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Report RL34739

*Temporary Farm Labor: The H-2A Program and the U.S.  
Department of Labor's Proposed Changes in the Adverse  
Effect Wage Rate (AEWR)*

Gerald Mayer, Domestic Social Policy Division

November 6, 2008

**Abstract.** This report begins with a description of the H-2A program. Next, the report explains how the AEWR is currently determined and how it would be calculated under the proposed regulations. Finally, the report examines some potential effects of the proposed change in the AEWR on the wages and employment of foreign and U.S. workers on U.S. farms.

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# CRS Report for Congress

## Temporary Farm Labor: The H-2A Program and the U.S. Department of Labor's Proposed Changes in the Adverse Effect Wage Rate (AEWR)

November 6, 2008

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Prepared for Members and  
Committees of Congress

# Temporary Farm Labor: The H-2A Program and the U.S. Department of Labor's Proposed Changes in the Adverse Effect Wage Rate (AEWR)

## Summary

The H-2A temporary agricultural worker program allows American agricultural employers to hire foreign workers to perform full-time temporary or seasonal work on farms in the United States. H-2A workers must be paid *at least* the highest of the adverse effect wage rate (AEWR), the prevailing wage, or the applicable federal or state minimum wage. The prevailing wage is based on state surveys funded by the U.S. Department of Labor (DOL). The AEWR is based on wage data from the Farm Labor Survey (FLS), which is conducted by the U.S. Department of Agriculture.

On February 13, 2008, the U.S. Department of Labor (DOL) published proposed regulations that would change the way the AEWR is determined. Final action on the proposed rule is expected in November 2008. Under the rule, the AEWR would be calculated from the Occupational Employment Statistics (OES) survey, which is conducted by the Bureau of Labor Statistics of the U.S. Department of Labor and state workforce agencies. Wages from the OES survey are available at four levels of skill and experience. The four wage levels are called Level I, Level II, Level III, and Level IV. Under the proposed rule, the AEWR could not be less than \$7.25 an hour. The FLS and OES surveys cover different farm-related employers and provide different levels of detail by occupation and geographic area. An issue for Congress is the impact of the proposed change on the wages and employment of unauthorized farmworkers, H-2A workers, and U.S. workers.

Generally speaking, under the proposed rule, in most areas both the minimum AEWR of \$7.25 and the OES Level I wage (for entry level workers) would be lower than the current AEWR. In some areas, however, the Level I wage would be higher than the current AEWR. On the other hand, in most areas, the OES Level IV wage (for workers with management or supervisory duties), especially for livestock workers and farm equipment operators, would be higher than the current AEWR. Compared to the current AEWR, the proposed AEWR is more likely to be lower for crop workers than for livestock workers or farm equipment operators.

In some areas, the prevailing wage could become the highest of the AEWR, prevailing wage, or minimum wage. In some areas in some states, the state minimum wage could become the highest of the three wage rates.

In areas where the proposed rule would lower the wages that employers must offer H-2A workers, the rule should create an incentive for employers to hire more H-2A, as opposed to unauthorized, workers. In areas where the rule would increase the wages that employers must offer H-2A workers, the rule would probably not create an incentive to hire more H-2A workers. On the other hand, in areas where the rule would increase the wages of H-2A workers, it should create an incentive for employers to hire more U.S. workers. However, in areas where the rule would lower the wages that employers must offer H-2A workers, it could lower the wages employers offer U.S. workers. This report will be updated as issues warrant.

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# Temporary Farm Labor: The H-2A Program and the U.S. Department of Labor's Proposed Changes in the Adverse Effect Wage Rate (AEWR)

## Introduction

The H-2A temporary agricultural worker program allows American agricultural employers to hire foreign workers to perform full-time temporary or seasonal work on farms in the United States. H-2A workers must be paid *at least* the highest of the adverse effect wage rate (AEWR), the prevailing wage, or the applicable federal or state minimum wage. The AEWR is based on a farm labor survey conducted by the U.S. Department of Agriculture (USDA). Prevailing wages are based on state surveys funded by the U.S. Department of Labor (DOL).

On February 13, 2008, DOL published proposed regulations that would make changes in the H-2A program. The proposed rule would not change the requirement that H-2A workers must be paid at least the highest of the AEWR, prevailing wage, or applicable minimum wage. It would, however, change the way the AEWR is determined. Under the proposed rule, the AEWR would be calculated from wage data collected by the Occupational Employment Statistics (OES) survey, which is an employer survey conducted by DOL's Bureau of Labor Statistics and state workforce agencies (SWAs).<sup>1</sup> USDA's farm labor survey and DOL's employer survey cover different farm-related employers and provide different levels of detail by occupation and geographic area. An issue for Congress is the impact of the proposed change on the wages and employment of unauthorized farmworkers, H-2A workers, and U.S. workers.

This report begins with a description of the H-2A program. Next, the report explains how the AEWR is currently determined and how it would be calculated under the proposed regulations. Finally, the report examines some potential effects of the proposed change in the AEWR on the wages and employment of foreign and U.S. workers on U.S. farms.

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<sup>1</sup> According to the U.S. Department of Labor, final action on the proposed regulation is expected in November 2008. U.S. Department of Labor, Employment and Training Administration, *ETA Unified Agenda, Final Rule Stage*, available at [<http://www.dol.gov/eta/regs/unifiedagenda/1205-AB55.htm>].

## The H-2A Program

Under the H-2A program, employers may hire foreign workers to perform full-time temporary or seasonal agricultural work in the United States.<sup>2</sup> Temporary or seasonal employment is work that is performed during certain seasons or periods of the year or for a period of less than a year. An H-2A worker may be hired to fill either a temporary or permanent job, but the employer's need for the worker must be temporary. An employer cannot hire an H-2A worker to fill a job that is vacant because of a strike or lockout. Before they can hire foreign workers, employers must apply to DOL for a certification that qualified U.S. workers are not available and that the employment of foreign workers will not adversely affect the wages and working conditions of similarly employed U.S. workers.<sup>3</sup> The wages offered to U.S. workers must be at least the same as the wages offered to H-2A workers.

For workers paid a piece rate, their average hourly earnings must equal or exceed the higher of the AEWR or prevailing wage rate. If the earnings of piece rate workers fall below the higher level, the employer must supplement the workers' pay to raise it to the higher rate.

In addition to wage requirements, H-2A employers must meet minimum standards with respect to housing, transportation, meals, workers' compensation, and other requirements.<sup>4</sup>

Some temporary worker visas are subject to annual limits. The H-2A visa is not. From FY2000 to FY2007, the number of H-2A visas issued increased from 30,201 to 50,791.<sup>5</sup>

Although data are not available on the occupations of workers issued H-2A visas, information is available on the types of jobs that employers seek to fill with H-2A workers. In FY2007, DOL certified (i.e., approved) 7,491 requests for H-2A workers. Most certification applications request permission to employ more than one foreign worker. DOL certified requests to hire 89,575 H-2A workers.<sup>6</sup> On the basis

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<sup>2</sup> An H-2A worker is identified under 8 U.S.C. at 101(a)(15)(H)(ii)(a) of the Immigration and Nationality Act (INA) as a nonimmigrant alien seeking temporary employment in the United States.

<sup>3</sup> U.S. Department of Labor, Employment and Training Administration, *H-2A Certification for Temporary or Seasonal Agricultural Work*, available at [<http://www.foreignlaborcert.doleta.gov/h-2a.cfm>]. (It is hereafter cited as Employment and Training Administration, *H-2A Certification for Temporary or Seasonal Agricultural Work*.)

<sup>4</sup> 20 CFR, § 655.102(b)(9). Employment and Training Administration, *H-2A Certification for Temporary or Seasonal Agricultural Work*.

<sup>5</sup> The number of H-2A visas issued in FY2007 is a preliminary count. For more information on the H-2A program, see CRS Report RL32044, *Immigration: Policy Considerations Related to Guest Worker Programs*, by Andorra Bruno.

<sup>6</sup> The number of H-2A visas issued is different from the number of workers certified by DOL. After DOL issues a labor certification, the employer petitions the U.S. Citizenship (continued...)

of our review of H-2A program data, it appears that most (76.7%) of the 89,575 H-2A workers requested were for crop production. Another 5.0% of the requests were for livestock production and 3.8% were for equipment operators.<sup>7</sup>

## Wage Requirements for H-2A Workers

Employers must pay H-2A workers at least the highest of the prevailing wage, AEW, or the applicable state or federal minimum wage.

### Prevailing Wages

Prevailing wage rates are based on surveys funded by DOL and conducted by the states. The Employment and Training Administration (ETA) has established criteria for state prevailing wage surveys. A state must conduct a survey if H-2A workers were employed the previous season or if employers have requested or are expected to request H-2A workers for the current season. A state must also conduct a survey if 100 or more workers were employed during the previous season or are expected to be employed in the upcoming season. The surveys should only include U.S. workers employed in the same farm activity as H-2A workers.

Employment and wage data are collected from a sample of employers. Information provided by employers is verified through worker interviews. The prevailing wage is the wage paid to at least 40% of domestic seasonal workers or, if no single rate accounts for 40% of workers, the prevailing wage is the wage paid to workers at the 51<sup>st</sup> percentile.<sup>8</sup> States submit the results of their surveys to ETA.

Prevailing wages may be hourly, monthly, or piece rates. For workers paid a piece rate, the workers' average hourly earnings must equal or exceed the higher of the AEW or prevailing wage rate. If a worker's hourly piece rate earnings fall

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<sup>6</sup> (...continued)

and Immigration Services (USCIS) to hire foreign workers. DOL's decision on the request for certification (whether approved or denied) is advisory to the USCIS. Also, an employer may hire fewer foreign workers than the number requested on the application for labor certification.

<sup>7</sup> The remaining certifications were for occupations such as cook, bee keeper, or fish hatchery worker (1.5%). The specific occupation for 13.0% of certifications could not be identified. The source for this information is our analysis of FY2007 H-2A labor certifications from the U.S. Department of Labor, "H-2A Program Data," *Foreign Labor Certification Online Wage Library and Data Center*, available at [<http://www.flcdatacenter.com/CaseData.aspx>].

<sup>8</sup> If workers are ranked from the lowest to the highest paid, workers at the 51<sup>st</sup> percentile earn more than 50% of workers; 49% of workers earn more than the wage at the 51<sup>st</sup> percentile.

U.S. Department of Labor, Employment and Training Administration, *H-2A Program Handbook*, Handbook 398, January 1988, pp. II-1 to II-4. U.S. Department of Labor, Employment and Training Administration, *Employment Service Forms Preparation Handbook*, Handbook 385, August 1981, pp. I-111 to I-143.



below the higher level, the employer must supplement the worker's pay to raise it to the higher rate.<sup>9</sup>

## The Adverse Effect Wage Rate

**Current Procedures.** The current AEW is based on data from the Farm Labor Survey (FLS), which is a quarterly survey conducted by the U.S. Department of Agriculture (USDA).<sup>10</sup> The FLS provides estimates of the number of hired workers, average hours worked, and wages paid to workers employed on U.S. farms.<sup>11</sup> Hired workers include field workers, livestock workers, supervisors, administrative employees, and other workers employed directly by farmers.<sup>12</sup> Field and livestock workers include employees who operate farm equipment. Approximately 12,000 farms are surveyed each January, April, July, and October. The survey includes both full-time and part-time workers as well as workers who work either part-year or year-round. Wages consist of cash wages before taxes and other deductions. Wages paid on other than an hourly basis (e.g., a salary or piece rate) are converted to hourly rates. Average hourly wages are total wages by type of worker (i.e., crop, livestock, and all hired workers) divided by total hours worked. Wages do not include fringe benefits, bonuses, housing, or meals.<sup>13</sup>

USDA publishes annual estimates of average hourly wages for field and livestock workers in 15 regions. Separate estimates are published for California, Florida, and Hawaii. The 15 regions include 46 states. Alaska is not included in the survey. The AEW is the weighted average hourly wage for field and livestock workers (combined) from the previous year's quarterly surveys. The AEW is the same for each state within a region; for example, the AEW is the same for Oregon and Washington. Similarly, the AEW is the same for the six New England states

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<sup>9</sup> H-2A prevailing wage data are available, by state, at U.S. Department of Labor, Employment and Training Administration, *Agricultural Online Wage Library*, available at [<http://www.foreignlaborcert.doleta.gov/aowl.cfm>].

