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Measuring Wages in the Agricultural Sector for the H-2A Visa Program

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Measuring Wages in the Agricultural Sector for the H-2A Visa Program

The H-2A visa program allows for the temporary admission of foreign workers to the United States to perform agricultural labor or services of a seasonal or temporary nature. Before foreign workers can be issued H-2A visas, federal law requires that their prospective employers receive certification from the U.S. Department of Labor (DOL) that such employment of foreign workers will not adversely affect the wages of similar workers in the United States. The number of employer requests for H-2A visas to employ foreign agricultural workers has been increasing in recent years while the wages that agricultural employers are required to pay these temporary foreign workers have also been increasing. This has meant higher labor costs for agricultural producers, which has attracted congressional attention. Rising food prices have also meant particular congressional concern about rising costs for agricultural producers.

Current regulations require that employers of workers on H-2A visas offer, advertise, and pay workers a wage that is at least the highest of five wage rates. The highest of these rates is usually the Adverse Effect Wage Rate (AEWR). This report discusses how data from the Farm Labor Survey (FLS) and the Occupational Employment and Wage Statistics (OEWS) are used to calculate the AEWR, the role of the AEWR in labor certification for the H-2A visa program, how the methodology for calculating the AEWR has changed over time, and congressional interest in the AEWR. Some congressional proposals regarding changes in labor certification have involved changing which data are used in calculating the AEWR. This report seeks to assist congressional debate on this issue by providing descriptions of the various available data, and discussion of the strengths and weaknesses of each one in measuring agricultural wages. The report describes both the data currently used in labor certification for the H-2A visa program and other sources of wage data in the agricultural sector that are not currently used in labor certification.

Since March 2023, the AEWRs for farm managers and for first-line supervisors of agricultural workers have been set at different rates than the AEWRs for most other agricultural occupations in the same geographic areas. However, the data currently used to calculate the AEWR for farm managers and first-line supervisors of agricultural workers come from the OEWS, which is a survey of non-farm employers. Non-farm businesses employ few farm managers or first-line supervisors of agricultural workers. The President's budget request for FY2024 includes \$1,137,000 to add data collection from farm employers to the OEWS.

This report compares the agricultural wage data currently used in calculating the AEWR with the wage data available from the Agricultural Resources Management Survey (ARMS), the Census of Agriculture (COA), the American Community Survey (ACS), the Current Population Survey (CPS), the Quarterly Census of Employment and Wages (QCEW), the National Economic Accounts, and the National Agricultural Workers Survey (NAWS). All of these sources of agricultural wage data show that wages in the agricultural sector have been increasing more rapidly than private-sector wages and salaries in the United States as a whole, as measured by the Employment Cost Index (ECI).

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Introduction

The H-2A visa program allows for the temporary admission into the United States of non-immigrant¹ foreign workers for the purpose of performing agricultural labor or services of a seasonal or temporary nature.² Before foreign workers can be issued such visas, federal law requires their potential employers to apply for certification from the U.S. Department of Labor (DOL) that (1) there are not sufficient domestic workers able, willing, qualified, and available at the time and place needed to perform the labor or services involved in the petition and (2) the employment of foreign workers will not adversely affect the wages of similarly employed workers in the United States. Labor certification for the H-2A visa program currently relies on multiple sources of agricultural wage data.

Current regulations require that employers of workers on H-2A visas offer, advertise, and pay workers a wage that is at least the highest of five wage rates (see the “Labor Certification and Its Wage Components” section). The highest of these rates is usually the Adverse Effect Wage Rate (AEWR). In recent years, there has been extensive discussion in Congress around the data sources and methodology used by DOL to calculate the AEWR. Some Members have voiced concerns about repeated increases in the AEWR that outpace the rate of inflation, increasing labor costs for agricultural producers

This report describes H-2A labor certification wage requirements and the current data and methodology used by DOL to calculate the AEWR and other wage rates. To assist congressional debate over current AEWR data sources and potential alternatives, the report describes multiple sources of earnings data on the U.S. agricultural workforce. It discusses key features of each source (e.g., wage information collected, coverage, level of occupational and geographic detail available, geographic coverage) and its potential to support consideration of possible wage impacts of H-2A workers. Growth in agricultural wage rates measured by each source is compared with wage and salary growth in the Employment Cost Index (ECI) for all private-sector workers in the United States, which is a measure of overall changes in wages and salaries across all employers in the country over time.³ The report concludes with a summary table (**Table 3**) comparing selected elements of agricultural wage data.

Labor Certification for the H-2A Visa Program

This section provides an overview of the H-2A visa program, labor certification for this program, recent changes in labor certification for the program, and congressional interest in labor certification for the H-2A visa program.

¹ A *nonimmigrant* is a foreign national who is admitted for a designated period of time and specific purpose. There are 24 major nonimmigrant visa categories, which are commonly referred to by the letter and numeral that denote their subsection in the Immigration and Nationality Act (INA; Title 8 of the U.S. Code).

² This program is described in more detail in CRS Report R44849, *H-2A and H-2B Temporary Worker Visas: Policy and Related Issues*, by Andorra Bruno.

³ John W. Ruser, “The Employment Cost Index: what is it?” *Monthly Labor Review*, September 2001, pp. 3-16, <https://www.bls.gov/opub/mlr/2001/09/art1full.pdf>. The ECI is used by DOL in the AEWR calculation for H-2A workers in certain occupations that involve the herding or production of livestock on the range. DOL, Employment and Training Administration (ETA), “Temporary Agricultural Employment of H-2A Foreign Workers in the Herding or Production of Livestock on the Range in the United States,” 80 *Federal Register* 62957-63070, October 16, 2015, <https://www.govinfo.gov/content/pkg/FR-2015-10-16/pdf/2015-26252.pdf>.

The H-2A Visa Program

The Immigration and Nationality Act (INA) of 1952 authorized an H-2 nonimmigrant visa category for foreign workers coming to the United States to perform temporary services or labor not requiring distinguished merit or ability. This visa category was subdivided by the 1986 Immigration Reform and Control Act (IRCA, P.L. 99-603) into the current H-2A seasonal agricultural worker and the H-2B seasonal nonagricultural worker programs.⁴ Employers who want to hire workers through the H-2A program must first apply for labor certification to the Office of Foreign Labor Certification (OFLC) within DOL's Employment and Training Administration (ETA). After receiving this certification, a prospective H-2A employer can submit a petition to the Department of Homeland Security's (DHS's) U.S. Citizenship and Immigration Services to sponsor foreign workers. If the petition is approved, foreign workers abroad may apply at a U.S. consulate for an H-2A nonimmigrant visa from the Department of State, allowing them to seek admission to the United States to commence employment.

Labor Certification and Its Wage Components

The labor certification provisions of the INA require employers to demonstrate that there are insufficient U.S. workers able, willing, qualified, and available to perform the work and that the employment of foreign nationals "will not adversely affect the wages and working conditions of workers in the United States similarly employed."⁵ This involves both working with a State Workforce Agency (SWA)⁶ to recruit domestic workers and filing an agricultural job order and H-2A application for temporary employment certification with OFLC.⁷

As shown in **Figure 1**, current H-2A regulations⁸ require employers to offer, advertise in recruitment, and pay wages equal or greater than the highest of

1. the AEWR⁹;
2. the state prevailing wage rate based on agricultural wage surveys and approved by the OFLC Administrator¹⁰;
3. the agreed-upon collective bargaining wage if one exists;
4. the federal minimum wage¹¹; or
5. the state minimum wage in the state in which these workers will be employed.¹²

⁴ 8 U.S.C. §1101, see https://www.law.cornell.edu/uscode/text/8/1101#a_15_H_ii_a.

⁵ INA§218(a)(1)(A), (B) (8 U.S.C. §1188(a)(1)(A), (B)).

