list-style-type: none"> • Wash windows • Use carpet shampoos • Use floor buffers • Perform maintenance tasks • Clean pool 	Janitors and Cleaners, Except Maids and Housekeeping Cleaners
	<ul style="list-style-type: none"> • Light cleaning duties <ul style="list-style-type: none"> • Clean hotel rooms • Change bed linens • Dusting 	Maids and Housekeeping Cleaners

Specific vs. Vague Job Duties

Vague Tasks in Job Duties	Clarifying Job Description Entries or Considerations	Candidate Occupation Names
<p>Mow Grass</p>	<ul style="list-style-type: none"> • Mow grass (only) • Mow grass and perform other basic tasks (e.g., hedge trimming or planting flowers) 	<p>Landscaping and Groundskeeping Workers</p>
	<ul style="list-style-type: none"> • Mow grass and perform general cleaning duties 	<p>Janitors and Cleaners, Except Maids and Housekeeping Cleaners</p>
	<ul style="list-style-type: none"> • Mow grass along highways or other roads, especially when other maintenance tasks are included (e.g., operating road sweepers or setting out safety cones) 	<p>Highway Maintenance Workers</p>

Specific vs. Vague Job Duties

Vague Task in Job Duties	Clarifying Job Description Entries or Considerations	Candidate Occupation Names
Install Flooring	<ul style="list-style-type: none"> • Install “hard” flooring such as <ul style="list-style-type: none"> • Marble • Wood • Granite 	Tile and Marble Setters
	<ul style="list-style-type: none"> • Install linoleum floor coverings in <ul style="list-style-type: none"> • Blocks • Strips • Sheets 	Floor Layers, except Carpet, Wood, and Hard Tiles
	<ul style="list-style-type: none"> • Install flooring specific to carpet 	Carpet Installers

Specific vs. Vague Job Duties

Vague Tasks in Job Duties	Clarifying Job Description Entries or Considerations	Candidate Occupation Names
Masonry Work	<ul style="list-style-type: none">• Concrete block• Cinder block• Brick	Brickmason and Blockmason
	<ul style="list-style-type: none">• Curbstone• Marble• Granite• Sandstone	Stonemason
	<ul style="list-style-type: none">• Install segmental pavers• Set paver base and borders	Segmental Paver

Specific vs. Vague Job Duties

Vague Task in Job Duties	Clarifying Job Description Entries or Considerations	Candidate Occupation Names
Spread/Smooth Concrete/Cement	<ul style="list-style-type: none">• Spread/finish concrete without additional construction related tasks	Cement Masons and Concrete Finishers
	<ul style="list-style-type: none">• Spread (not finish) concrete <u>AND</u> perform construction related tasks such as:<ul style="list-style-type: none">• Clean up work site• Assist other craft workers• Dig trenches• Direct traffic	Construction Laborers

Specific vs. Vague Job Duties

Vague Task in Job Duties	Clarifying Job Description Entries or Considerations	Candidate Occupation Names
Removing meat from bones/shell <ul style="list-style-type: none"> • shuck oyster • pick crab • dehead shrimp 	<ul style="list-style-type: none"> • Process by hand • Remove roe from fish by cutting • Remove oyster from shell 	<p style="text-align: center;">Food Batchmakers</p>
	<ul style="list-style-type: none"> • Cut fish by adjusting and fine-tuning machines (e.g., Baader machines) 	<p style="text-align: center;">Cutting and Slicing Machine Setters, Operators, and Tenders</p>
	<ul style="list-style-type: none"> • Process roe after removal (does not include removing from fish) 	<p style="text-align: center;">Food Batchmakers</p>

Specific vs. Vague Job Duties

Vague Task in Job Duties	Clarifying Job Description Entries or Considerations	Candidate Occupation Names
<p>Process/cook/prepare</p> <ul style="list-style-type: none"> • steam shrimp • boil seafood • process roe 	<ul style="list-style-type: none"> • Transform roe through brining 	<p>Food Batchmakers</p>
	<ul style="list-style-type: none"> • Process Seafood: <ul style="list-style-type: none"> • Cooking • Steaming • Boiling • Frying 	<p>Food Cooking Machine Operators and Tenders</p>