<sup>10</sup> For more information on the AEW, see "Labor Certification Process for the Temporary Employment of Aliens in Agriculture in the United States: Adverse Effect Wage Rate Methodology," *Federal Register*, vol. 54, no. 127, July 5, 1989, pp. 28037-28051.

<sup>11</sup> For more information on the Farm Labor Survey, see U.S. Department of Agriculture, National Agriculture Statistics Service, "Farm Labor," *Surveys*, available at [[http://www.nass.usda.gov/Surveys/Guide\\_to\\_NASS\\_Surveys/Farm\\_Labor/index.asp](http://www.nass.usda.gov/Surveys/Guide_to_NASS_Surveys/Farm_Labor/index.asp)]. (It is hereafter cited as National Agriculture Statistics Service, "Farm Labor," *Surveys*.)

<sup>12</sup> Field workers are employees who plant, tend, and harvest crops. Livestock workers tend livestock, milk cows, and care for poultry. U.S. Department of Agriculture, National Agriculture Statistics Service, *Farm Labor*, February 15, 2008, available at [[usda.mannlib.cornell.edu/usda/nass/FarmLabo/2000s/2008/FarmLabo-02-15-2008.pdf](http://usda.mannlib.cornell.edu/usda/nass/FarmLabo/2000s/2008/FarmLabo-02-15-2008.pdf)], p. 12. (It is hereafter cited as National Agriculture Statistics Service, *Farm Labor*, February 15, 2008.)

<sup>13</sup> U.S. Department of Agriculture, National Agriculture Statistics Service, *Agricultural Labor Survey Interviewer's Manual*, June 2005, pp. 104, 508-511. (It is hereafter cited as National Agriculture Statistics Service, *Agricultural Labor Survey Interviewer's Manual*.)

and New York.<sup>14</sup> Nationwide, there may be up to 18 different adverse effect wage rates (i.e., if the rates are different for each of the 15 regions and the three states that are reported separately).

The FLS also collects information from about 600 employers who provide agricultural services to farmers (e.g., fruit or vegetable pickers supplied by a farm labor contractor) in California and Florida.<sup>15</sup> The USDA only publishes estimates of the average hourly wages of agricultural service workers in these two states.<sup>16</sup> Estimates of the hourly wages of agricultural service workers are not available for the 15 regions or Hawaii. Hence, the wages of agricultural service workers are not included in the calculation of the AEW. <sup>17</sup>

On the basis of our review of H-2A program data, in FY2007, 93.3% of the wages for the 89,575 H-2A workers requested were the regional or state AEW. The prevailing wage applied to 4.7% of workers requested. Most prevailing wages were monthly wage rates or piece rates. See **Table 1**.

**Table 1. Type of Wage Paid, FY2007 H-2A Certifications**

Type of Wage	Number of Workers	Percent of Workers
AEWR	83,576	93.3%
Prevailing wage	4,216	4.7%
Not identified	1,783	2.0%
Total	89,575	100.0%

**Source:** CRS analysis of H-2A certifications for FY2007. All monthly wage rates were assumed to be prevailing wages. U.S. Department of Labor, "H-2A Program Data," *Foreign Labor Certification Online Wage Library and Data Center*, available at [<http://www.flcdatacenter.com/CaseData.aspx>].

The AEWs for each state for the years 1990 through 2008 are shown in **Table 2**. Because the state is not included in the FLS, no AEW is published for Alaska. In Alaska, employers must pay H-2A workers at least the higher of the prevailing wage or the applicable state or federal minimum wage.<sup>17</sup>

<sup>14</sup> National Agriculture Statistics Service, *Agricultural Labor Survey Interviewer's Manual*, p. 105. Annual averages are published in the November *Farm Labor* report.

<sup>15</sup> Service workers include contract laborers as well as harvesters who provide their own machinery, sheep shearers, milk testers, veterinarians, and others who provide services for a fee or under contract. National Agriculture Statistics Service, *Farm Labor*, February 15, 2008, p. 13.

<sup>16</sup> National Agriculture Statistics Service, "Farm Labor," *Surveys*.

<sup>17</sup> Since January 2003, the minimum wage in Alaska has been set at \$7.15 an hour. State of Alaska, Division of Labor Standards and Safety, *Minimum Wage Standard and Overtime Hours*, available at [[labor.state.ak.us/lss/whact.htm](http://labor.state.ak.us/lss/whact.htm)].

**Table 2. Adverse Effect Wage Rates by State, 1990-2008**

(in current dollars per hour)

State <sup>a</sup>	1990	1991	1992	1993	1994	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008
Alabama	\$4.29	\$4.46	\$4.91	\$5.04	\$5.43	\$5.66	\$5.40	\$5.92	\$6.30	\$6.30	\$6.72	\$6.83	\$7.28	\$7.49	\$7.88	\$8.07	\$8.37	\$8.51	\$8.53
Arizona	4.61	4.87	5.17	5.37	5.52	5.80	5.87	5.82	6.08	6.42	6.74	6.71	7.12	7.61	7.54	7.63	8.00	8.27	8.70
Arkansas	4.04	4.40	4.73	4.87	5.26	5.19	5.27	5.70	5.98	6.21	6.50	6.69	6.77	7.13	7.38	7.80	7.58	8.01	8.41
California	5.90	5.81	5.90	6.11	6.03	6.24	6.26	6.53	6.87	7.23	7.27	7.56	8.02	8.44	8.50	8.56	9.00	9.20	9.72
Colorado	4.51	5.00	5.29	5.44	5.57	5.62	5.64	6.09	6.39	6.73	7.04	7.43	7.62	8.07	8.36	8.93	8.37	8.64	9.42
Connecticut	4.98	5.21	5.51	5.82	5.97	6.21	6.36	6.71	6.84	7.18	7.68	8.17	7.94	8.53	9.01	9.05	9.16	9.50	9.70
Delaware	4.89	4.93	5.39	5.81	5.92	5.81	5.97	6.26	6.33	6.84	7.04	7.37	7.46	7.97	8.52	8.48	8.95	9.29	9.70
Florida	5.16	5.38	5.68	5.91	6.02	6.33	6.54	6.36	6.77	7.13	7.25	7.66	7.69	7.78	8.18	8.07	8.56	8.56	8.82
Georgia	4.29	4.46	4.91	5.04	5.43	5.66	5.40	5.92	6.30	6.30	6.72	6.83	7.28	7.49	7.88	8.07	8.37	8.51	8.53
Hawaii	7.70	7.85	7.95	8.11	8.36	8.73	8.60	8.62	8.83	8.97	9.38	9.05	9.25	9.42	9.60	9.75	9.99	10.32	10.86
Idaho	4.49	4.79	4.94	5.25	5.59	5.57	5.76	6.01	6.54	6.48	6.79	7.26	7.43	7.70	7.69	8.20	8.47	8.76	8.74
Illinois	4.88	5.05	5.39	5.85	6.02	6.18	6.23	6.66	7.18	7.53	7.62	8.09	8.38	8.65	9.00	9.20	9.21	9.88	9.90
Indiana	4.88	5.05	5.39	5.85	6.02	6.18	6.23	6.66	7.18	7.53	7.62	8.09	8.38	8.65	9.00	9.20	9.21	9.88	9.90
Iowa	5.03	4.85	5.15	5.65	5.76	5.72	5.90	6.22	6.86	7.17	7.76	7.84	8.33	8.91	9.28	8.95	9.49	9.95	10.44
Kansas	5.17	5.20	5.36	5.78	6.03	5.99	6.29	6.55	7.01	7.12	7.49	7.81	8.24	8.53	8.83	9.00	9.23	9.55	9.90
Kentucky	4.45	4.56	5.04	5.09	5.29	5.47	5.54	5.68	5.92	6.28	6.39	6.60	7.07	7.20	7.63	8.17	8.24	8.65	9.13
Louisiana	4.04	4.40	4.73	4.87	5.26	5.19	5.27	5.70	5.98	6.21	6.50	6.69	6.77	7.13	7.38	7.80	7.58	8.01	8.41
Maine	4.98	5.21	5.61	5.82	5.97	6.21	6.36	6.71	6.84	7.18	7.68	8.17	7.94	8.53	9.01	9.05	9.16	9.50	9.70
Maryland	4.89	4.93	5.39	5.81	5.92	5.81	5.97	6.26	6.33	6.84	7.04	7.37	7.46	7.97	8.52	8.48	8.95	9.29	9.70
Massachusetts	4.98	5.21	5.61	5.82	5.97	6.21	6.36	6.71	6.84	7.18	7.68	8.17	7.94	8.53	9.01	9.05	9.16	9.50	9.70
Michigan	4.45	4.90	5.16	5.38	5.64	5.65	6.19	6.56	6.85	7.34	7.65	8.07	8.57	8.70	9.11	9.18	9.43	9.65	10.01
Minnesota	4.45	4.90	5.16	5.38	5.64	5.65	6.19	6.56	6.85	7.34	7.65	8.07	8.57	8.70	9.11	9.18	9.43	9.65	10.01
Mississippi	4.04	4.40	4.73	4.87	5.26	5.19	5.27	5.70	5.98	6.21	6.50	6.69	6.77	7.13	7.38	7.80	7.58	8.01	8.41
Missouri	5.03	4.85	5.15	5.85	5.76	5.72	5.90	6.22	6.86	7.17	7.76	7.84	8.33	8.91	9.28	8.95	9.49	9.95	10.44
Montana	4.49	4.79	4.94	5.25	5.59	5.57	5.76	6.01	6.54	6.48	6.79	7.26	7.43	7.70	7.69	8.20	8.47	8.76	8.74
Nebraska	5.17	5.20	5.36	5.78	6.03	5.99	6.29	6.55	7.01	7.12	7.49	7.81	8.24	8.53	8.83	9.00	9.23	9.55	9.90
Nevada	4.51	5.00	5.29	5.44	5.57	5.62	5.64	6.09	6.39	6.73	7.04	7.43	7.62	8.07	8.36	8.93	8.37	8.64	9.42