⁶ State Workforce Agencies are the agencies in each state or territory that administrate unemployment insurance laws, employment services, training programs, employment statistics and labor market information.

⁷ For details on this process, see DOL-ETA, "H-2A Temporary Certification for Agriculture Workers," <https://flag.dol.gov/programs/H-2A>.

⁸ 20 C.F.R. §655.120(a), see <https://www.ecfr.gov/current/title-20/chapter-V/part-655/subpart-B/section-655.120>.

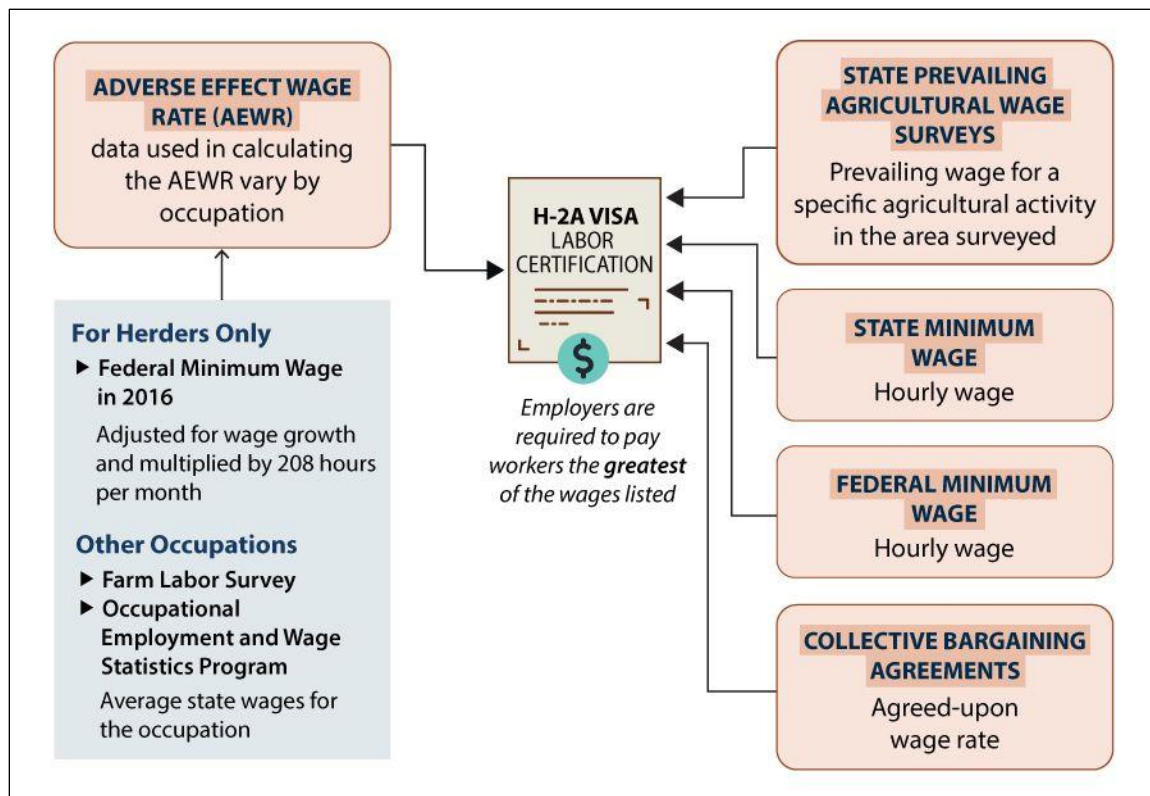
⁹ The AEWR is updated each January 1 or July 1 (depending on the occupation), and available in *Federal Register* Notices usually are posted each December and June as well as at <https://flag.dol.gov/wage-data/adverse-effect-wage-rates>. Depending on the type of work involved and the geographic location, the AEWR is based on data from the Farm Labor Survey (FLS), the Occupational Employment and Wage Statistics (OEWS), or the federal minimum wage in 2016 and the ECI; see 20 C.F.R. §655.211, <https://www.ecfr.gov/current/title-20/chapter-V/part-655/subpart-B/section-655.211>.

¹⁰ These wage data are available from <https://www.dol.gov/agencies/eta/foreign-labor/wages/agriculture>.

¹¹ For more information, see CRS Report R43089, *The Federal Minimum Wage: In Brief*, by Sarah A. Donovan.

¹² For more information, see CRS Report R43792, *State Minimum Wages: An Overview*, by David H. Bradley and Abigail R. Overbay.

Figure 1. Wages Used in Labor Certification for H-2A Visas



Source: CRS presentation of information from 20 C.F.R. §655.211

Recent Changes in AEWR Methodologies for H-2A Visas

The H-2A visa program began in 1987, and DOL-ETA originally set the AEWR at the same rate for all workers in all occupations in a geographic area, based on average farm and livestock workers' wages for the state or region in the Farm Labor Survey (FLS) conducted by the U.S. Department of Agriculture (USDA).¹³

Open Range Herders: 2018 Rule Change

Since 1989, DOL-ETA has set special procedures for employers of open range herders (who have long hours that are difficult to track) to use the H-2A program.¹⁴ In 2015, the department published a final regulation setting out a separate AEWR methodology for these occupations.¹⁵ After a two-year transition period, this rule was fully enacted for labor certification of positions in these jobs beginning in 2018. The AEWR for the range occupations is a monthly wage rate that

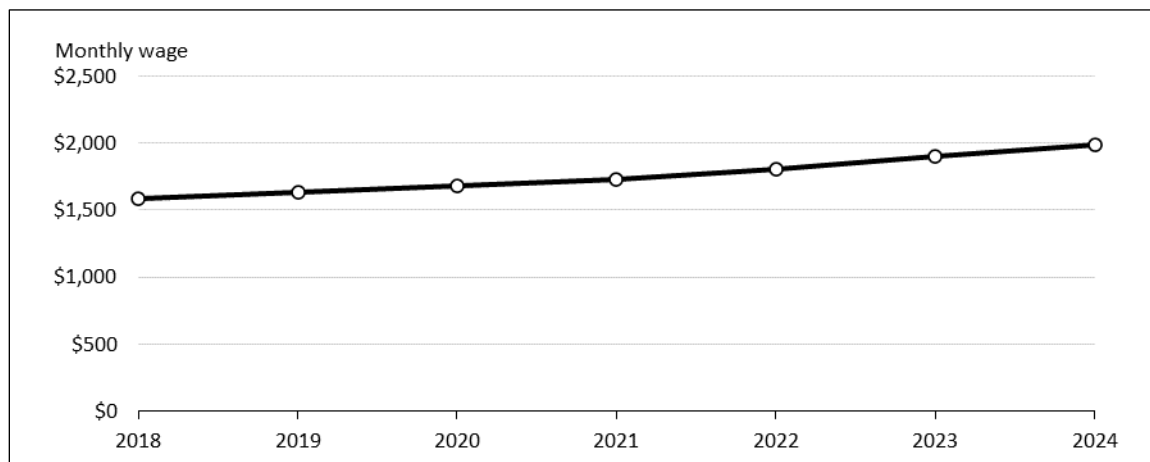
¹³ DOL-ETA, "Labor Certification Process for the Temporary Employment of Aliens in Agriculture and Logging in the United States," 52 *Federal Register* 20496 - 20533, June 1, 1987, <https://www.govinfo.gov/content/pkg/FR-1987-06-01/pdf/FR-1987-06-01.pdf#page=143>.

¹⁴ DOL-ETA, "Temporary Agricultural Employment of H-2A Foreign Workers in the Herding or Production of Livestock on the Open Range in the United States," 80 *Federal Register* 20300-20343, April 15, 2015, <https://www.govinfo.gov/content/pkg/FR-2015-04-15/pdf/2015-08505.pdf>.