Specific vs. Vague Job Duties

Vague Task in Job Duties	Clarifying Job Description Entries or Considerations	Candidate Occupation Names
Inspect/Grade <ul style="list-style-type: none"> Sort product by size Grade crab meat 	<ul style="list-style-type: none"> Focus on inspecting and grading the unprocessed product (no mention of processing) 	<p>Graders and Sorters, Agricultural Products</p>
	<ul style="list-style-type: none"> Grading tasks are integral to the main task, such as sorting the meat after removal from the animal 	<p>Various Occupations such as Butchers and Meat Cutters, Meat, Poultry, and Fish Cutters and Trimmers, etc.</p>

Specific vs. Vague Job Duties

Vague Task in Job Duties	Clarifying Job Description Entries or Considerations	Candidate Occupation Names
Loading/Unloading <ul style="list-style-type: none"> • load processed product • load seafood 	<ul style="list-style-type: none"> • Move products to loading docks by hand • Load pallets onto truck using hand jack • Stack crates on truck • Unload sacks from fishing vessel 	<p>Laborers and Freight, Stock, and Material Movers, Hand</p>
	<ul style="list-style-type: none"> • Use a skid loader to move raw materials to production areas • Load pallets onto truck using hand jack 	<p>Industrial Truck and Tractor Operator</p>
	<ul style="list-style-type: none"> • Load grain into railing cars using chutes and gates • Unload chemicals from truck to storage tank 	<p>Tank Car, Truck, and Ship Loaders</p>

Specific vs. Vague Job Duties

Vague Task in Job Duties	Clarifying Job Description Entries or Considerations	Candidate Occupation Names
Package Product	<ul style="list-style-type: none"> • When the packaging is performed as the main task and no other changes are made to the product 	Packers and Packagers, Hand
	<ul style="list-style-type: none"> • No actual packaging performed; worker is tending the machines in the packaging area 	Packaging and Filling Machine Operators and Tenders
	<ul style="list-style-type: none"> • When the packaging tasks are integral to the main task, such as processing and/or grading the seafood or working as a deckhand 	Various Occupations

Specific vs. Vague Job Duties

Vague Task in Job Duties	Clarifying Job Description Entries or Considerations	Candidate Occupation Names
Cook Foods	<ul style="list-style-type: none">• Fine dining: Cook full entrees (e.g., meats, fish, and desserts)• Operate ovens, broilers, and roasters• Full table services (e.g. taking food orders and serving food on a platter)	Restaurant Cook
	<ul style="list-style-type: none">• Cafeteria, hospital, corporation cuisine:• Operate commercial fryers and commercial broilers• Prepare food in large quantities	Institution and Cafeteria Cook

Specific vs. Vague Job Duties

Vague Task in Job Duties	Clarifying Job Description Entries or Considerations	Candidate Occupation Names
<p>Cook Foods</p>	<ul style="list-style-type: none"> • Restaurants and coffee shops: <ul style="list-style-type: none"> • Prepare specialty foods, such as pizzas, fish and chips, sandwiches, or tacos, following specific methods that usually require short preparation time - often working on several orders at the same time • Work setting is similar to a diner or small restaurant 	<p>Short Order Cook</p>
	<ul style="list-style-type: none"> • Fast-food: Cook fast meals (e.g., hamburgers, fried chicken, tacos) <ul style="list-style-type: none"> • Operate deep fryer machines specifically for french fries • Prepare meals following strict guided instructions • Drive-through or counter services (e.g., take orders and serve food from counter or drive-up window) 	<p>Fast-Food Cook</p>

Specific vs. Vague Job Duties

Vague Task in Job Duties	Clarifying Job Description Entries or Considerations	Candidate Occupation Names
Operate Carnival Rides	<ul style="list-style-type: none"> • Perform variety of attending duties at mobile carnival • Set up, tear-down • Operate amusement game concessions 	Amusement and Recreation Attendants
	<ul style="list-style-type: none"> • Operate games • Assemble a hip style roof with a center pole • Load and unload vehicles/trucks 	Amusement and Recreation Attendants
	<ul style="list-style-type: none"> • Operate games/rides • Operate food concessions (cook, e.g., hamburgers, pizza, etc.) 	Amusement and Recreation Attendants and Counter Attendants, Cafeteria, Food Concession, and Coffee Shop

Specific vs. Vague Job Duties

Vague Task in Job Duties	Clarifying Job Description Entries or Considerations	Candidate Occupation Names
<p style="text-align: center;">Operate Food Concessions</p>	<ul style="list-style-type: none"> • Operate food concessions (light refreshment) - reheating food or serving snacks • Set up and tear down games, rides and food stands 	<p style="text-align: center;">Amusement and Recreation Attendants</p>
	<ul style="list-style-type: none"> • Operate food concessions (cook food) 	<p style="text-align: center;">Counter Attendants, Cafeteria, Food Concession, and Coffee Shop</p>
	<ul style="list-style-type: none"> • Operate food concessions (cook) • Setting up a table, condiments and cooking utensils • Unload the trucks • Set up tents and/or construct the stand 	<p style="text-align: center;">Counter Attendants, Cafeteria, Food Concession, and Coffee Shop and Laborers and Freight, Stock, and Material Movers, Hand.</p>