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State <sup>a</sup>	1990	1991	1992	1993	1994	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008
New Hampshire	4.98	5.21	5.61	5.82	5.97	6.21	6.36	6.71	6.84	7.18	7.68	8.17	7.94	8.53	9.01	9.05	9.16	9.50	9.70
New Jersey	4.89	4.93	5.39	5.81	5.92	5.81	5.97	6.26	6.33	6.84	7.04	7.37	7.46	7.97	8.52	8.48	8.95	9.29	9.70
New Mexico	4.61	4.87	5.17	5.37	5.52	5.80	5.87	5.82	6.08	6.42	6.74	6.71	7.12	7.61	7.54	7.63	8.00	8.27	8.70
New York	4.98	5.21	5.61	5.82	5.97	6.21	6.36	6.71	6.84	7.18	7.68	8.17	7.94	8.53	9.01	9.05	9.16	9.50	9.70
North Carolina	4.33	4.50	4.97	5.07	5.38	5.50	5.80	5.79	6.16	6.54	6.98	7.06	7.53	7.75	8.06	8.24	8.51	9.02	8.85
North Dakota	5.17	5.20	5.36	5.78	6.03	5.99	6.29	6.55	7.01	7.12	7.49	7.81	8.24	8.53	8.83	9.00	9.23	9.55	9.90
Ohio	4.88	5.05	5.59	5.85	6.02	6.18	6.23	6.66	7.18	7.53	7.62	8.09	8.38	8.65	9.00	9.20	9.21	9.88	9.90
Oklahoma	4.65	4.61	4.87	5.01	4.98	5.32	5.50	5.48	5.92	6.25	6.49	6.98	7.28	7.29	7.73	7.89	8.32	8.66	9.02
Oregon	5.42	5.69	5.94	6.31	6.51	6.41	6.82	6.87	7.08	7.34	7.64	8.14	8.60	8.71	8.73	9.03	9.01	9.77	9.94
Pennsylvania	4.89	4.93	5.39	5.81	5.92	5.81	5.97	6.26	6.33	6.84	7.04	7.37	7.46	7.97	8.52	8.48	8.95	9.29	9.70
Rhode Island	4.98	5.21	5.61	5.82	5.97	6.21	6.36	6.71	6.84	7.18	7.68	8.17	7.94	8.53	9.01	9.05	9.16	9.50	9.70
South Carolina	4.29	4.46	4.91	5.04	5.43	5.66	5.40	5.92	6.30	6.30	6.72	6.83	7.28	7.49	7.88	8.07	8.37	8.51	8.53
South Dakota	5.17	5.20	5.36	5.78	6.03	5.99	6.29	6.55	7.01	7.12	7.49	7.81	8.24	8.53	8.83	9.00	9.23	9.55	9.90
Tennessee	4.45	4.56	5.04	5.09	5.29	5.47	5.54	5.68	5.92	6.28	6.39	6.60	7.07	7.20	7.63	8.17	8.24	8.65	9.13
Texas	4.65	4.61	4.87	5.01	4.98	5.32	5.50	5.48	5.92	6.25	6.49	6.98	7.28	7.29	7.73	7.89	8.32	8.66	9.02
Utah	4.51	5.00	5.29	5.44	5.57	5.62	5.64	6.09	6.39	6.73	7.04	7.43	7.62	8.07	8.36	8.93	8.37	8.64	9.42
Vermont	4.98	5.21	5.61	5.82	5.97	6.21	6.36	6.71	6.84	7.18	7.68	8.17	7.94	8.53	9.01	9.05	9.16	9.50	9.70
Virginia	4.33	4.50	4.97	5.07	5.38	5.50	5.80	5.79	6.16	6.54	6.98	7.06	7.53	7.75	8.06	8.24	8.51	9.02	8.85
Washington	5.42	5.69	5.94	6.31	6.51	6.41	6.82	6.87	7.08	7.34	7.64	8.14	8.60	8.71	8.73	9.03	9.01	9.77	9.94
West Virginia	4.45	4.56	5.04	5.09	5.29	5.47	5.54	5.68	5.92	6.28	6.39	6.60	7.07	7.20	7.63	8.17	8.24	8.65	9.13
Wisconsin	4.45	4.90	5.16	5.38	5.64	5.65	6.19	6.56	6.85	7.34	7.65	8.07	8.57	8.70	9.11	9.18	9.43	9.65	10.01
Wyoming	4.49	4.79	4.94	5.25	5.59	5.57	5.76	6.01	6.54	6.48	6.79	7.26	7.43	7.70	7.69	8.20	8.47	8.76	8.74

**Source:** Compiled from data provided by the U.S. Department of Labor, Employment and Training Administration. See *Federal Register*, February 26, 2003, pp. 8929-8930; March 19, 2003, p. 13331; March 3, 2004, pp. 10063-10065; March 2, 2005, pp. 10152-10153; March 16, 2006, pp. 13633-13635; February 21, 2007, pp. 7909-7911; and February 26, 2008, pp. 10288-10290.

a. Because it is not included in the Farm Labor Survey (FLS), an AEW is not calculated for Alaska.

A concern raised by some policymakers about the current procedures for determining the AEW is that the FLS does not provide sufficient wage detail by area, occupation, or level of skill and experience required by employers. Currently, the AEW applies equally to all crop workers, livestock workers, and farm equipment operators in a region or state. However, within a region or state, wages for the same occupation may vary because of differences in the cost of living or in the relative supply of or demand for workers.

**Proposed Procedures.** On February 13, 2008, DOL published proposed changes to current regulations for the H-2A program.<sup>18</sup> The proposed rule would change the way the AEW is determined. Instead of using data from the Farm Labor Survey (FLS), the AEW would be calculated using data from the Occupational Employment Statistics (OES) survey. Under the proposed rule, the AEW could not be less than \$7.25 an hour. According to DOL, the proposed change would better reflect the wages of farmworkers in local labor markets, as opposed to state or regional areas.<sup>19</sup>

**Occupational Employment Statistics (OES) Survey.** The OES survey is a cooperative effort between the Bureau of Labor Statistics (BLS) and the state workforce agencies (SWAs). The survey collects information from approximately 200,000 establishments each May and November and provides wage estimates for workers in 801 occupations. Wages are defined as cash wages before taxes and other deductions. The survey includes both full-time and part-time employees. Published average hourly wages are based on data collected over a three-year period from

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<sup>18</sup> Congress has also considered legislation to change the AEW. For example, in the 110<sup>th</sup> Congress, the Agricultural Job Opportunities, Benefits, and Security Act of 2007 (the AgJOBS Act; S. 237, S. 340, and H.R. 371) would freeze the AEW in each state at the rates in effect on January 1, 2003. The AEW would be frozen at those rates for three years. At the end of the three-year period, the rates would be adjusted each March. The first adjustment would be the lesser of the annual change, beginning with 2006, in the CPI-U or 4%. Subsequent annual adjustments would be the lesser of the change in the CPI-U or 4%.

<sup>19</sup> U.S. Department of Labor, Employment and Training Administration, “Temporary Agricultural Employment of H-2A Aliens in the United States; Modernizing the Labor Certification Process and Enforcement,” *Federal Register*, vol. 73, February 13, 2008, pp. 8545, 8549-8552. (It is hereafter cited as Employment and Training Administration, *Temporary Agricultural Employment of H-2A Aliens in the United States; Modernizing the Labor Certification Process and Enforcement*.)

The proposed rule would make several other changes to the H-2A program. For example, employers would no longer have to apply to DOL for a labor certification that qualified U.S. workers are not available and that the employment of foreign workers will not adversely affect the wages and working conditions of U.S. workers who are similarly employed. Instead, employers would have to “attest” to DOL that they have complied with all H-2A program requirements. Attestation is used in the H-1B professional speciality temporary worker program. For information on the H-1B program, see CRS Report RL30498, *Immigration: Legislative Issues on Nonimmigrant Professional Specialty (H-1B) Workers*, by Ruth Ellen Wasem.

approximately 1.2 million establishments.<sup>20</sup> The survey does not include farmers. Instead, it includes employers involved in agricultural support activities. These are activities performed by contractors or for a fee, and include soil preparation, planting, harvesting, and management.<sup>21</sup> Wage data from the OES survey are available by state, metropolitan statistical area (MSA), and “balance of state” areas (BOS), which are areas that are not part of an MSA.<sup>22</sup>

*The Four Wage Levels Calculated from the OES Survey.* According to the proposed H-2A regulations, the AEWB would be based on published wage data from the Foreign Labor Certification (FLC) Data Center of DOL.<sup>23</sup> Using data from the OES survey, the FLC Data Center provides four levels of wages based on the skill, experience, education, and supervisory duties required for a job. Level I workers are entry-level workers who perform routine tasks that require limited exercise of judgment. Level IV workers generally have management or supervisory duties.<sup>24</sup> The four wage levels are currently used in the H-2B temporary nonagricultural worker program.

The Level I and IV hourly wages available from the FLC Data Center are calculated by BLS directly from OES wage data. For each occupation and area, the Level I wage is the average wage for the bottom third of the earnings distribution. The Level IV wage is the average of the top two-thirds of the earnings distribution.

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<sup>20</sup> Published average hourly wages are based on information collected from the six most recent May and November survey samples. Wages from the first five samples are adjusted for inflation to produce average hourly wages in constant dollars. U.S. Department of Labor, Bureau of Labor Statistics, *Occupational Employment and Wages, 2006*, available at [stats.bls.gov/news.release/pdf/ocwage.pdf], Technical note.

<sup>21</sup> U.S. Department of Labor, Bureau of Labor Statistics, *Occupational Employment Statistics*, available at [http://www.bls.gov/OES]. U.S. Department of Labor, Bureau of Labor Statistics, *Occupational Employment and Wages, May 2005*, Bulletin 2585, available at [stats.bls.gov/oes/oes\_pub\_2005.htm], pp. 252-255. U.S. Census Bureau, *North American Industry Classification System (NAICS)*, available at [http://www.census.gov/epcd/www/naics.html], NAICS Code 11.

<sup>22</sup> An MSA consists of an urban center (or centers) and adjacent communities that have a high degree of economic and social integration. Executive Office of the President, Office of Management and Budget, *Metropolitan Statistical Areas, Metropolitan Divisions, Micropolitan Statistical Areas, Combined Statistical Areas, New England City and Town Areas, and Combined New England City and Town Areas*, OMB Bulletin No. 08-01, available at [http://www.whitehouse.gov/omb/bulletins/fy2008/b08-01.pdf], Appendix, p. 2. (It is hereafter cited at Office of Management and Budget, *Metropolitan Statistical Areas*.)

<sup>23</sup> Employment and Training Administration, *Temporary Agricultural Employment of H-2A Aliens in the United States; Modernizing the Labor Certification Process and Enforcement*, p. 8574.

<sup>24</sup> U.S. Department of Labor, Employment and Training Administration, *Prevailing Wage Determination Policy Guidance, Non-Agricultural Immigration Programs*, May 9, 2005, available at [http://www.foreignlaborcert.doleta.gov/pdf/Policy\_Nonag\_Progs.pdf], p. 7. (It is hereafter cited as U.S. Department of Labor, *Prevailing Wage Determination Policy Guidance, Non-Agricultural Immigration Programs*.)

The Level II and Level III wages are then calculated from the Level I and IV wages. The Consolidated Appropriations Act of 2005 (H.R. 4818, P.L. 108-447) amended the Immigration and Nationality Act (INA) to say that “Where an existing government survey has only 2 levels, 2 intermediate levels may be created by dividing by 3, the difference between the 2 levels offered, adding the quotient thus obtained to the first level and subtracting that quotient from the second level.”<sup>25</sup>

**Farm Wages from the OES Survey.** The OES survey collects wage information, and the FLC Data Center provides four wage levels, for the nine farming occupations listed below. The estimated wages for farming occupations are based on data collected from employers in agricultural support activities.

- First-line supervisors or managers of farming, fishing, and forestry workers,
- Farm labor contractors,
- Agricultural inspectors,
- Animal breeders,
- Graders and sorters, agricultural products,
- Agricultural equipment operators,
- Farmworkers and laborers: crop, nursery, and greenhouse,
- Farmworkers: farm and ranch animals,
- Agricultural workers, all other.<sup>26</sup>

Currently, there are 363 MSAs in the United States.<sup>27</sup> If OES wage data were available for all MSAs, all nine farming occupations, and at four wage levels, wage data from the OES survey could provide over 13,000 adverse effect wage rates nationwide (including Alaska, but not including balance of state — that is, non-MSA — areas). The actual number of AEWRs that would be available from the OES survey may be smaller, however. If the OES survey sample for an area is too small, wage data may not be available for all farming occupations in the area.

Compared to the FLS, the OES survey provides wage information for more geographic areas and more farming occupations. In addition, the FLC Data Center provides wage rates at four levels of skill and experience. However, one of the concerns raised about the OES survey is that it does not collect wage information from farmers engaged directly in crop or livestock production. Instead, it collects wage information from employers in agricultural support activities. These employers include labor contractors who hire workers to harvest crops or tend livestock.