¹⁵ DOL-ETA, "Temporary Agricultural Employment of H-2A Foreign Workers in the Herding or Production of Livestock on the Range in the United States," 80 *Federal Register* 62957-63070, October 16, 2015, <https://www.govinfo.gov/content/pkg/FR-2015-10-16/pdf/2015-26252.pdf>.

does not vary between states or regions. It is based on an hourly wage rate of \$7.25 (the federal minimum wage) selected in 2016, multiplied by an assumed 208 hours of work per month,¹⁶ and adjusted annually based on the change in the ECI for private-sector wages and salaries in the preceding year. **Figure 2** shows the values of the AEW for these positions from 2018 (when the range occupations AEW was fully enacted) to 2024.

Figure 2. AEW (monthly) for Herding Occupations, 2018-2024



Source: CRS presentation of information from 82 *Federal Register* 60767-60768, 83 *Federal Register* 66307, 84 *Federal Register* 69768-69769, 85 *Federal Register* 81221, 86 *Federal Register* 71283, 87 *Federal Register* 77141-77142, and 88 *Federal Register* 86679.

Other Occupations without State or Territory-Specific Wage Estimates in the FLS: March 2023 Rule Changes

For non-range occupations, the AEW continued to be based on average regional wages in the FLS and did not vary by occupation until the current AEW methodology regulation went into effect in March 2023.¹⁷ This new methodology continues to base the AEW on average FLS wages for field and livestock workers employed in states and regions covered by the survey. However, for non-field and non-livestock occupations and for places (including U.S. territories) excluded from the FLS, the current methodology bases the AEW on average wages in the Occupational Employment and Wage Statistics (OEWS), conducted by DOL’s Bureau of Labor Statistics (BLS).

The 2023 *Federal Register* Notice of final rulemaking states, “the SOC [Standard Occupational Classification] codes not included in FLS field and livestock worker (combined) data collection generally account for more specialized or higher paid job opportunities. As a result, an AEW determined using FLS field and livestock worker (combined) data does not adequately guard against adverse effect on the wages of agricultural workers similarly employed in the United States in these SOC codes.” In addition, for geographic areas in which the FLS does not report an average wage, such as Alaska and Puerto Rico, the 2023 final rule uses OEWS data to calculate

¹⁶ As described in the proposed rule at 80 *Federal Register* 20300-20343, April 15, 2015, worker advocates suggested that these occupations work a 48-hour workweek and industry employers suggested that these occupations work a 40-hour workweek. The final rule split this difference and assumes a 44-hour workweek.

¹⁷ DOL-ETA, “Adverse Effect Wage Rate Methodology for the Temporary Employment of H-2A Nonimmigrants in Non-Range Occupations in the United States,” 88 *Federal Register* 12760-12802, February 28, 2023, <https://www.govinfo.gov/content/pkg/FR-2023-02-28/pdf/2023-03756.pdf>.

the AEW for all non-range agricultural occupations, including for field and livestock workers. The new methodology permits OFLC to use OEWS data in place of FLS data whenever FLS data are not available.¹⁸

Congressional Interest in AEW Methodology Changes

In recent years, there has been extensive discussion of the AEW in Congress. In the 117th Congress, the Farm Workforce Modernization Act of 2021 (H.R. 1603) was passed by the House. This bill included in Section 218 (d)(2)(A) a revised methodology to estimate the AEW that would have made some of the same changes that were put forward by DOL in notices of proposed rulemaking in July 2019¹⁹ and December 2021 (setting separate AEW rates for occupations other than field and livestock workers).²⁰ It also included in Section 218 (d)(2)(B) a provision which would have frozen the AEW for calendar year 2024 and limited its rate of increase from 2025 to 2033 to no more than 3.25% per year within each state and occupation.²¹ The same sections appear in the proposed Farm Workforce Modernization Act of 2023 (H.R. 4319).

As discussed in the “Other Occupations without State or Territory-Specific Wage Estimates in the FLS: March 2023 Rule Changes” section, the current methodology for estimating the AEW became effective March 30, 2023.²² This methodology change has attracted attention from the 118th Congress. A House resolution nullifying this rule (H.J.Res. 59) was co-sponsored by 70 Members, while a Senate resolution nullifying the rule (S.J.Res. 25) was co-sponsored by 36 Senators. Section 816 of the Secure the Border Act of 2023 (H.R. 2), which passed the House, would repeal this rule. Section 814 would require the Secretary of the Department of Homeland Security, in consultation with the Secretary of the Department of Agriculture, to produce a report on, among other things, wage growth in the agricultural sector in the past 10 years. The same language is in the proposed Border Security and Enforcement Act of 2023 (H.R. 2640, see § 715 and § 716) and in S.Amdt. 110 (see § 594 and § 596).

Other proposals in the 118th Congress would legislate freezes in the AEW. The Farm Operators Support Act (S. 874/H.R. 3308) would have frozen the AEW for the remainder of 2023 at the level in effect on December 1, 2022. The Supporting Farm Operations Act of 2024 (H.R. 7046) would freeze the AEW in effect on December 31, 2023, through the end of 2025. In January 2024, 75 Members signed a letter requesting that an H-2A wage freeze be included in the FY2024 appropriations bill.²³

¹⁸ DOL-ETA, “Adverse Effect Wage Rate Methodology for the Temporary Employment of H-2A Nonimmigrants in Non-Range Occupations in the United States,” 88 *Federal Register* 12760-12802, February 28, 2023, <https://www.govinfo.gov/content/pkg/FR-2023-02-28/pdf/2023-03756.pdf>.

¹⁹ DOL-ETA and DOL-Wage and Hour Division (WHD), “Temporary Agricultural Employment of H-2A Nonimmigrants in the United States,” 85 *Federal Register* 36168-36301, September 24, 2019, <https://www.govinfo.gov/content/pkg/FR-2019-07-26/pdf/2019-15307.pdf>.

²⁰ DOL-ETA, “Adverse Effect Wage Rate Methodology for the Temporary Employment of H-2A Nonimmigrants in Non-Range Occupations in the United States,” 86 *Federal Register* 68174-68200, December 1, 2021, <https://www.govinfo.gov/content/pkg/FR-2021-12-01/pdf/2021-25803.pdf>.

²¹ There was an exception allowing increases of up to 4.24% per year when the AEW was within 110% of the applicable federal or state minimum wage.

²² DOL-ETA, “Adverse Effect Wage Rate Methodology for the Temporary Employment of H-2A Nonimmigrants in Non-Range Occupations in the United States,” 88 *Federal Register* 12760-12802, February 28, 2023, <https://www.govinfo.gov/content/pkg/FR-2023-02-28/pdf/2023-03756.pdf>.

²³ Letter from Rep. Bill Huizenga, Rep. Rick W. Allen, and Rep. Maria Elvira Salazar et al., January 11, 2024, https://huizenga.house.gov/uploadedfiles/jan_11_ltr_to_appropriators_re_h2a_wage_2024.pdf.

Still other proposals would change wage requirements for H-2A visas. The BARN Act (H.R. 1778) would change the wage requirements for the H-2A program so that no employer is required to pay a wage rate greater than 115% of the federal or state minimum wage (whichever is higher). The DIGNIDAD (Dignity) Act of 2023 (H.R. 3599) would require wages that are at least the greatest of 125% of the federal minimum wage or the applicable state or local wage minimum wage (see §42103).

In summer 2023, the House Committee on Agriculture formed a bipartisan Agricultural Labor Working Group, which has been discussing the AEW and other farm wage concerns.²⁴

Data Sources Currently Used in Labor Certification for H-2A Visas

This section provides an overview of the two data sources currently used in estimating the AEW—the FLS and the OEWS. In addition, it describes agricultural prevailing wage surveys, which are also used in labor certification for H-2A visas. An overview of this information is provided in **Table 3**.