Specific vs. Vague Job Duties

Vague Task in Job Duties	Clarifying Job Description Entries or Considerations	Candidate Occupation Names
Fight Forest Fires	<ul style="list-style-type: none"> • Extinguish flames and embers to suppress fires • Patrol burned areas after fires to locate and eliminate hot spots that may restart fires 	Forest Fire Fighter
	<ul style="list-style-type: none"> • Additionally, in support of fire prevention duties, oversee laborers performing tasks such as brush clearing and removal 	Forest and Conservation Technicians
	<ul style="list-style-type: none"> • Under direction of fire fighters or technicians, perform supporting duties such as brush clearing and removal to assist in fire prevention and suppression 	Forest and Conservation Workers

Specific vs. Vague Job Duties

Vague Task in Job Duties	Clarifying Job Description Entries or Considerations	Candidate Occupation Names
Repair	<ul style="list-style-type: none">• Specify what is being repaired• Specify what techniques and tools are used• Specify whether this the primary person responsible for completing repairs vs. assisting with repairs	Multiple Potential Occupations

General Filing Tips

- Do not include irrelevant information such as the nature of the employer, weather related conditions, etc.

Example 1: Unnecessary Information

Duties: Perform variety of attending duties at traveling carnival. Set up, tear-down, operate amusement rides, food concessions and/or game concessions. Amusement Rides set up & tear down: Mobile amusement rides are trailer mounted. A manager would position the trailer(s) at a specific location on the grounds, unhitch the power unit from the trailer, & move the power unit away from the ride. All of the pieces of the ride would travel on the same trailer(s) & be located proximate to their position when the ride is in operation. Work would be performed by workers as members of a team, with some tasks being performed individually & some collectively. Restraints holding pieces of the ride while in transit would be released. Ride platform (if any) would be lowered & leveled. Track or railing (if any) would be positioned & connected. Sweeps, supports, bars, pins would be positioned & connected. Cars, Seats, Bench or Carriage (method of conveyance for this particular ride) where patron would stand or sit while on the ride would be positioned & connected. Fencing, signage, ticket collection boxes & illumination would be positioned. Teardown would simply be these duties being handled in the reverse order & items being stored & secured for transit to the next location. Food Concessions set up & tear down: Mobile food concessions are typically mounted in a trailer. A manager would position the trailer(s) at a specific location on the grounds, unhitch the power unit from the trailer. The awnings covering the windows during transit would be raised & secured. Items such as trash cans, screens, tables that may be positioned outside of the trailer but carried inside of the trailer during transit would be manually moved from inside the trailer to outside. Trailer would be cleaned, sanitized & stocked with supplies for the event. Any counters, guidance railings, signage, decorations would be positioned outside of the trailer. Condiment dispensers, napkin dispensers & trash containers would be set up outside of the trailer. Typically the fair or event maintains the tables & chairs for patrons, but in some instances the worker may set up a limited number of chairs & tables for patron use. Teardown would simply be these duties being handled in the reverse order & items being stored & secured for transit to the next location. To clarify the portion of the job duties that includes operate mobile food concessions stand: When there is a mobile food concessions, a stand is limited to selling only one or two specific items, such as cotton candy, popcorn, turkey legs, roasted corn, or other specialty foods. The food is prepared in a production line, where an individual may only perform one task, such as measuring corn & oil into a popper. The next individual would salt & bag. The next individual would choose correct bag as per customer order & hand to teller. The next individual would have taken order, taken money, made change & then hands order to client.

General Filing Tips

- Example 1: Unnecessary Information Removed

Duties:

Set up, tear-down, operate amusement rides, food concessions and/or game concessions. The worker may set up a limited number of chairs & tables for patron use. A stand is limited to selling only one or two specific items, such as cotton candy, popcorn, turkey legs, roasted corn, or other specialty foods. The food is prepared in a production line, where an individual may only perform one task, such as measuring corn & oil into a popper. The next individual would salt & bag. The next individual would choose correct bag as per customer order & hand to teller. The next individual would have taken order, taken money, made change & then hands order to client.