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<sup>25</sup> To illustrate the four wage levels, assume that the Level I and Level IV hourly wage rates estimated from OES wage data are \$10.00 and \$22.00, respectively. The difference between the Level IV and Level I wage is \$12.00. Dividing this difference by three and adding the result to the Level I wage yields a Level II wage of \$14.00 (i.e.,  $\$12.00 \div 3 = \$4.00$ .  $\$10.00 + \$4.00 = \$14.00$ ). Subtracting the result from the Level IV wage yields a Level III wage of \$18.00 (i.e.,  $\$22.00 - \$4.00 = \$18.00$ ).

<sup>26</sup> Detailed descriptions of these occupations are available at the U.S. Department of Labor, Bureau of Labor Statistics, *Farming, Fishing, and Forestry Occupations*, available at [[http://www.bls.gov/soc/soc\\_r0a0.htm](http://www.bls.gov/soc/soc_r0a0.htm)].

<sup>27</sup> Office of Management and Budget, *Metropolitan Statistical Areas*, p. 3.

## Potential Effects of the Proposed Change in the AEW

DOL's proposed regulations would not change the existing requirement that H-2A workers must be paid at least the highest of the adverse effect wage rate (AEWR), the prevailing wage, or the applicable federal or state minimum wage. The proposed rule would, however, change the way the AEW is determined. This section compares the current AEW to the current federal and state minimum wage rates and then examines some of the potential effects of the proposed change in the way the AEW is calculated.

### Federal and State Minimum Wage Rates

The current basic federal minimum wage is \$6.55 an hour. It is scheduled to rise to \$7.25 an hour in July 2009.<sup>28</sup> The federal minimum wage applies to most agricultural employees. Exemptions apply to small agricultural employers, immediate family members, workers engaged in the production of livestock on the range, and certain hand harvesters.<sup>29</sup>

Several states have minimum wage rates that are higher than the federal minimum wage. When the state minimum wage is higher than the federal minimum wage, the higher state wage generally applies. As of July 24, 2008, among the 49 states with an AEW (i.e., excluding Alaska), 23 states have a minimum wage that is higher than the federal minimum wage.

**Table 3** compares the current AEW by state with the current federal minimum wage of \$6.55 and each state's minimum wage. All minimum wage rates are effective as of July 24, 2008. In each state, the current AEW, as calculated from the FLS, is higher than either the federal or state minimum wage. In addition, in each state, the current AEW is higher than the proposed minimum AEW of \$7.25.

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<sup>28</sup> On May 25, 2007, President George W. Bush signed into law the U.S. Troop Readiness, Veterans' Care, Katrina Recovery, and Iraq Accountability Appropriations Act, 2007 (H.R. 2206, P.L. 110-28). Title VIII, Subtitle A, the Fair Minimum Wage Act of 2007, raised the basic federal minimum wage, in steps, from \$5.15 to \$7.25 an hour.

<sup>29</sup> U.S. Department of Labor, Employment Standards Administration, *Agricultural Employers Under the Fair Labor Standards Act (FLSA)*, available at [<http://www.dol.gov/esa/whd/regs/compliance/whdfs12.pdf>].



**Table 3. Comparisons of the Current Adverse Effect Wage Rates with Federal and State Minimum Wage Rates**  
(as of July 24, 2008)

State	Adverse Effect Wage Rate (AEWR)	State Minimum Wage	Amount by Which the AEWR Exceeds the Federal Minimum Wage Of \$6.55 an Hour	Amount by Which the AEWR Exceeds the State Minimum Wage
Alabama	\$8.53	N.A.	\$1.98	\$8.53
Arizona	8.70	\$6.90	2.15	1.80
Arkansas	8.41	6.25	1.86	2.16
California	9.72	8.00	3.17	1.72
Colorado	9.42	7.02	2.87	2.40
Connecticut	9.70	7.65	3.15	2.05
Delaware	9.70	7.15	3.15	2.55
Florida	8.82	6.79	2.27	2.03
Georgia	8.53	5.15	1.98	3.38
Hawaii	10.86	7.25	4.31	3.61
Idaho	8.74	6.55	2.19	2.19
Illinois	9.90	7.75	3.35	2.15
Indiana	9.90	6.55	3.35	3.35
Iowa	10.44	7.25	3.89	3.19
Kansas	9.90	2.65	3.35	7.25
Kentucky	9.13	6.55	2.58	2.58
Louisiana	8.41	N.A.	1.86	8.41
Maine	9.70	7.00	3.15	2.70
Maryland	9.70	6.55	3.15	3.15
Massachusetts	9.70	8.00	3.15	1.70
Michigan	10.01	7.40	3.46	2.61
Minnesota	10.01	6.15	3.46	3.86
Mississippi	8.41	N.A.	1.86	8.41
Missouri	10.44	6.65	3.89	3.79
Montana	8.74	6.55	2.19	2.19
Nebraska	9.90	6.55	3.35	3.35
Nevada	9.42	6.85	2.87	2.57
New Hampshire	9.70	6.50	3.15	3.20
New Jersey	9.70	7.15	3.15	2.55
New Mexico	8.70	6.50	2.15	2.20
New York	9.70	7.15	3.15	2.55
North Carolina	8.85	6.55	2.30	2.30
North Dakota	9.90	6.55	3.35	3.35
Ohio	9.90	7.00	3.35	2.90
Oklahoma	9.02	6.55	2.47	2.47
Oregon	9.94	7.95	3.39	1.99
Pennsylvania	9.70	7.15	3.15	2.55
Rhode Island	9.70	7.40	3.15	2.30

State	Adverse Effect Wage Rate (AEWR)	State Minimum Wage	Amount by Which the AEWR Exceeds the Federal Minimum Wage Of \$6.55 an Hour	Amount by Which the AEWR Exceeds the State Minimum Wage
South Carolina	8.53	N.A.	1.98	8.53
South Dakota	9.90	6.55	3.35	3.35
Tennessee	9.13	N.A.	2.58	9.13
Texas	9.02	6.55	2.47	2.47
Utah	9.42	6.55	2.87	2.87
Vermont	9.70	7.68	3.15	2.02
Virginia	8.85	6.55	2.30	2.30
Washington	9.94	8.07	3.39	1.87
West Virginia	9.13	7.25	2.58	1.88
Wisconsin	10.01	6.50	3.46	3.51
Wyoming	8.74	5.15	2.19	3.59

**Source:** *Federal Register*, vol. 73, no. 38, February 26, 2008, pp. 10288-10290, and the U.S. Department of Labor, *Minimum Wage Laws in the States*, July 24, 2008, available at [<http://www.dol.gov/esa/minwage/america.htm>]. Minimum wage coverage in some states varies by size of employer.

**Note:** N.A. means that a state does not have a state minimum wage.

## Potential Effects of the Proposed Rule on the Wages and Employment of Farmworkers in the United States

This section examines some of the potential effects on farmworker wages and employment if DOL implements the proposed change in the way the AEWR is determined.

**Preview of the Findings.** Under the proposed rule, in most areas both the minimum AEWR of \$7.25 and the OES Level I wage (for entry level workers) would be lower than the current AEWR. In some areas, however, the Level I wage would be higher than the current AEWR. On the other hand, in most areas, the Level III and IV OES wages for livestock workers and farm equipment operators would be higher than the current AEWR. Compared to the current AEWR, the proposed AEWR is more likely to be lower for crop workers than for livestock workers or farm equipment operators.

In some areas, the prevailing wage could become the highest of the AEWR, prevailing wage, or minimum wage. In some areas in some states, the state minimum wage could become the highest of the three wage rates.

In areas where the proposed rule would lower the wages that employers must offer H-2A workers, the rule should create an incentive for employers to hire more H-2A, as opposed to unauthorized, workers. In areas where the rule would increase the wages that employers must offer H-2A workers, the rule would probably not

create an incentive to hire more H-2A workers. On the other hand, in areas where the rule would increase the wages of H-2A workers, it should create an incentive for employers to hire more U.S. workers. However, in areas where the rule would lower the wages that employers must offer H-2A workers, it could lower the wages employers offer U.S. workers.

**Methodology and Assumptions.** In order to analyze the potential effects of the proposed rule on the wages and employment of farmworkers, it would be necessary to compare the AEWR under current procedures with the AEWR under the proposed rule. This section uses administrative data from employer requests for H-2A workers, OES wage data from the FLC Data Center, and prevailing wage data from ETA to analyze the potential impact of the proposed rule.

The analysis compares the current AEWR for crop and livestock workers (combined), as calculated from the FLS, with the four wage levels of three occupations from the OES survey: (1) farmworkers and laborers: crop, nursery, and greenhouse production, (2) farmworkers: farm and ranch animals, and (3) equipment operators. It is assumed that, under the proposed rule, these three occupations would be used to determine the AEWR for crop workers, livestock workers, and farm equipment operators.

The analysis also compares the hourly AEWR under the proposed rule with hourly prevailing wage for the same area and occupation.

The analysis is based on labor certifications for five states. These states were chosen because they are the five top states in terms of the number of H-2A workers requested in FY2007. Together, the five states accounted for 43.7% of the H-2A workers requested. The states are North Carolina (17.9%), Georgia, (8.0%), Louisiana (6.1%), Florida (6.0%), and Kentucky (5.7%).

Wage data from the OES survey are available by metropolitan statistical area (MSA) and areas that are called “balance of state” (BOS), which are areas that are not part of an MSA. At the FLC Data Center, these areas are called “BLS areas.” For each state, the BLS areas encompass all of the counties in a state. OES wage data can be retrieved by county or BLS area.<sup>30</sup> If the OES sample is sufficiently large, wage rates are available at four levels of skill and experience for each farming occupation in each BLS area.

The analysis presented here compares the current AEWR with the proposed minimum AEWR of \$7.25, the OES Level I, II, III, and IV wages, the prevailing wage, and state minimum wage rates. Under the proposed rule, the actual wage that would apply to an individual worker would depend on the occupation and the level of skill and experience required by an employer for the job. Thus, any of the four OES wage levels, the prevailing wage, or the minimum wage could become the highest of the wage rates that employers must offer to H-2A workers. The discussion

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<sup>30</sup> The four OES wage levels are available by area and occupation at the U.S. Department of Labor, Foreign Labor Certification Data Center, *Online Wage Library*, available at [<http://www.flcdatacenter.com/OesWizardStart.aspx>].

below of findings and the analysis of the potential effects of the proposed rule highlight workers who would be paid the minimum \$7.25 AEW or the OES Level I wage. More emphasis is placed on these workers because it is assumed that the majority of H-2A workers are entry-level workers.

**Findings.** The results of the analysis of the effect of the proposed rule on the AEW are summarized in **Tables 4** through **7**. For each of the five states chosen, **Table 4** shows the number of BLS areas where the OES Level I wage is less than or equal to the current AEW (column 3) and the number of areas where the proposed Level I AEW is higher than the current AEW (column 6). The number of areas where the proposed AEW would be less than or equal to the current AEW is separated into two groups: Column 4 shows the number of BLS areas where the proposed minimum AEW of \$7.25 is lower than the current AEW and column 5 shows the number of areas where the OES Level I wage is more than \$7.25 an hour, but less than or equal to the current AEW.

**Tables 5** through **7** are similar to **Table 4**, except they compare the current AEW to the OES Levels II, III, and IV wages for each state, area, and occupation. **Tables 13** through **16** in the Appendix show the prevailing wage rates for North Carolina, Georgia, Florida, and Kentucky. No prevailing wage rates are currently available for Louisiana.

In general, the results show the following.