The Farm Labor Survey

The Agricultural Labor Survey (often called the Farm Labor Survey or FLS) is conducted by the National Agricultural Statistics Service (NASS) within USDA. It is authorized under 7 C.F.R. §2204(a), which directs the Secretary of Agriculture to “procure and preserve all information concerning agriculture ... which he can obtain ... by the collection of statistics.”²⁵

FLS Coverage

The FLS is a survey of farm and ranch operators conducted semiannually in April and October (except in California, where state funding allows it to be conducted more frequently). In 2023, it had a sample size of 16,309 farms or ranches and a response rate of 43.9%.²⁶ Farm and ranch operators are asked to provide, by occupation, the number of hired workers, the total hours worked by these individuals, and the total weekly gross wages paid to each occupation during the second weeks of January, April, July, and October. These gross wages are defined as the total amount paid to workers before taxes and other deductions, including overtime, bonus pay, workers’ shares of Social Security taxes, and agricultural products provided in lieu of wages, but not including benefits such as housing, meals, or insurance. The survey includes information on the employment and wages of workers on H-2A visas who are employed directly by farm and range operators included in the survey sample.

NASS uses these data to estimate the employment, average hours, and gross wages of hired workers in January and April (published in May) and in July and October (published in November). These estimates are published in the semiannual *Farm Labor Report*. Separate estimates are published for individual occupations at the national level, but at the regional level,

²⁴ U.S. Congress, House Committee on Agriculture, *Interim Report*, committee print, prepared by Agricultural Labor Working Group, 118th Cong., 1st sess., November 7, 2023, https://agriculture.house.gov/uploadedfiles/house_committee_on_agriculture_-_alwg_interim_report_-_final_-_11.7.23.pdf.

²⁵ 7 C.F.R. §2204 (a).

²⁶ USDA-NASS, *Farm Labor Methodology and Quality*, November 22, 2023, https://www.nass.usda.gov/Publications/Methodology_and_Data_Quality/Farm_Labor/11_2023/fmlaqm23.pdf.

the *Farm Labor Report* contains wage estimates only for occupational aggregates (field workers, livestock workers, and field and livestock workers combined).

FLS Caveats

As a survey of farm and ranch operators, the FLS does not collect information on the employment or wages of farm and ranch workers who are employed by farm labor contractors.²⁷ It also does not collect information from farm or ranch operators in Alaska or the U.S. territories.

Role of the FLS in the AEW

The AEW is currently based on the FLS for the six occupations shown in **Table 1** (except in Alaska and the U.S. territories. These *Big Six* occupations make up “field and livestock workers, combined.”²⁸

Table 1. FLS Field and Livestock Workers (Combined) Occupations

Standard Occupational Classification (SOC) code	Occupation Title
45-2041	Graders and Sorters, Agricultural Products
45-2091	Agricultural Equipment Operators
45-2092	Farmworkers and Laborers, Crop, Nursery, and Greenhouse
45-2093	Farmworkers, Farm, Ranch, and Aquacultural Animals
53-7064	Packers and Packers, Hand
45-2099	Agricultural Workers, All Other

Source: 88 *Federal Register* 12760, “Adverse Effect Wage Rate Methodology for the Temporary Employment of H-2A Nonimmigrants in Non-Range Occupations in the United States.”

For these occupations, the AEW is set as the average hourly gross wage in the FLS (for the occupations combined) in the state or multi-state region in which the work takes place. In recent years, there has been a *Federal Register* Notice published each December setting the average state or regional wage as the AEW for these occupations, effective January 1. In 2023, the highest wage for these workers was in California, with an average gross wage rate of \$19.75 per hour, and the lowest wage for these workers was in the Delta Region (Arkansas, Louisiana, and Mississippi), with an average gross wage rate of \$14.53 per hour.²⁹

Wage Trends in the FLS

Figure 3 shows wages from the FLS over time for this group of workers in all 49 states in which the FLS is conducted, as well as for California, the Delta Region, and Hawaii (which was in many years the area with the highest wages for these workers), since the beginning of the H-2A visa program. It also shows the 1986 FLS average wage for all 49 states, adjusted for growth since

²⁷ In 2022, the Quarterly Census of Employment and Wages (discussed later in this report) shows that 15% of jobs covered by unemployment insurance in the agricultural sector were in farm labor contractors.

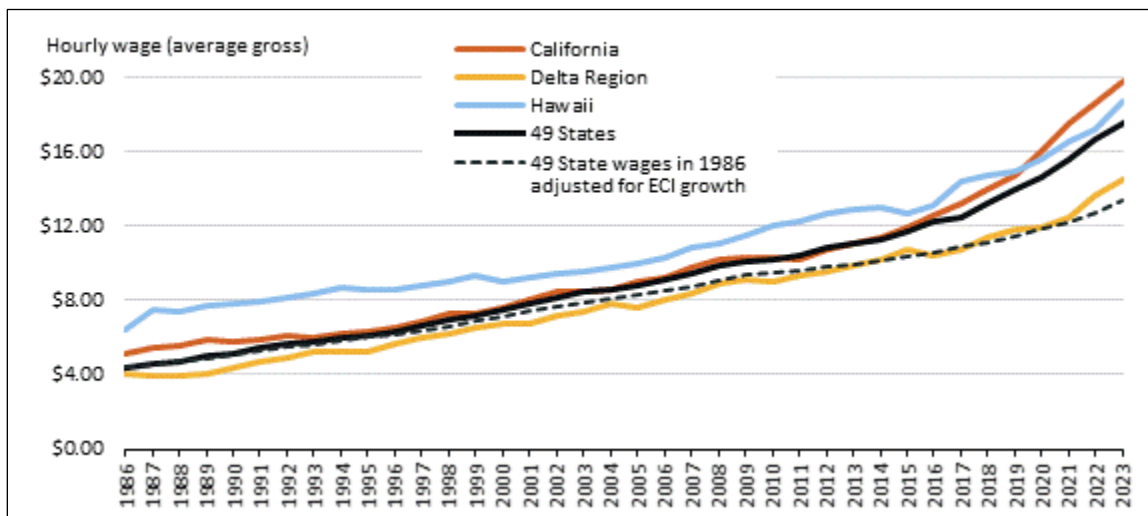
²⁸ DOL-ETA, Office of Foreign Labor Certification, *2023 H-2A Adverse Effect Wage Rate (AEWR) Final Rule FAQs, Round 2*, July 11, 2023, p. 2, <https://www.dol.gov/sites/dolgov/files/ETA/oflc/pdfs/2023%20AEWR%20Rule%20FAQ%20-%20Round%202%20-%202023-11-2023.pdf>.

²⁹ USDA-NASS, *Farm Labor*, November 22, 2023, p. 25, <https://downloads.usda.library.cornell.edu/usda-esmis/files/x920fw89s/v405tw18s/dn39zk84n/fmla1123.pdf>.

then in the ECI for private-sector wages and salaries, to compare growth in the FLS wage with wage growth for U.S. private-sector workers as a whole. The ECI of wages and salaries in the private sector is the data DOL-ETA uses to adjust wage levels in the absence of other data, such as in the AEWR for Herders. **Figure 3** shows that in recent years, average hourly wages for field and livestock workers as measured in the FLS have grown faster than the ECI for wages and salaries in private industry as a whole.

Figure 3. Wages in the FLS for Field and Livestock Workers, Combined, 1986-2023

Average hourly gross wages for selected areas, compared with average gross hourly wages in 1986 as adjusted for ECI growth



Source: CRS presentation of NASS data (*Farm Labor Reports*) and BLS data (ECI).

Notes: The FLS is not conducted in Alaska. The Delta Region consists of Arkansas, Louisiana, and Mississippi. The dashed line is the FLS national average hourly wage in 1986, adjusted for growth in the ECI of wages and salaries for all private industry workers (ECI series ECU20002A and CIU202000000000A).