General Filing Tips

■ Example 2: Unnecessary Information

Temporary Seasonal Position: Forestry Worker

Duties:

All applicants must be able, willing, qualified to perform work described in this job description & must be available for entire period specified. Possible weekly hours: 35-40+ (Plus) to include lunch break. OT not required; may be weekend/holiday work. Possible daily hours: 7:00 am-4:00 pm. OJT. No min. edu. reqmt.

Duties may include: Plant: seedlings/trees; raising & transporting seedlings to then sort tree seedlings, discarding substandard seedlings, according to standard charts or verbal instructions & other related Forestry Worker activities as per SOC/OES 45-4011 (oneline.org). Must walk substantially (up to 15 miles daily), also stoop, bend while carrying a pack (up to 50lbs) through rough terrain (non-trail). Attention to detail; complete work tasks timely. Outdoors, exposed to weather; must be capable of doing physically strenuous labor for long hours, occasionally in extreme heat or cold. Variable weather conditions apply; hours may fluctuate (+/-), possible downtime and/or OT. Must show proof of legal authority to work in U.S. Must be 18 years old due to travel. Drug/alcohol/smoke-free work zone: based on Employer's discretion/cost: Wrkr may have random drug/alcohol testing during employment: positive test/ refusal to abide = dismissal.

General Filing Tips

- Example 2: Unnecessary Information Removed

Duties:

Plant: seedlings/trees; raising & transporting seedlings to then sort tree seedlings, discarding substandard seedlings, according to standard charts or verbal instructions.

Appeals: Center Director Review

Topic 2: H-2B PWD Appeals

- If an employer disagrees with a PWD:
 - The employer may request Center Director Review (CDR); and
 - Submit supplemental documentation within 7 business days of the date the PWD was initially issued
- In the CDR request, the employer may:
 - Challenge the assigned wage source, including correcting deficiencies in a survey or a collective bargaining agreement (CBA) submitted with the initial PW request. However, the employer cannot request use of a different survey at CDR, nor request the use of a survey for the first time at CDR;
 - Challenge the assigned SOC code; and/or
 - Challenge the assigned wage

Appeals: Center Director Review

- Reminder: Under the H-2B program, leveled wages are not assigned. PWDs are issued with the OES mean wage as shown below:

FLC Wage Results [New Quick Search](#) [New Search Wizard](#)

You selected the All Industries database for 7/2017 - 6/2018.

Your search returned the following: [Print Format](#)

Area Code:	33860
Area Title:	Montgomery, AL MSA
OES/SOC Code:	37-3011
OES/SOC Title:	Landscaping and Groundskeeping Workers
GeoLevel:	1
Level 1 Wage:	\$9.41 hour - \$19,573 year
Level 2 Wage:	\$10.36 hour - \$21,549 year
Level 3 Wage:	\$11.30 hour - \$23,504 year
Level 4 Wage:	\$12.25 hour - \$25,480 year
Mean Wage (H-2B):	\$11.30 hour - \$23,504 year

This wage applies to the following O*Net occupations:

37-3011.00 Landscaping and Groundskeeping Workers

Appeals: BALCA

- If an employer disagrees with the Center Director Review (CDR) decision, the employer may request Board of Alien Labor Certification Appeals (BALCA) Review
- Requests for BALCA Review for H-2B applications must be made **within 10 business days** of the date the CDR was issued
- The employer may only submit evidence with its BALCA Review request that was part of the record underlying the PWD and CDR decisions
- The employer cannot raise a new argument(s) in its BALCA Review request

H-2B Wage Survey Tips

- Employer requests for a prevailing wage determination based on an employer-provided wage survey submitted on or after December 19, 2015, must be accompanied by the **revised** ETA-9165, and:
 - Include attestation signed by employer;
 - Include contact information from third party or state agency;
 - Consolidate information from the survey;
 - Be specific to a particular survey and employer; and
 - Be uploaded with ETA-9141

H-2B Wage Survey Tips

■ Standards for Bona Fide Third Parties

- A third party has no stake in the outcome of the survey, but only in producing a survey product that meets statistical and regulatory standards

Important Note: *Any H-2B employer or any H-2B employer's agent, representative, or attorney are not bona fide third parties*

- A state agency is a third party and includes entities such as colleges, universities, agricultural extension services, and maritime agencies
- Employer associations may not be considered bona fide third-parties
- The third party may be a company that produces the survey as a published work, to include continuous updates, or on commission

Questions and/or Comments