- In most areas, the \$7.25 minimum AEW and the OES Level I wage for crop workers, livestock workers, and farm equipment operators are lower than the current AEW.<sup>31</sup> For example, for cropworkers in North Carolina, the OES Level I wage is lower than the current AEW in 18 of 19 BLS areas (compare columns 2 and 3 in **Table 4**).
- In many areas, the \$7.25 minimum AEW is lower than the current AEW. For example, in Georgia, the \$7.25 minimum AEW is lower than the current AEW in 15 of 19 BLS areas. Assuming the \$7.25 wage would not be adjusted for inflation (as wages rise due to inflation, increased productivity, or both), as time passes the \$7.25 wage would apply to fewer areas.
- The minimum \$7.25 AEW and the OES Level I wage are more likely to be lower than the current AEW for crop workers than for livestock workers or farm equipment operators. For example, for crop workers, the \$7.25 minimum AEW is lower than the current AEW in 51 of the 83 total BLS areas represented in **Table 4** —

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<sup>31</sup> According to current rules, a wage determination that uses the four OES wage levels from the FLC Data Center begins with a Level I, or entry level, wage. For jobs that require greater skills or more experience, a higher wage applies. U.S. Department of Labor, *Prevailing Wage Determination Policy Guidance, Non-Agricultural Immigration Programs*, pp. 3, 7.

compared to livestock workers in 27 areas and farm equipment operators in 24 areas.

- In some areas, the OES Level I wage is higher than the current AEW. For example, for equipment operators, the OES Level I wage is higher than the current AEW in 22 of the 83 BLS areas shown in **Table 4**. Half of these 22 areas are in Kentucky. (See column 6.)
- In most areas, the Level III and IV OES wages for livestock workers and farm equipment operators are higher than the current AEW. For example, the Level IV wage for equipment operators is higher than the current AEW in all 83 wage areas shown in **Table 7**. For livestock workers, the Level IV wage is higher than the current AEW in 80 of 83 areas. On the other hand, in 13 of 83 areas, the Level IV wage for crop workers is lower than the current AEW.
- In some areas, the prevailing wage could become the highest of the AEW, the prevailing wage, or the applicable minimum wage. For example, in Greenville, North Carolina, the prevailing wage for tobacco harvesters is \$7.50 an hour. (See **Table 13**.) This is less than the current AEW of \$8.85 but higher than the proposed minimum AEW of \$7.25 or the Level I, II, or III OES wages for crop workers in the Greenville MSA. Similarly, in Brunswick and Valdosta (i.e., southern), Georgia, the prevailing wage of \$8.00 an hour for tractor drivers is less than the current AEW of \$8.53 but higher than the Level I or II OES wages for equipment operators. (See **Tables 9** and **14**.)
- Finally, in some areas in some states, the state minimum wage could become the highest wage that employers must offer to H-2A workers. In none of the five states studied here is the state minimum wage higher than the \$7.25 minimum AEW. But, as of July 24, 2008, nine states have minimum wages that are higher than the minimum \$7.25 AEW. Whether the state minimum wage would apply to an H-2A worker would depend on whether it is higher than the prevailing wage or the OES wage for the job.

### **Comparison of the AEW Based on the FLS Versus OES Survey.**

The current AEW may overestimate the wages of crop workers and underestimate the wages of livestock workers and farm equipment operators. Except for equipment operators in Kentucky, the \$7.25 minimum AEW and the OES Level I wage for the three occupations shown in **Table 4** are generally lower than the current AEW. For example, in Georgia, the OES Level I wage for livestock workers is lower than the current AEW in all 19 BLS areas (compare columns 2 and 3). In Florida, the Level I wage for equipment operators is lower than the current AEW in 17 of 20 BLS areas.

In general, the OES Level II wage for crop workers is also lower than the current AEW. See **Table 5**. This is not the case, however, for livestock workers or farm equipment operators. With some exceptions (e.g., livestock workers in parts of Louisiana and Kentucky and equipment operators in parts of Georgia), the Level II wages for livestock workers and farm equipment operators are generally higher than the current AEW. The same is true for both the Level III and Level IV wages. Thus, the proposed rule may have more of an adverse effect on the wages of crop workers than on the wages of either livestock workers or equipment operators.

**Potential Effects of the Proposed Regulation on the Wages and Employment of Farmworkers.** If the proposed rule is implemented as written, its effect on the wages and employment of farmworkers would depend on a number of factors. First, the rule may either raise or lower the wages employers must offer H-2A workers. Second, the effect of the rule may vary by area and occupation. The effect on the wages and employment of crop workers may be different from the effect on livestock workers or farm equipment operators. The effect may be different in labor markets where local wages are above or below the current AEW. Finally, the effect of the rule may be different for three groups of workers: unauthorized farmworkers, H-2A workers, and U.S. workers.<sup>32</sup>

**Effect of the Proposed Rule on Wages.** Under the proposed rule, employers would have to offer H-2A workers at least the highest of the minimum AEW of \$7.25, the OES wage level that applies to the job, the prevailing wage, or the state minimum wage. (Under current law, the federal minimum wage is not scheduled to increase to more than \$7.25 an hour.) Depending on local wages for the occupation, skill, and experience that employers require for a job, the wage that employers would have to offer H-2A workers under the proposed rule may be lower or higher than the wage that employers must offer under current regulations. Under the proposed rule, for employers who hire mainly entry level workers, the minimum AEW of \$7.25, the OES Level I or Level II wage, the prevailing wage, or the state minimum wage would likely apply. Nevertheless, for some occupations in some areas, even the Level I or Level II wage would be higher than the current AEW.

The current AEW is higher than the state minimum wage in all states. On the other hand, as of July 24, 2008, the state minimum wage is greater than the minimum AEW of \$7.25 in nine states. Whether the state minimum wage would apply to H-2A workers in these states would depend on whether it is higher than either the proposed AEW or the prevailing wage.

For those H-2A workers who qualify for Level III or Level IV OES wages, the AEW would likely be higher than the wage that applies under current regulations. In most areas, the Level III and IV wages for livestock workers and farm equipment operators are higher than the current AEW. On the other hand, in some areas, even the Level III or Level IV wage, especially for crop workers, would be lower than the current AEW.

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<sup>32</sup> U.S. workers include American citizens as well as foreign persons who have been legally admitted to the United States.

***Effect of the Proposed Rule on Employment.*** The effect of the proposed rule on the demand for H-2A versus unauthorized workers may vary depending on whether the rule lowers or raises the wages employers must offer H-2A workers.

In FY2007, 50,791 H-2A temporary agricultural worker visas were issued. At the end of FY2007, an estimated 1.1 million hired farmworkers were employed on U.S. farms and ranches.<sup>33</sup> According to findings from the National Agricultural Workers Survey (NAWS), as many as half of crop workers on U.S. farms are not authorized to work in the United States.<sup>34</sup> Thus, the available data suggest that U.S. farmers and farm labor contractors employ more unauthorized crop workers than H-2A workers.

Under the proposed rule, the AEWL should more closely reflect the wages of farmworkers in local labor markets. In labor markets with a large concentration of unauthorized farmworkers, wage data from the OES survey may, to some extent, reflect the wages paid to unauthorized workers.<sup>35</sup> For employers who hire mainly entry-level workers, the proposed rule may lower the wages employers must offer H-2A workers and could create an incentive for employers to hire more legal, as opposed to unauthorized, foreign farmworkers. On the other hand, the rule may not increase the incentive for employers to hire H-2A workers if it raises the wages employers must offer H-2A workers.

Similarly, the effect of the proposed rule on the employment of U.S. workers may depend on whether it raises or lowers the wages of foreign, as opposed to U.S., workers. The relative cost of benefits may also affect the demand for foreign and U.S. workers. Although U.S. workers are entitled to the same benefits as H-2A workers, employer costs for housing and transportation may be greater for H-2A than U.S. workers (e.g., if U.S. workers live within commuting distance of a job).<sup>36</sup> Thus, the effect of the proposed rule on the employment of U.S. workers may depend on how the rule changes the relative cost (i.e., wages and benefits) of foreign versus U.S. workers.

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<sup>33</sup> According to the FLS, an estimated of 1,122,000 hired farmworkers were employed on U.S. farms and ranches during the week of October 7-13, 2007. Farmworkers include field and livestock workers employed directly by farmers and by agricultural service providers. U.S. Department of Agriculture, National Agriculture Statistics Service, *Farm Labor*, November 16, 2007, available at [usda.mannlib.cornell.edu/usda/nass/FarmLabo/2000s/2007/FarmLabo-11-16-2007.pdf], p. 1.

<sup>34</sup> U.S. Department of Labor, *Findings from the National Agricultural Workers Survey (NAWS) 2001-2002*, Research Report No. 9, March 2005, available at [http://www.doleta.gov/agworker/report9/naws\_rpt9.pdf], p. 6.

<sup>35</sup> Wage estimates based on information collected from a sample of employers are subject to sampling error. Because the wage estimates from both the FLS and OES surveys are based on a sample of employers, a survey of all employers may yield different results.

<sup>36</sup> Employment and Training Administration, *Temporary Agricultural Employment of H-2A Aliens in the United States; Modernizing the Labor Certification Process and Enforcement*, p. 8552.

Other factors may also affect the relative supply of or demand for foreign farmworkers, including increased enforcement of U.S. immigration law and changes in economic conditions in the United States and elsewhere. It may be difficult, however, to separate the effects of these, and other, changes from the effect of the proposed rule on hourly wages.

**Table 4. The Number of BLS Areas Where the Proposed AEWR, Using OES Level I Wage Rates, Would be Less Than or Greater Than the Current AEWR: A Comparison of Five States**

State (1)	Number of BLS Areas (2)	Number of BLS Areas Where the Proposed AEWR Would Be Less Than the Current AEWR			Number of BLS Areas Where the Proposed AEWR Would Be Greater Than the Current AEWR (6)
		Total (3)	Number of Areas Where the \$7.25 Minimum AEWR Would Apply (4)	Number of Areas Where the Proposed AEWR Would Be Greater Than \$7.25 but Less Than or Equal to the Current AEWR (5)	
<b>Farmworkers and Laborers: Crop, Nursery, and Greenhouse</b>					
North Carolina	19	18	11	7	1
Georgia	19	18	15	3	1
Louisiana	12	12	8	4	0
Florida	20	18	10	8	2
Kentucky	13 <sup>a</sup>	12	7	5	0
<b>Farmworkers: Farm and Ranch Animals</b>					
North Carolina	19	16	0	16	3
Georgia	19	19	7	12	0
Louisiana	12	11	10 <sup>b</sup>	1	1
Florida	20	18	2	16	2
Kentucky	13	11	8	3	2
<b>Equipment Operators</b>					
North Carolina	19	16	8	8	3
Georgia	19	16	15	1	3
Louisiana	12	10	0	10	2
Florida	20	17	1	16	3
Kentucky	13	2	0	2 <sup>c</sup>	11

**Source:** CRS calculations based on the assumptions outlined in the text of this report. The Level I OES wage rates by state and BLS area are shown in the **Appendix**.

- a. For one of the BLS areas in Kentucky, no OES data for crop workers are available for the period.
- b. For one of the BLS areas in Louisiana, the OES Level I wage for livestock workers is \$7.25, the same as the floor for the proposed AEWR.
- c. For one of the BLS areas in Kentucky, the OES Level I wage for equipment operators is \$9.13, the same as the current AEWR.



**Table 5. The Number of BLS Areas Where the Proposed AEW, Using OES Level II Wage Rates, Would be Less Than or Greater Than the Current AEW: A Comparison of Five States**

State (1)	Number of BLS Areas (2)	Number of BLS Areas Where the Proposed AEW Would Be Less Than the Current AEW			Number of BLS Areas Where the Proposed AEW Would Be Greater Than the Current AEW (6)
		Total (3)	Number of Areas Where the \$7.25 Minimum AEW Would Apply (4)	Number of Areas Where the Proposed AEW Would Be Greater Than \$7.25 but Less Than or Equal to the Current AEW (5)	
<b>Farmworkers and Laborers: Crop, Nursery, and Greenhouse</b>					
North Carolina	19	14	4	10	5
Georgia	19	17	5	12	2
Louisiana	12	7	2	5	5
Florida	20	11	0	11	9
Kentucky	13 <sup>a</sup>	10	0	10	2
<b>Farmworkers: Farm and Ranch Animals</b>					
North Carolina	19	4	0	4	15
Georgia	19	4	0	4	15
Louisiana	12	9	0	9	3
Florida	20	3	0	3	17
Kentucky	13	10	1	9	3
<b>Equipment Operators</b>					
North Carolina	19	5	0	5	14
Georgia	19	14	2	12	5
Louisiana	12	0	0	0	12
Florida	20	2	0	2	18
Kentucky	13	0	0	0	13

**Sources:** CRS calculations based on the assumptions outlined in the text of this report. The Level II OES wage rates by state, BLS area, and wage level are shown in the **Appendix**.

a. For one of the BLS areas in Kentucky, no OES data for crop workers are available for the period.