Recent Expansions and Suspensions of the FLS

Versions of the FLS have existed since the 1930s, although the scale of the survey and the specific questions asked and tables published have changed over time. In May 2011, NASS announced its intent to suspend the survey due to budget constraints.³⁰ This suspension was reversed in June 2011 due to funding from DOL.³¹ In 2018 and 2019, NASS attempted several expansions of the FLS related to its use in setting the AEWR:

- New, more detailed wage questions were developed and added to the FLS, splitting questions on gross wages into questions on base wages and

³⁰ USDA-NASS, "Notice of Intent To Suspend the Agricultural Labor Survey and Farm Labor Reports," 76 *Federal Register* 28730, May 18, 2011, <https://www.govinfo.gov/content/pkg/FR-2011-05-18/pdf/2011-12255.pdf>.

³¹ USDA-NASS, "Notice of Intent To Resume the Agricultural Labor Survey and Farm Labor Reports," 76 *Federal Register* 38110, June 29, 2011, <https://www.govinfo.gov/content/pkg/FR-2011-06-29/pdf/2011-16249.pdf>.

- incentive/bonus and overtime wages.³² These questions were developed with the intent that base wages rather than gross wages could be used in the AEW. ³³
- Surveys were developed and tested to ask agricultural labor contractors about the workers they hired.³⁴ When the tests showed problems with surveying farm labor contractors directly, NASS explored adding questions about contracted labor to the FLS. NASS concluded that neither option was feasible.³⁵ Data from the Quarterly Census of Employment and Wages (see **Figure 8**) show lower average wages in this industry than in the rest of the agricultural sector; thus, including this industry might have lowered average wages measured in the FLS.
 - The sample size of the FLS increased from 10,421 in 2018 to 30,195 in 2019 and 36,016 in 2020,³⁶ with the intention of publishing data by occupation for each state or region.³⁷ The November 2019 *Farm Labor Report* added tables on gross wage rates and base wage rates by each individual occupation for each state or region, including state or region-level wage estimates for “Farmers, ranchers, and other agricultural managers” (SOC Code 11-9013) and “First-line supervisors of farming, fishing workers” (SOC Code 45-1011).³⁸

In September 2020, NASS announced its intention to suspend the FLS, saying “the public can access other data sources for the data collected in the Agricultural Labor Survey.”³⁹ DOL issued a 2020 AEW rule providing for annual adjustments in the AEW for field and livestock workers after a two-year freeze, relying on the ECI in the absence of new FLS data.⁴⁰ The United Farm Workers sued USDA to block this suspension, citing the use of the FLS in labor certification. The United States District Court for the Eastern District of California granted a preliminary injunction in the case, ruling that USDA was required to conduct the FLS.⁴¹ NASS reinstated the FLS in December 2020⁴² and DOL stopped funding the survey. The FLS returned to the smaller sample

³² Benjamin Reist, Tyler Wilson, and Heather Ridolfo et al., *Findings for the 2018 Agricultural Labor Base Wage Question Experiments*, USDA-NASS, March 2019, https://www.nass.usda.gov/Publications/Methodology_and_Data_Quality/Farm_Labor/03_2019/2018%20Final%20Farm%20Labor%20Report.pdf.

³³ USDA, Fruit and Vegetable Industry Advisory Committee, *Meeting Transcript*, August 14, 2019, pp. 204-205, <https://www.ams.usda.gov/sites/default/files/media/FVIACMeetingMinutes.pdf>.

³⁴ Kathy Ott and Heather Ridolfo, *2018 Agricultural Labor Contractor Cognitive Testing Final Report*, USDA-NASS, January-July 2018.

³⁵ Heather Ridolfo and Kathy Ott, *Reporting Contract Labor on the Agricultural Labor Survey*, USDA-NASS, RDD Research Report Number RDD-20-03, September 2020, https://www.nass.usda.gov/Education_and_Outreach/Reports,_Presentations_and_Conferences/reports/AltToContractorFinalReport_09_21_2020.pdf.

³⁶ USDA-NASS, *Farm Labor Methodology and Quality*, November 21, 2019, https://www.nass.usda.gov/Publications/Methodology_and_Data_Quality/Farm_Labor/11_2019/ALS%20QM%20Document_Nov2019.pdf; and USDA-NASS, *Farm Labor Methodology and Quality*, November 24, 2021, https://www.nass.usda.gov/Publications/Methodology_and_Data_Quality/Farm_Labor/11_2021/flqm1121.pdf.

³⁷ USDA, Fruit and Vegetable Industry Advisory Committee, *Meeting Transcript*, August 14, 2019, pp. 211, <https://www.ams.usda.gov/sites/default/files/media/FVIACMeetingMinutes.pdf>.

³⁸ USDA-NASS, *Farm Labor*, November 21, 2019, <https://downloads.usda.library.cornell.edu/usda-esmis/files/x920fw89s/c821h164m/fq9788943/fmla1119.pdf>.

³⁹ USDA-NASS, “Notice of Revision to the Agricultural Labor Survey and Farm Labor Reports by Suspending Data Collection for October 2020,” 85 *Federal Register* 61419, September 30, 2020, <https://www.govinfo.gov/content/pkg/FR-2020-09-30/pdf/2020-21592.pdf>.

⁴⁰ DOL-ETA, “Adverse Effect Wage Rate Methodology for the Temporary Employment of H-2A Nonimmigrants in Non-Range Occupations in the United States,” 88 *Federal Register* 12762, February 28, 2023.

⁴¹ *United Farm Workers v. Perdue*, (E.D. Cal Oct. 28, 2020).

⁴² USDA-NASS, “Notice of Reinstatement of the Agricultural Labor Survey Previously Scheduled for October 2020,” 85 *Federal Register* 79463, December 10, 2020.

size⁴³ and the information provided in the *Farm Labor Report* reverted to the smaller set of items published before 2019.

The Occupational Employment and Wage Statistics

The OEWS is a BLS program. While not specifically authorized by statute, the OEWS falls under the broad mandate of BLS under 29 U.S.C. §2, which states, “The Bureau of Labor Statistics, under the direction of the Secretary of Labor, shall collect, collate, and report at least once each year, or oftener if necessary, full and complete statistics of the conditions of labor and the products and distribution of the products of the same.”

OEWS Coverage

The OEWS estimates are based on surveys conducted in cooperation with SWAs. Survey data are collected from nonfarm employers in May and November each year and estimates are published each spring based on data collected during the previous three years. The estimates published in April 2023 were based on a sample size of 1.1 million establishments surveyed from November 2019 through May 2022, with an overall response rate of 65.4%. The OEWS surveys nonfarm employers covered by state unemployment insurance (UI) programs as well as rail transportation employers. Surveyed employers are asked about the number of people they employ in each occupation and either the hourly or annual wages they pay each of these workers; many respondents give BLS a copy of their payroll data for the survey month. Wages include production bonuses but not overtime pay.⁴⁴ Separate wage estimates are published for individual occupations at the metropolitan and nonmetropolitan areas, state and national levels, if there are sufficient employers for an occupation to publish estimates without breaching the confidentiality of individual employer responses.⁴⁵ Wage estimates are published for all states, the District of Columbia, Puerto Rico, Guam, and the U.S. Virgin Islands.⁴⁶

The OEWS program publishes wage estimates by occupation and by geography across all nonfarm industries. It also publishes national wage estimates by occupation and by industry. Within the agricultural sector, it publishes wage estimates in the “Support Activities for Agriculture and Forestry” industry, which includes farm labor contractors. It does not publish wage estimates within the “Crop Production” or “Animal Production” industries.⁴⁷

Recent and Proposed Expansions and Contractions of the OEWS

Versions of the OEWS have existed since the 1960s, but the survey did not include the collection of wages in every state until 1996. Since then, this program has undergone changes in occupational classification (most substantially in 1999, when the survey began collecting and publishing data using the SOC system), industry classification, the geographic classification of

⁴³ USDA-NASS, *Farm Labor Methodology and Quality Measures*, November 24, 2021, https://www.nass.usda.gov/Publications/Methodology_and_Data_Quality/Farm_Labor/11_2021/flqm1121.pdf.