**Table 6. The Number of BLS Areas Where the Proposed AEW, Using OES Level III Wage Rates, Would be Less Than or Greater Than the Current AEW: A Comparison of Five States**

State (1)	Number of BLS Areas (2)	Number of BLS Areas Where the Proposed AEW Would Be Less Than the Current AEW			Number of BLS Areas Where the Proposed AEW Would Be Greater Than the Current AEW (6)
		Total (3)	Number of Areas Where the \$7.25 Minimum AEW Would Apply (4)	Number of Areas Where the Proposed AEW Would Be Greater Than \$7.25 but Less Than or Equal to the Current AEW (5)	
<b>Farmworkers and Laborers: Crop, Nursery, and Greenhouse</b>					
North Carolina	19	9	0	9	10
Georgia	19	8	0	8	11
Louisiana	12	2	1	1	10
Florida	20	6	0	6	14
Kentucky	13 <sup>a</sup>	6	0	6	6
<b>Farmworkers: Farm and Ranch Animals</b>					
North Carolina	19	0	0	0	19
Georgia	19	2	0	2	17
Louisiana	12	3	0	3	9
Florida	20	0	0	0	20
Kentucky	13	6	0	6	7
<b>Equipment Operators</b>					
North Carolina	19	0	0	0	19
Georgia	19	4	0	4 <sup>b</sup>	15
Louisiana	12	0	0	0	12
Florida	20	0	0	0	20
Kentucky	13	0	0	0	13

**Source:** CRS calculations based on the assumptions outlined in the text of this report. The Level III OES wage rates by state and BLS area are shown in the **Appendix**.

- a. For one of the BLS areas in Kentucky, no OES data for crop workers are available for the period.
- b. For one of the BLS areas in Georgia, the OES Level III wage for equipment operators is \$8.53, the same as the current AEW.

**Table 7. The Number of BLS Areas Where the Proposed AEW, Using OES Level IV Wage Rates, Would Be Less Than or Greater Than the Current AEW: A Comparison of Five States**

State (1)	Number of BLS Areas (2)	Number of BLS Areas Where the Proposed AEW Would Be Less Than the Current AEW			Number of BLS Areas Where the Proposed AEW Would Be Greater Than the Current AEW (6)
		Total (3)	Number of Areas Where the \$7.25 Minimum AEW Would Apply (4)	Number of Areas Where Proposed AEW Would Be Greater Than \$7.25 but Less Than or Equal to Current AEW (5)	
<b>Farmworkers and Laborers: Crop, Nursery, and Greenhouse</b>					
North Carolina	19	6	0	6	13
Georgia	19	5	0	5	14
Louisiana	12	1	1	0	11
Florida	20	1	0	1	19
Kentucky	13 <sup>a</sup>	0	0	0	12
<b>Farmworkers: Farm and Ranch Animals</b>					
North Carolina	19	0	0	0	19
Georgia	19	0	0	0	19
Louisiana	12	1	0	1	11
Florida	20	0	0	0	20
Kentucky	13	2	0	2	11
<b>Equipment Operators</b>					
North Carolina	19	0	0	0	19
Georgia	19	0	0	0	19
Louisiana	12	0	0	0	12
Florida	20	0	0	0	20
Kentucky	13	0	0	0	13

**Sources:** CRS calculations based on the assumptions outlined in the text of this report. The Level IV OES wage rates by state, BLS area, and wage level are shown in the Appendix.

a. For one of the BLS areas in Kentucky, no OES data for crop workers are available for the period.

## Appendix

**Tables 8 through 12** show the four wage levels calculated from the OES survey for each of the BLS areas in five states: North Carolina, Georgia, Louisiana, Florida, and Kentucky. BLS areas consist of MSAs and areas within a state that are not part of an MSA. BLS areas encompass all of the counties in a state. The wage rates are effective for the period July 2008 through June 2009.

**Tables 13 through 16** show the prevailing wage rates for North Carolina, Georgia, Florida, and Kentucky. No prevailing wage rates are currently available for Louisiana. The prevailing wage rates apply to work scheduled for the years 2008 to 2009.

**Table 8. The Four Hourly Wage Levels from the OES Survey for the State of North Carolina, Effective July 2008 Through June 2009**

BLS area	Farmworkers and Laborers: Crop, Nursery, and Greenhouse				Farmworkers: Farm and Ranch Animals				Equipment Operators			
	Level I	Level II	Level III	Level IV	Level I	Level II	Level III	Level IV	Level I	Level II	Level III	Level IV
Asheville	\$10.68	\$11.07	\$11.46	\$11.85	\$7.69	\$8.47	\$9.26	\$10.04	6.97	8.58	10.19	11.80
Balance of State (BOS) 1	6.95	7.26	7.57	7.88	7.90	8.94	9.99	11.03	6.71	8.15	9.60	11.04
Balance of State (BOS) 2	6.76	7.13	7.51	7.88	8.91	9.64	10.38	11.11	8.13	9.37	10.61	11.85
Balance of State (BOS) 3	6.78	7.70	8.61	9.53	8.38	8.75	9.12	9.49	8.18	9.84	11.49	13.15
Balance of State (BOS) 4	8.32	9.44	10.57	11.69	8.18	8.65	9.12	9.59	10.26	12.80	15.33	17.87
Burlington	7.74	8.62	9.51	10.39	8.42	8.81	9.20	9.59	6.97	8.58	10.19	11.80
Charlotte-Gastonia-Concord	7.37	8.44	9.51	10.58	8.00	8.49	8.99	9.48	6.97	8.58	10.19	11.80
Durham	6.77	7.50	8.23	8.96	8.23	9.14	10.05	10.96	8.18	9.66	11.13	12.61
Fayetteville	7.96	8.42	8.87	9.33	8.12	8.90	9.67	10.45	8.15	9.44	10.72	12.01
Goldsboro	6.82	8.03	9.24	10.45	8.54	9.48	10.42	11.36	8.15	9.64	11.14	12.63
Greensboro-High Point	7.57	8.21	8.86	9.50	8.40	9.12	9.84	10.56	8.15	9.46	10.78	12.09
Greenville	6.79	7.13	7.46	7.80	8.47	9.54	10.60	11.67	6.88	8.35	9.81	11.28
Hickory-Lenior-Morgantown	8.51	9.60	10.68	11.77	8.17	8.54	8.92	9.29	10.26	12.80	15.33	17.87
Jacksonville	6.79	7.16	7.53	7.90	8.92	9.70	10.47	11.25	6.95	8.40	9.84	11.29
Raleigh-Cary	8.05	8.82	9.59	10.36	7.62	9.28	10.94	12.60	6.91	8.39	9.88	11.36
Rocky Mount	6.79	7.32	7.85	8.38	7.29	9.57	11.85	14.13	6.88	8.41	9.93	11.46
Virginia Beach-Norfolk-Newport News	6.52	7.35	8.18	9.01	7.94	8.67	9.41	10.14	7.94	10.08	12.23	14.37
Wilmington	6.76	7.14	7.52	7.90	8.91	9.64	10.38	11.11	8.13	9.37	10.61	11.85
Winston-Salem	6.69	7.42	8.16	8.89	8.17	8.54	8.92	9.29	10.26	12.57	14.89	17.20

**Source:** U.S. Department of Labor, Foreign Labor Certification Data Center, *Online Wage Library*, available at [<http://www.flcdatacenter.com/OesWizardStart.aspx>].

**Note:** As a reminder, the AEW for North Carolina is \$8.85 an hour (see **Table 1**). Also, the proposed AEW would be based on wage data from the OES survey, but it could not be less than \$7.25 an hour.

**Table 9. The Four Hourly Wage Levels from the OES Survey for the State of Georgia, Effective July 2008 Through June 2009**

BLS area	Farmworkers and Laborers: Crop, Nursery, and Greenhouse				Farmworkers: Farm and Ranch Animals				Equipment Operators			
	Level I	Level II	Level III	Level IV	Level I	Level II	Level III	Level IV	Level I	Level II	Level III	Level IV
Albany	\$6.48	\$7.30	\$8.12	\$8.94	\$7.48	\$8.80	\$10.13	\$11.45	\$6.39	\$8.17	\$9.94	\$11.72
Athens-Clarke County	8.29	8.98	9.66	10.35	7.35	9.18	11.01	12.84	6.32	8.14	9.95	11.77
Atlanta-Sandy Springs-Marietta	6.59	7.84	9.09	10.34	8.01	9.49	10.97	12.45	9.35	11.32	13.30	15.27
Augusta-Richmond County	6.35	8.50	10.64	12.79	7.18	9.30	11.41	13.53	7.02	9.00	10.99	12.97
Balance of State (BOS) 1	6.28	7.71	9.13	10.56	7.81	9.56	11.31	13.06	6.33	8.45	10.57	12.69
Balance of State (BOS) 2	6.45	7.31	8.16	9.02	7.82	8.61	9.41	10.20	6.34	8.24	10.14	12.04
Balance of State (BOS) 3	6.45	6.85	7.25	7.65	6.78	7.41	8.03	8.66	6.29	7.16	8.04	8.91
Balance of State (BOS) 4	6.48	6.99	7.50	8.01	7.36	8.70	10.05	11.39	6.40	7.47	8.53	9.60
Brunswick	8.54	9.38	10.23	11.07	7.19	8.57	9.95	11.33	6.39	7.48	8.57	9.66
Chattanooga, Tennessee-Georgia	7.34	8.07	8.81	9.54	6.39	7.84	9.28	10.73	8.32	9.90	11.49	13.07
Columbus, Georgia-Alabama	7.68	8.37	9.06	9.75	7.31	8.77	10.22	11.68	11.38	12.73	14.07	15.42
Dalton	6.74	7.81	8.87	9.94	7.60	9.32	11.05	12.77	6.35	8.18	10.01	11.84
Gainesville	6.58	7.83	9.09	10.34	8.09	9.77	11.45	13.13	6.35	8.18	10.01	11.84
Hinesville-Fort Stewart	6.47	6.98	7.49	8.00	6.90	8.09	9.29	10.48	6.34	7.35	8.36	9.37
Macon	6.58	7.81	9.05	10.28	7.76	9.26	10.75	12.25	11.68	12.98	14.28	15.58
Rome	6.58	7.82	9.07	10.31	7.09	8.96	10.82	12.69	6.35	8.18	10.01	11.84
Savannah	6.45	6.88	7.32	7.75	6.78	7.41	8.03	8.66	6.29	7.20	8.10	9.01
Valdosta	6.43	7.01	7.60	8.18	7.36	8.67	9.99	11.30	6.40	7.47	8.53	9.60
Warner Robins	6.46	7.37	8.27	9.18	7.78	8.75	9.71	10.68	6.35	8.18	10.01	11.84

**Source:** U.S. Department of Labor, Foreign Labor Certification Data Center, *Online Wage Library*, available at [<http://www.flcdatacenter.com/OesWizardStart.aspx>].

**Note:** As a reminder, the AEW for Georgia is \$8.53 an hour (see **Table 1**). Also, the proposed AEW would be based on wage data from the OES survey, but it could not be less than \$7.25 an hour.

**Table 10. The Four Hourly Wage Levels from the OES Survey for the State of Louisiana, Effective July 2008 Through June 2009**

BLS area	Farmworkers and Laborers: Crop, Nursery, and Greenhouse				Farmworkers: Farm and Ranch Animals				Equipment Operators			
	Level I	Level II	Level III	Level IV	Level I	Level II	Level III	Level IV	Level I	Level II	Level III	Level IV
Alexandria	\$8.29	\$9.09	\$9.88	\$10.68	\$6.47	\$7.38	\$8.29	\$9.20	\$8.20	\$8.75	\$9.30	\$9.85
Baton Rouge	6.31	7.55	8.79	10.03	6.78	7.80	8.81	9.83	8.18	8.74	9.29	9.85
Balance of State (BOS) 1	6.90	8.03	9.17	10.30	7.25	8.76	10.28	11.79	8.63	10.15	11.68	13.20
Balance of State (BOS) 2	8.09	9.82	11.55	13.28	6.47	7.38	8.29	9.20	8.22	8.73	9.24	9.75
Balance of State (BOS) 3	6.23	6.99	7.75	8.51	6.80	8.05	9.29	10.54	8.20	8.65	9.09	9.54
Balance of State (BOS) 4	6.38	6.65	6.91	7.18	6.88	7.99	9.11	10.22	8.36	10.47	12.59	14.70
Houma-Bayou Cane-Thibodaux	6.40	7.96	9.53	11.09	7.93	9.67	11.42	13.16	8.20	8.75	9.30	9.85
Lafayette	6.35	7.48	8.60	9.73	6.81	7.27	7.74	8.20	8.20	8.75	9.30	9.85
Lake Charles	6.46	7.97	9.49	11.00	6.53	7.49	8.46	9.42	8.20	8.75	9.30	9.85
Monroe	7.85	8.72	9.60	10.47	7.03	8.21	9.39	10.57	8.20	8.65	9.09	9.54
New Orleans-Metairie-Kenner	6.97	8.61	10.25	11.89	10.29	11.59	12.90	14.20	8.88	10.48	12.07	13.67
Shreveport-Bossier City	7.40	8.83	10.25	11.68	6.81	8.24	9.67	11.10	8.22	8.66	9.09	9.53

**Source:** U.S. Department of Labor, Foreign Labor Certification Data Center, *Online Wage Library*, available at [<http://www.flcdatacenter.com/OesWizardStart.aspx>].

**Note:** As a reminder, the AEW for Louisiana is \$8.41 an hour (see **Table 1**). Also, the proposed AEW would be based on wage data from the OES survey, but it could not be less than \$7.25 an hour.

**Table 11. The Four Hourly Wage Levels from the OES Survey for the State of Florida, Effective July 2008 Through June 2009**

BLS area	Farmworkers and Laborers: Crop, Nursery, and Greenhouse				Farmworkers: Farm and Ranch Animals				Equipment Operators			
	Level I	Level II	Level III	Level IV	Level I	Level II	Level III	Level IV	Level I	Level II	Level III	Level IV
Balance of State (BOS) 1	\$9.11	\$10.87	\$12.63	\$14.39	\$8.23	\$9.94	\$11.66	\$13.37	\$9.75	\$11.31	\$12.87	\$14.43
Balance of State (BOS) 2	7.24	8.71	10.19	11.66	8.03	9.98	11.93	13.88	7.85	9.46	11.06	12.67
Balance of State (BOS) 3	7.08	7.63	8.19	8.74	7.08	8.07	9.06	10.05	8.22	10.16	12.10	14.04
Cape Coral-Fort Myers	7.06	8.00	8.94	9.88	7.09	8.19	9.30	10.40	7.25	8.83	10.40	11.98
Deltona-Daytona Beach-Ormond Beach	6.96	7.60	8.23	8.87	7.78	9.21	10.65	12.08	7.70	9.24	10.79	12.33
Fort Lauderdale-Pompano Beach-Deerfield Beach	7.13	7.74	8.35	8.96	9.14	10.57	11.99	13.42	7.35	8.81	10.26	11.72
Fort Walton Beach-Crestview-Destin	8.70	9.87	11.05	12.22	8.23	9.94	11.66	13.37	9.62	11.58	13.55	15.51
Gainesville	7.17	7.92	8.66	9.41	7.86	9.40	10.94	12.48	8.16	9.59	11.01	12.44
Jacksonville	7.71	9.07	10.43	11.79	7.99	9.76	11.52	13.29	8.16	9.21	10.26	11.31
Lakeland	7.22	8.14	9.07	9.99	7.48	9.17	10.85	12.54	9.13	10.48	11.84	13.19
Miami-Miami Beach-Kendall	7.07	7.99	8.91	9.83	8.04	9.41	10.77	12.14	7.90	9.28	10.67	12.05
Naples-Marco Island	7.39	7.98	8.56	9.15	7.37	8.68	9.98	11.29	7.21	8.09	8.98	9.86
Ocala	7.41	8.95	10.50	12.04	7.85	9.22	10.58	11.95	7.70	9.24	10.79	12.33
Orlando-Kissimmee	7.89	9.56	11.22	12.89	7.54	8.91	10.29	11.66	8.60	10.33	12.06	13.79
Palm Bay-Melbourne-Titusville	8.45	9.68	10.91	12.14	7.45	8.85	10.25	11.65	7.70	9.24	10.79	12.33
Panama City-Lynn Haven	7.13	8.05	8.96	9.88	8.23	9.94	11.66	13.37	7.70	9.24	10.79	12.33
Pensacola-Ferry Pass-Brent	8.74	9.92	11.11	12.29	8.23	9.94	11.66	13.37	7.70	9.24	10.79	12.33
Port St. Lucie-Fort Pierce	8.63	9.61	10.59	11.57	9.29	10.72	12.15	13.58	8.57	10.17	11.77	13.37
Punta Gorda	7.08	7.77	8.45	9.14	7.47	9.22	10.97	12.72	8.19	10.11	12.04	13.96
Sarasota-Bradenton-Venice	10.11	11.73	13.35	14.97	7.46	9.17	10.87	12.58	7.46	9.17	10.87	12.58

**Source:** U.S. Department of Labor, Foreign Labor Certification Data Center, *Online Wage Library*, available at [<http://www.flcdatcenter.com/OesWizardStart.aspx>].

**Note:** As a reminder, the AEW for Florida is \$8.82 an hour (see **Table 1**). Also, the proposed AEW would be based on wage data from the OES survey, but it could not be less than \$7.25 an hour.



**Table 12. The Four Hourly Wage Levels from the OES Survey for the State of Kentucky, Effective July 2008 Through June 2009**

BLS area	Farmworkers and Laborers: Crop, Nursery, and Greenhouse				Farmworkers: Farm and Ranch Animals				Equipment Operators			
	Level I	Level II	Level III	Level IV	Level I	Level II	Level III	Level IV	Level I	Level II	Level III	Level IV
Balance of State (BOS) 1	\$6.69	\$7.69	\$8.68	\$9.68	\$6.57	\$7.31	\$8.04	\$8.78	\$10.35	\$11.25	\$12.15	\$13.05
Balance of State (BOS) 2	7.40	8.19	8.99	9.78	6.95	8.32	9.68	11.05	11.18	11.96	12.73	13.51
Balance of State (BOS) 3	7.70	8.97	10.24	11.51	6.61	7.20	7.80	8.39	9.71	11.06	12.40	13.75
Balance of State (BOS) 4	7.07	8.51	9.96	11.40	9.70	10.97	12.24	13.51	9.70	10.97	12.24	13.51
Bowling Green	N.A.	N.A.	N.A.	N.A.	6.58	7.81	9.04	10.27	10.28	10.78	11.29	11.79
Cincinnati-Middletown, Ohio-Kentucky-Indiana	8.23	9.32	10.41	11.50	7.79	9.66	11.52	13.39	9.13	10.28	11.43	12.58
Clarksville, Tennessee-Kentucky	6.64	7.97	9.29	10.62	6.64	7.72	8.79	9.87	9.34	10.24	11.13	12.03
Elizabethtown	7.30	7.98	8.67	9.35	7.01	8.29	9.57	10.85	10.28	10.78	11.27	11.77
Evansville, Indiana-Kentucky	6.28	7.55	8.82	10.09	10.38	11.25	12.11	12.98	10.13	11.00	11.87	12.74
Huntington-Ashland, West Virginia-Kentucky-Ohio	8.17	9.22	10.27	11.32	6.60	7.84	9.08	10.32	8.85	9.96	11.07	12.18
Lexington-Fayette	6.91	8.77	10.62	12.48	7.98	8.99	10.00	11.01	9.67	11.28	12.88	14.49
Louisville-Jefferson County, Kentucky-Indiana	7.05	7.90	8.74	9.59	7.71	8.99	10.26	11.54	9.91	10.71	11.52	12.32
Owensboro	6.26	7.28	8.31	9.33	6.57	7.51	8.45	9.39	10.32	11.09	11.85	12.62

**Source:** U.S. Department of Labor, Foreign Labor Certification Data Center, *Online Wage Library*, available at [<http://www.flcdatacenter.com/OesWizardStart.aspx>].

**Note:** As a reminder, the AEW for Kentucky is \$9.13 an hour (see **Table 1**). Also, the proposed AEW would be based on wage data from the OES survey, but it could not be less than \$7.25 an hour.

**Table 13. H-2A Prevailing Wages, North Carolina, 2008-2009**

Area	Occupation	Prevailing Wage
<b>Statewide</b>		
	Cabbage, harvesting	\$6.30 per hour
	Tomato, harvesting	\$7.00 per hour
	Strawberry, harvesting	\$7.00 per hour
	Cucumber, harvesting	\$0.75 per 5/8 bushel
	Banana peppers, harvesting	No finding <sup>a</sup>
	Squash, harvesting	\$6.50 per hour
	Grape, harvesting	\$8.50 per hour
	Burley tobacco, harvesting	\$9.00 per hour
	Watermelon, harvesting	\$7.00 per hour
	Sweet corn, harvesting	\$6.50 per hour
	Long green cucumber, harvesting	\$0.50 per 5/8 bushel
	Jalapeno peppers, harvesting	\$7.50 per hour
	Onion, harvesting	No finding
	Cantaloupe, harvesting	\$6.40 per hour
	Pumpkin, harvesting	\$8.00 per hour
	Sweet potato, harvesting	\$0.40 per 5/8 bushel
<b>Greenville</b>		
	Tobacco, transplanting	\$7.00 per hour
	Horticulture, cultivating	\$6.90 per hour
	Tobacco, harvesting	\$7.50 per hour
<b>Mount Olive</b>		
	Blueberry, harvesting	\$5.00 per flat
	Tobacco, transplanting	\$7.00 per hour
	Tobacco, harvesting	\$7.00 per hour
	Horticulture, cultivating	\$8.00 per hour
<b>Raleigh</b>		
	Tobacco, transplanting	\$7.00 per hour
	Tobacco, harvesting	\$7.00 per hour
	Horticulture, cultivating	\$7.00 per hour
<b>Handersonville</b>		
	Horticulture, cultivating	\$8.00 per hour
	Christmas tree, harvesting	\$8.00 per hour

**Source:** U.S. Department of Labor, Employment and Training Administration, *Agricultural Online Wage Library*, available at [<http://www.foreignlaborcert.doleta.gov/aowl.cfm>].

- a. “No finding” means that the number of workers in the sample for the occupation and area was too small to estimate a prevailing wage. (U.S. Department of Labor, Employment and Training Administration, *Employment Service Forms Preparation Handbook*, Handbook 385, August 1981, p. I-139.) When there is no finding from the prevailing wage survey, employers must pay at least the higher of the AEWR or the applicable minimum wage.