⁴⁴ DOL, BLS, *Occupational Employment and Wage Statistics: Technical Notes for May 2022 OEWS Estimates*, April 25, 2023, https://www.bls.gov/oes/current/oes_tec.htm.

⁴⁵ DOL, BLS, *Occupational Employment and Wage Statistics: Frequently Asked Questions*, https://www.bls.gov/oes/oes_ques.htm.

⁴⁶ DOL, BLS, *Occupational Employment and Wage Statistics: May 2022 State Occupational Employment and Wage Estimates*, April 25, 2023, <https://www.bls.gov/oes/current/oesrst.htm>.

⁴⁷ DOL, BLS, *Occupational Employment and Wage Statistics: May 2022 National Industry-Specific Occupational Employment and Wage Estimates*, <https://www.bls.gov/oes/current/oesrci.htm#11>.

substate areas, sample design, and estimation methodology.⁴⁸ In 2011, the OEWS was extended to cover farms as part of the Green Goods and Services program. This extension was cut as part of the sequestration due to the Budget Control Act of 2011.⁴⁹ The President’s budget request for FY2024 includes \$1,137,000 to restore data collection for agricultural industries to the OEWS program.⁵⁰

Role of the OEWS in the AEW

For most areas, the AEW is currently based on the OEWS for all occupations *except* those shown in **Table 1** (the Field and Livestock Workers (Combined) Occupations). Examples of other occupations relevant for H-2A workers include heavy and tractor-trailer truck drivers; farmers, ranchers, and other agricultural managers; and first-line supervisors of farming, fishing, and forestry workers.

In Alaska and in U.S. territories, where the FLS does not produce estimates, the AEW is also currently based on the OEWS for the occupations shown in **Table 1**. (DOL estimates that “the vast majority of H-2A job opportunities” are based on the FLS.⁵¹)

OEWS Caveats

As a survey of nonfarm employers, the coverage of the OEWS can vary for occupations relevant for labor certification of H-2A workers. For example, the OEWS program estimates that nonfarm employers in the United States employ 1,984,180 heavy and tractor-trailer truck drivers; 6,250 farmers, ranchers, and other agricultural managers; and 27,670 first-line supervisors of farming, fishing, and forestry workers. The FLS program estimates that farm and ranch employers in the 49 states covered by the FLS employ 24,000 farmers, ranchers, and other agricultural managers and 21,000 first-line supervisors of farming, fishing, and forestry workers. If it is assumed that the total number of employees in these two occupations is the sum of non-farm employees from the OEWS and farm and ranch employees from the FLS, wages for hired farmers, ranchers, and other agricultural managers in the OEWS are based on about 20% of total employment in this occupation, and wages for hired first-line supervisors of farming, fishing, and forestry workers in the OEWS are based on about 60% of the total employment in this occupation.

Wage Trends in the OEWS

The OEWS program cautions against making comparisons of wages over time with these data due to changes in occupational definitions, geographic area definitions, disruptions in data collection during the COVID-19 pandemic, and so forth.⁵² Nonetheless, national average hourly

⁴⁸ Matthew Dey and Elizabeth Weber Handwerker, “Longitudinal data from the Occupational Employment Statistics survey,” *Monthly Labor Review*, DOL, BLS, October 2016, <https://doi.org/10.21916/mlr.2016.49>; and DOL, BLS, *Survey Methods and Reliability Statement for the May 2022 Occupational Employment and Wage Statistics Survey*, April 25, 2023, p. 1, https://www.bls.gov/oes/methods_22.pdf.

⁴⁹ Stella D. Fayer, “Agriculture: occupational employment and wages,” *Monthly Labor Review*, DOL, BLS, July 2014, <https://doi.org/10.21916/mlr.2014.25>

⁵⁰ DOL, *FY 2024 Congressional Budget Justification, Bureau of Labor Statistics*, <https://www.dol.gov/sites/dolgov/files/general/budget/2024/CBJ-2024-V3-01.pdf>.

⁵¹ DOL-ETA, “Adverse Effect Wage Rate Methodology for the Temporary Employment of H-2A Nonimmigrants in Non-Range Occupations in the United States,” 88 *Federal Register* 12766, February 28, 2023, <https://www.govinfo.gov/content/pkg/FR-2023-02-28/pdf/2023-03756.pdf>.

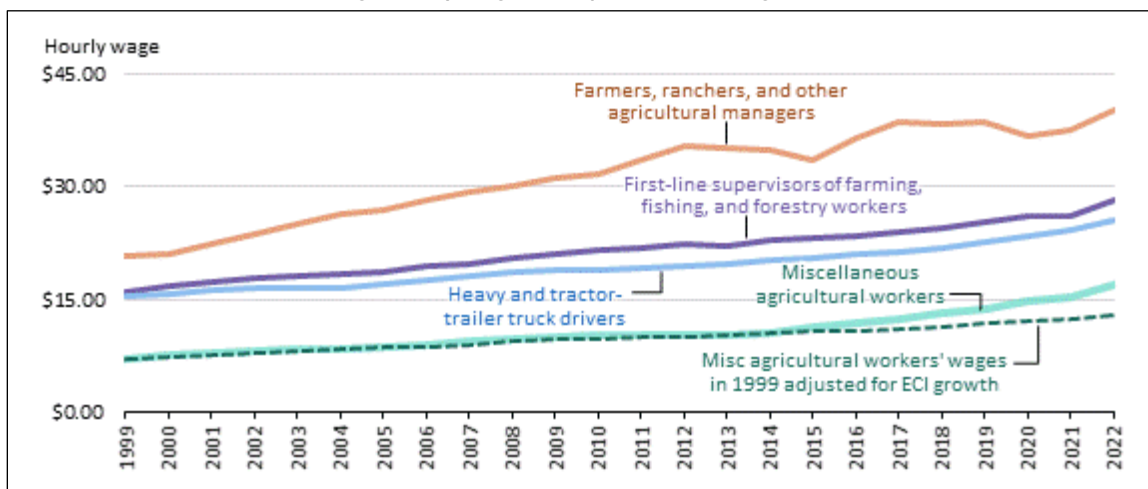
⁵² DOL, BLS, *Occupational Employment and Wage Statistics: Frequently Asked Questions*, https://www.bls.gov/oes/oes_ques.htm.

wages for occupations frequently mentioned in discussions of the H-2A program are shown in **Figure 4**, beginning in 1999, when the OEWS began collecting and publishing data using the SOC. These include “Truck Drivers,” “First-line Supervisors of Farm Workers,” and “Agricultural Managers.” **Figure 4** also shows national average hourly wages for “Miscellaneous Agricultural Workers,” because the current AEW method permits the AEW to be based on the OEWS for any occupation and area where FLS data are unavailable. “Miscellaneous Agricultural Workers” (SOC Code 45-2090) is a broad occupation category encompassing four of the Big Six detailed occupations in **Table 1**: “Agricultural Equipment Operators” (SOC 45-2091); “Farmworkers and Laborers, Crop, Nursery, and Greenhouse” (SOC 45-2092); “Farmworkers, Farm, Ranch, and Aquacultural Animals” (SOC 45-2093); and “Agricultural Workers, All Other” (SOC 45-2099).

Figure 4 also shows the 1999 average nationwide OEWS wage for “Miscellaneous Agricultural Workers,” adjusted for growth since then in the ECI for private-sector wages and salaries. Comparing the actual wage data for this occupation with wage changes due to growth in the ECI shows that in recent years, average hourly wages for “Miscellaneous Agricultural Workers” in the OEWS have grown faster than the ECI for private-sector wages and salaries as a whole. **Figure 4** also shows that for farmers, ranchers, and other agricultural managers (a small occupation even at the national level among nonfarm employers), OEWS wages vary from year to year at the national level. Wage estimates for this occupation vary even more from year to year at the state level (not shown).

Figure 4. Wages in the OEWS for Selected Occupations, 1999-2022

National average hourly wages, compared with ECI growth since 1999



Source: CRS presentation of BLS data from the OEWS and ECI.

Notes: The OEWS program cautions against making comparisons of wages over time using OEWS data. The dashed line is the OEWS national average hourly wage in 1999 for “Miscellaneous Agricultural Workers,” adjusted for growth in the ECI of wages and salaries for all private industry workers (ECI series ECU20002A and CIU2020000000000A).

Local Agricultural Prevailing Wage Surveys

As shown in **Figure 1**, local Agricultural Prevailing Wage Surveys are one of the components of labor certification for the H-2A visa program. A 2022 DOL rule⁵³ set regulations for the surveys that produce these wage estimates. The surveys can be conducted at the discretion of SWAs, who may either conduct the surveys themselves or report the results of surveys conducted by other state agencies such as state agriculture agencies or state universities. Survey results are used in labor certification if OFLC determines that the survey meets the requirements set out in the 2022 rule and posts the results in the OFLC Agricultural Online Wage Library.⁵⁴ They remain in effect for the purpose of labor certification for one year after being posted, unless they are replaced by a new prevailing wage survey.⁵⁵

The requirements set out in the 2022 rule for these surveys to be accepted by OFLC for use in labor certification include the following:

- the SWA must provide OFLC with the methodology used in conducting the survey;
- the survey must report the average wages for U.S. workers (not workers on H-2A visas) in a single crop activity or agricultural activity within “an appropriate geographic area”; these can either be piece rates or hourly wages;
- the surveyor must either attempt to contact all relevant employers or a random sample of the employers;
- the survey must include wage reports from at least 30 U.S. workers (or from all U.S. workers engaged in the relevant activity if there are less than 30); and
- the survey must include wage reports from at least five employers (or from all employers engaged in the relevant activity if there are less than five).

A decreasing number of states conduct these prevailing wage surveys.⁵⁶ Until the 2022 rule went into effect, OFLC accepted only prevailing wage surveys for labor certification that were conducted directly by SWAs. Some comments on the proposed rule focused on the possibility that surveys conducted by state universities might be biased if their surveys were financed by grower associations. OFLC concluded that state universities could be trusted to conduct surveys independently, regardless of their funding sources. Other discussions of the proposed rule focused on when prevailing wage surveys should be conducted. DOL stated,

state-conducted prevailing wage surveys are another source of information that can provide protections for workers who are engaged in specific crop or agricultural activities offering piece rate pay or higher hourly rates of pay than the applicable AEW in a geographic area ... the Department primarily meets its obligation to protect against adverse effect on the wages of workers in the United States similarly employed by requiring employers to offer, advertise, and pay at least the AEW.⁵⁷

⁵³ DOL-ETA and DOL-WHD, “Temporary Agricultural Employment of H-2A Nonimmigrants in the United States,” 87 *Federal Register* 61660-61831, October 12, 2022.

⁵⁴ The OFLC Agricultural Online Wage Library is at <https://www.dol.gov/agencies/eta/foreign-labor/wages/agriculture>

⁵⁵ OFLC, 2022 H-2A Final Rule FAQs: Prevailing Wage Surveys, November 21, 2022, https://www.dol.gov/sites/dolgov/files/ETA/oflc/pdfs/2022%20H-2A%20FR_SWA%20FAQs_PW%20surveys%20Nov%2017.pdf.

⁵⁶ Sarah Everhart and Margaret Todd, *Prevailing Wage and Practices – Agricultural Employment Surveys*, Maryland Farm Bureau, <https://mdfarmbureau.com/prevailing-wage-and-practices-agricultural-employment-surveys/>.

⁵⁷ DOL-ETA and DOL-WHD, “Temporary Agricultural Employment of H-2A Nonimmigrants in the United States,” 87 *Federal Register* 61660-61831, October 12, 2022.

The list of prevailing wages currently active for use in labor certification is shown in **Table 2**. There are nine of these wage rates, from seven states.

Table 2. Active Prevailing Wages in the OFLC Agricultural Online Wage Library

State	Reporting Area	Type of Work	Wage
Georgia	South	Greens, Planting	\$11.99 per hour
Idaho	Statewide	Potato Crop Harvesting, Rock Picker * Harvest Worker	\$14.68 per hour
New Jersey	Statewide	Mixed Vegetables, Farmworkers and Laborers	\$12.00 per hour
New Jersey	Statewide	Peaches, Farmworkers and Laborers	\$11.30 per hour
New Jersey	South	Blueberry, Hand Pick	\$5.35 per crate
New York	Western New York	Apples, Fresh, Not Stem Clipped	\$17.19 per hour
South Carolina	Pee Dee	Tobacco, Harvest	\$10.00 per hour
Texas	Statewide	Cotton, Gin Worker	\$10.00 per hour
West Virginia	Eastern Panhandle	Apple Harvest	\$13.50 per hour

Source: OFLC Agricultural Online Wage Library, as of February 2024, <https://www.dol.gov/agencies/eta/foreign-labor/wages/agriculture>.

Additional Sources of Agricultural Sector Wage Data

The *Federal Register* Notice that suspended collection of the FLS in 2020 stated,

the public can access other data sources for the data collected in the Agricultural Labor Survey. These sources include, but are not limited to, the Agricultural Resources Management Survey (ARMS), Census of Agriculture (COA), American Community Survey (ACS), Quarterly Census of Employment and Wages (QCEW), National Economic Accounts, and the National Agricultural Workers Survey (NAWS).⁵⁸

This section will discuss these data sources (as well as the Current Population Survey [CPS]), in terms of both their usefulness for understanding agricultural wages generally and their potential use in labor certification for the H-2A visa program. It will also show how wage trends from each source compare with wage and salary growth in the Employment Cost Index (ECI) for all private-sector workers in the United States. An overview of this information is also provided in **Table 3**.

Agricultural Resources Management Survey (ARMS)

Like the FLS, the ARMS is a survey of farm and ranch operators conducted by NASS. The ARMS is conducted annually with a sample of about 30,000 farm and ranch operations in the continental United States and focuses on farm production expenditures, production practices, and costs of farm production for specific crops.⁵⁹ It collects information about total expenditures on

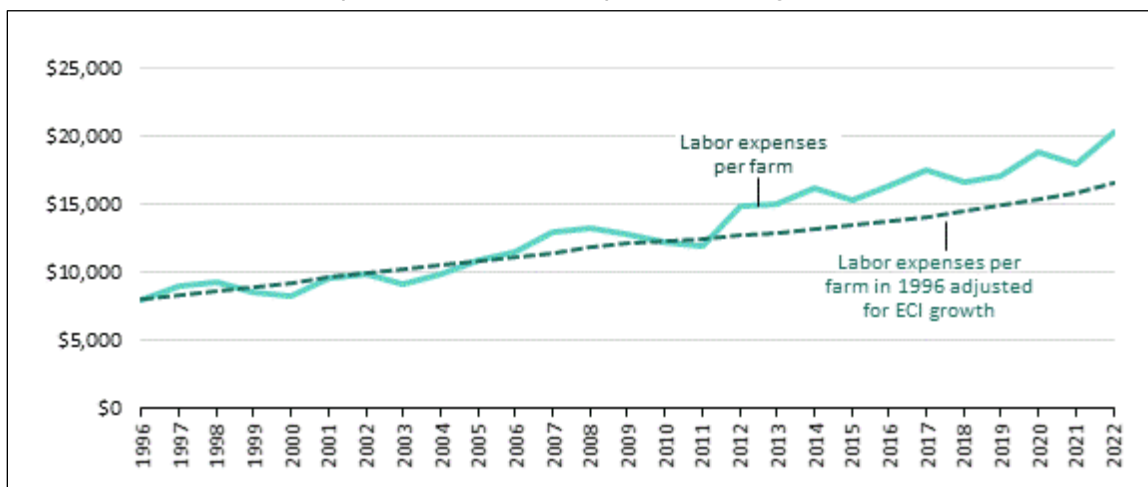
⁵⁸ USDA-NASS, "Notice of Revision to the Agricultural Labor Survey and Farm Labor Reports by Suspending Data Collection for October 2020," 85 *Federal Register* 61419, September 30, 2020, <https://www.govinfo.gov/content/pkg/FR-2020-09-30/pdf/2020-21592.pdf>.