**Table 14. H-2A Prevailing Wages, Georgia, 2008-2009**

Area	Occupation	Prevailing Wage
<b>Statewide</b>		
	Yellow squash, pack	\$6.00 per hour
<b>North</b>		
	Nursery, worker	\$8.00 per hour
<b>Central</b>		
	Watermelon, cut	No finding <sup>a</sup>
	Watermelon, load	\$80.00 per 22,000-pound bus
	Watermelon, packing shed	\$7.00 per hour
	Watermelon, unload	\$8.00 per hour
	Yellow squash, pick	No finding
	Yellow squash, pack	No finding
	Yellow squash, unload	No finding
	Yellow squash, pick, wash, grade and field pack	\$1.00 per 6-gallon bucket
	Vidalia onions, pulling	\$1.20 per 30 bundle bag, 100 plants
	Vidalia onions, planting	\$0.25 per 1 foot ply row
	Vidalia onions, field maintenance	\$7.00 per hour
	Vidalia onions, driver	No finding
	Cabbage, driver	No finding
	Cabbage, cut and load	No finding
	Vidalia onions, planting	\$0.0250 per foot 4 ply row
	Vidalia onions, clip and bag	\$0.75 per 60-pound bag
	Vidalia onions, clip, bag/bucket and dump	\$11.50 per bin (30 five-gallon buckets)
	Vidalia onions, driver	\$7.00 per hour
	Vidalia onions, forklift driver	\$7.50 per hour
	Vidalia onions, grader	\$6.00 per hour
	Vidalia onions, load	\$0.03 per 60-pound bag
	Vidalia onions, pack	\$6.50 per hour
	Vidalia onions, unload	\$0.03 per 60-pound bag
	Vidalia onions, bin setters	No finding
	Vidalia onions, box	No finding
	Vidalia onions, clip top, place on conveyor	No finding
	Vidalia onions, field maintenance	No finding
	Vidalia onions, experience forklift driver	No finding
	Vidalia onions, experience grader	No finding
	Vidalia onions, grader, experienced	No finding
	Vidalia onions, load flat bed	No finding
	Vidalia onions, load wagons	No finding
	Vidalia onions, load and unload	No finding
	Vidalia onions, machine operator	No finding
	Vidalia onions, sort	No finding
	Vidalia onions, unload with forklift	No finding
	Cucumber, pick, pack and grade	No finding
	Cucumber, grade	No finding
	Cucumber, pick	No finding
	Cucumber, truck driver	No finding
	Cucumber, pickles	No finding
	Cantaloupes, harvest	\$0.06 per cantaloupe
	Cantaloupes, packing shed	No finding
	Nursery, worker	\$7.00 per hour

Area	Occupation	Prevailing Wage
<b>South</b>		
	Grape tomatoes, truck driver	No finding
	Grape tomatoes, pick and palletize in bulk	No finding
	Grape tomatoes, crew leader	No finding
	Grape tomatoes, bus driver	No finding
	Green tomato, pick, grade and field box	No finding
	Green tomato, pick	No finding
	Green tomato, dumper	No finding
	Green tomato, driver, hauler	No finding
	Tomatoes, pick, grade, field box	No finding
	Tomatoes, pick	No finding
	Roma tomatoes, pick	No finding
	Watermelon, cut	\$10.00 per hour
	Watermelon, cut and load	\$120.00 per 18,000-pound trailer
	Watermelon, cut and load	\$80.00 per 13,000-pound trailer
	Watermelon, cut, load, unload, grade and pack	No finding
	Watermelon, driver	\$8.00 per hour
	Watermelon, load	\$450.00 per 15,000-pound bus
	Watermelon, pack shed	\$8.00 per hour
	Watermelon, tractor driver	No finding
	Watermelon, unload	\$10.00 per hour
	Yellow squash, pick, wash, grade and field pack	\$6.00 per hour
	Yellow squash, pack	No finding
	Yellow squash, supervisor	No finding
	Zucchini, field supervisor	No finding
	Zucchini, pick, wash, grade and field pack	\$6.00 per hour
	Corn, box maker	No finding
	Corn, checker	No finding
	Corn, crew leader	No finding
	Corn, field walker	No finding
	Corn, grade, pack and box at cooler	No finding
	Corn, lead row	No finding
	Corn, loader	No finding
	Corn, machine driver	No finding
	Corn, packer	No finding
	Corn, puller	No finding
	Corn, push down	No finding
	Corn, tie man	No finding
	Yellow squash, pick	No finding
	Zucchini, pick	No finding
	Cabbage, field cut	\$0.26 per 50-pound box
	Cabbage, loading boxes	No finding
	Cabbage, pack on line	\$5.50 per hour
	Cabbage, pick and field pack	\$0.60 per 50-pound box
	Cabbage, unloading	No finding
	Greens, cut, bundle and box	\$0.85 per 24 bunch box
	Greens, unloading	No finding
	Greens, cut and box	No finding
	Greens, icing	No finding
	Greens, loading	\$0.10 per 1.35 bushel box
	Greens, packing shed	No finding
	Greens, unloading and icing	No finding
	Nursery, worker	\$6.50 per hour
	Cucumber, dumper	No finding

Area	Occupation	Prevailing Wage
	Cucumber, packing	\$6.00 per hour
	Cucumber, picking	\$0.35 per 5-gallon bucket
	Cucumber, pick, pack and grade	\$8.51 per hour
	Cucumber, tractor driver	\$8.00 per hour
	Cucumber, pack and dump	No finding
	Cucumber, pick, set bucket in trailer	No finding
	Cucumber, place and pack	No finding
	Bell pepper, pick	\$6.00 per hour plus \$0.10 per 5-gallon bucket
	Bell pepper, tractor driver	No finding
	Bell pepper, place and pack	No finding
	Bell pepper, pack	No finding
	Bell pepper, dumper	No finding
	Hot banana pepper, pick	No finding
	Peppers, pack	\$6.75 per hour
	Peppers, pick	\$0.30 per 7-gallon bucket
	Peppers, pick, grade and pack	\$8.51 per hour
	Peppers, tractor driver	\$8.00 per hour
	Peppers, box maker, stacker	No finding
	Peppers, dumper	No finding
	Peppers, grade	No finding
	Peppers, pick, set bucket in trailer	No finding
	Peppers, washers	No finding
	Eggplants, dumper	\$6.67 per hour
	Eggplants, pack	\$8.51 per hour
	Eggplants, pick	\$0.50 per 7-gallon bucket
	Eggplants, pick, grade and pack	\$8.51 per hour
	Eggplants, tractor driver	No finding
	Eggplants, box maker	No finding
	Eggplants, pick, pack and load	No finding
	Eggplants, stack	No finding
	Cantaloupes, harvest	\$6.50 per hour
	Cantaloupes, packing shed	\$6.00 per hour
	Cucumber, dumper	No finding
	Cucumber, packing	\$6.00 per hour
	Cucumber, picking	\$0.35 per 5-gallon bucket
	Cucumber, pick, pack and grade	\$8.51 per hour
	Cucumber, tractor driver	\$8.00 per hour
	Cucumber, pack and dump	No finding
	Cucumber, pick, set bucket in trailer	No finding
	Cucumber, place and pack	No finding
	Bell pepper, pick	\$6.00 per hour plus \$0.10 per 5-gallon bucket
	Bell pepper, tractor driver	No finding
	Bell pepper, place and pack	No finding
	Bell pepper, pack	No finding
	Bell pepper, dumper	No finding
	Hot banana pepper, pick	No finding
	Peppers, pack	\$6.75 per hour
	Peppers, pick	\$0.30 per 7-gallon bucket
	Peppers, pick, grade and pack	\$8.51 per hour
	Peppers, tractor driver	\$8.00 per hour
	Peppers, box maker, stacker	No finding
	Peppers, dumper	No finding

Area	Occupation	Prevailing Wage
	Peppers, grade	No finding
	Peppers, pick, set bucket in trailer	No finding
	Peppers, washers	No finding
	Eggplants, dumper	\$6.67 per hour
	Eggplants, pack	\$8.51 per hour
	Eggplants, pick	\$0.50 per 7-gallon bucket
	Eggplants, pick, grade and pack	\$8.51 per hour
	Eggplants, tractor driver	No finding
	Eggplants, box maker	No finding
	Eggplants, pick, pack and load	No finding
	Eggplants, stack	No finding
	Cantaloupes, harvest	\$6.50 per hour
	Cantaloupes, packing shed	\$6.00 per hour

**Source:** U.S. Department of Labor, Employment and Training Administration, *Agricultural Online Wage Library*, available at [<http://www.foreignlaborcert.doleta.gov/aowl.cfm>].

- a. “No finding” means that the number of workers in the sample for the occupation and area was too small to estimate a prevailing wage. (U.S. Department of Labor, Employment and Training Administration, *Employment Service Forms Preparation Handbook*, Handbook 385, August 1981, p. I-139.) When there is no finding from the prevailing wage survey, employers must pay at least the higher of the AEW or the applicable minimum wage.

**Table 15. H-2A Prevailing Wages, Florida, 2008-2009**

Area	Occupation	Prevailing Wage
<b>Statewide</b>		
	Corn, detassler- mechanical	No finding <sup>a</sup>
	Corn, cutter-puller	No finding
	Corn, packer-pusher	No finding
	Corn, crate maker	No finding
	Corn, crate stacker-loader	No finding
	Corn, crate closer-tie man	No finding
	Corn, ticket maker-checker	No finding
	Ticket writer operator-mobile packing equipment	No finding
	Vegetable, assistant supervisor	No finding
	Blueberry, harvest	\$4.00 per six-pound bucket
	Blueberry, packer	\$7.00 per hour
	Blueberry, planter	No finding
	Citrus truck driver	\$8.00 per hour
	Citrus fruit for processing, mechanical harvesting	No finding
	Early tangerine, hand harvest	\$1.50 per 95-pound field box
	Late Tangerine, harvest, fresh market	\$2.00 per field box
	Valencia orange, machine operator for processing	No finding
<b>Central</b>		
	Valencia oranges, harvest pickers for market	\$0.90 per 90-pound field box plus end of season bonus
	Strawberry, planting	\$10.00 per 1,000 plants
	Strawberry, harvest fresh market	\$1.50 per 8 x 1 pound flat
	Early/mid orange harvest picker for processing	\$0.85 per 90-pound field box
	Valencia orange, harvest for processing	\$0.90 per 90-pound field box
	Grapefruit, hand harvest for fresh market	No finding
	Grapefruit, hand harvest for fresh market	\$0.60 per field box
<b>South</b>		
	Agricultural equipment mechanic	\$11.00 per hour
	Assistant supervisor, field operations	No finding
	Early/mid orange harvest picker for processing	\$0.90 per 90-pound field box plus \$0.01 to \$0.03 per box end of season bonus
	Early/mid orange harvest picker for processing	\$0.95 per 90-pound field box
	Early/mid orange, machine harvest for processing	No finding
	Valencia orange, harvest for processing	No finding
	Grapefruit, hand harvest for processed fruit	No finding
	Grapefruit, hand harvest for fresh market	No finding
<b>East Coast</b>		
	Early/mid orange harvest picker for processing	\$0.98 per 90-pound box

**Source:** U.S. Department of Labor, Employment and Training Administration, *Agricultural Online Wage Library*, available at [<http://www.foreignlaborcert.doleta.gov/aowl.cfm>].

- a. “No finding” means that the number of workers in the sample for the occupation and area was too small to estimate a prevailing wage. (U.S. Department of Labor, Employment and Training Administration, *Employment Service Forms Preparation Handbook*, Handbook 385, August 1981, p. I-139.) When there is no finding from the prevailing wage survey, employers must pay at least the higher of the AEWR or the applicable minimum wage.

**Table 16. H-2A Prevailing Wages, Kentucky, 2008-2009**

Area	Occupation	Prevailing Wage
<b>Statewide</b>		
	Tobacco, cutting and housing	\$8.00 per hour
	Tobacco, cutting	\$8.00 per hour
	Tobacco, housing	\$8.00 per hour
	Tobacco, stripping	\$5.00 per hour

**Source:** U.S. Department of Labor, Employment and Training Administration, *Agricultural Online Wage Library*, available at [<http://www.foreignlaborcert.doleta.gov/aowl.cfm>].