⁵⁹ USDA-NASS, *Farm Production Expenditures: Methodology and Quality Measures*, July 2023, (continued...)

wages for hired farm and ranch labor, but it does not ask the number of hired workers employed on the farm or ranch. Thus, data from this survey are not applicable to estimating wages or salaries for hired agricultural workers (except for the “principal producer” and their spouse, for whom there are individual annual wage questions on the survey form).⁶⁰ Estimates are published for five regions of the United States, as well as for “the fifteen states with the greatest agricultural cash receipts and of the other states within the corresponding regions.” Labor expenses per farm are shown in **Figure 5**, along with labor expenses per farm in 1996 adjusted for growth in the ECI. Since 2012, labor expenses per farm have been consistently higher than labor expenses per farm in 1996 adjusted for growth in the ECI.

Figure 5. Labor Expenses per Farm in the ARMS, 1996-2022

Mean labor expenses in 48 states, compared with ECI growth since 1996



Source: CRS presentation of NASS and BLS data.

Notes: The ARMS survey is not conducted in Alaska or Hawaii. The dashed line is labor expenses per farm in 1996, adjusted for growth in the ECI of wages and salaries for all private industry workers.

Census of Agriculture (COA)

The COA, conducted by NASS, is a complete count of U.S. farms and ranches and the people who operate them. It has been conducted in various forms for nearly 200 years, and currently occurs at five-year intervals. Results from the 2022 Census of Agriculture were released in February 2024 (results for Puerto Rico, Guam, the U.S. Virgin Islands, American Samoa, and the Northern Mariana Islands will be released later); results of previous censuses are often available at the county level.⁶¹

The 2022 COA contains questions on labor expenses—one question on total annual expenditures for directly hired farm and ranch labor, including employer’s costs for employee benefits, and a second question on expenses for contract labor. It also contains questions on the total number of

https://www.nass.usda.gov/Publications/Methodology_and_Data_Quality/Farm_Production_Expenditures/07_2023/fpxq0823.pdf.

⁶⁰ USDA-NASS, *Agricultural Resource Management Survey (ARMS) Report Form (Version 1)*, November 21, 2022, https://www.nass.usda.gov/Publications/Methodology_and_Data_Quality/Farm_Production_Expenditures/07_2023/v1crr_22.pdf.

⁶¹ USDA-NASS, *Census of Agriculture: Frequently Asked Questions*, <https://www.nass.usda.gov/AgCensus/FAQ/2022/index.php>.

hired farm or ranch workers employed during 2022, in two categories—the number of hired workers who worked less than 150 days, and the number who worked 150 days or more. It does not ask any questions about the number of hours or weeks worked by these individuals.⁶² These employment and labor expense data allow the estimation of rough measures of labor expenditures per hired worker every fifth year.

The American Community Survey (ACS)

The ACS, conducted by the U.S. Census Bureau, is a survey of the U.S. population designed for collecting information for small geographic areas in between decennial population censuses. Conducted since 2005 (after pilot tests and demonstrations from 2000 to 2004),⁶³ it now has a sample size of about 3.54 million addresses per year (295,000 per month) in the United States, as well as 36,000 addresses per year in Puerto Rico.⁶⁴ The response rate for the ACS in 2022 for the United States as a whole was 84.4%,⁶⁵ although there are concerns about addresses being disproportionately missing from the sample frame in rural areas.⁶⁶

For each person currently residing at surveyed addresses,⁶⁷ the ACS asks questions including the total amount of wages earned in the past 12 months, the kind of business or industry in which employed people worked, and each person's main occupation. The ACS questionnaire is designed for self-response by mail or internet. Many ACS estimates are published for areas with 65,000 or more people based on each individual year of data collection, and for all counties based on five years of data collection.⁶⁸ However, the Census Bureau publishes estimates of annual earnings by detailed occupation only at the national level. **Figure 6** shows median annual earnings from the ACS of selected occupations relevant for the H-2A visa program, along with the earnings of miscellaneous agricultural workers in 2010 adjusted for growth in the ECI.

⁶² USDA-NASS, *UNITED STATES 2022 CENSUS OF AGRICULTURE: Report Form*, September 20, 2021, https://www.nass.usda.gov/AgCensus/Report_Form_and_Instructions/2022_Report_Form/2022_CoA_Questionnaire_Final.pdf.

⁶³ Christopher Martin and Sharon A. Tosi Lacey, *History of the American Community Survey*, U.S. Census Bureau, January 2024, <https://www.census.gov/history/pdf/thehistoryoftheacs.pdf>.

⁶⁴ U.S. Census Bureau, *ACS and PRCS Survey Design and Methodology*, Version 3.0, November 2022, pp. 4-1, https://www2.census.gov/programs-surveys/acs/methodology/design_and_methodology/2022/acs_design_methodology_report_2022.pdf.

⁶⁵ U.S. Census Bureau, *American Community Survey: Response Rates*, <https://www.census.gov/acs/www/methodology/sample-size-and-data-quality/response-rates/>.

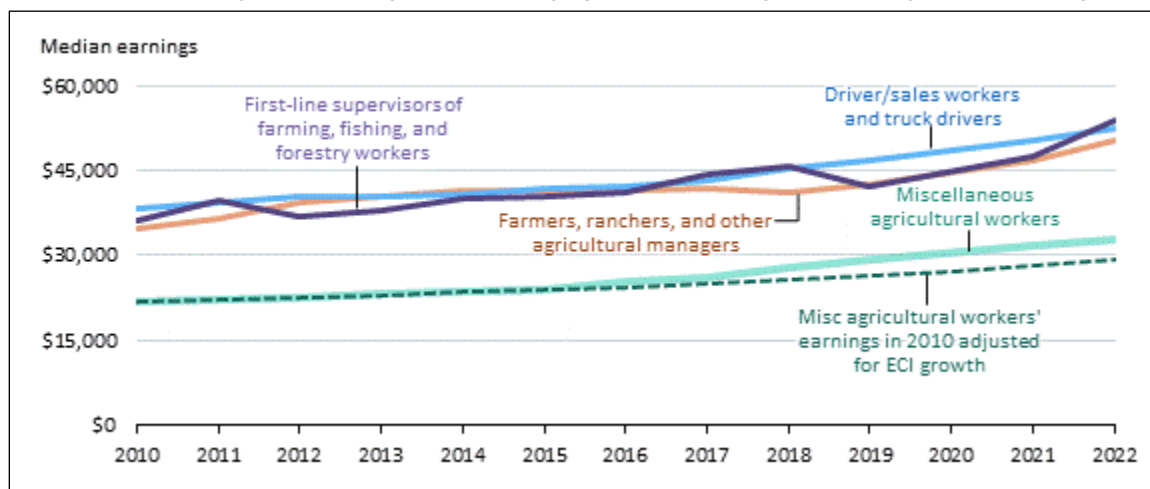
⁶⁶ Larry Bates and Jim Hartman, *Research on Master Address File Quality—Implications for the American Community Survey*, U.S. Census Bureau, DSSD 2012 American Community Survey Research Memorandum Series ACS12-R-01, February 3, 2012, https://www.census.gov/content/dam/Census/library/working-papers/2012/acs/2012_Bates_01.pdf.

⁶⁷ U.S. Census Bureau, *ACS and PRCS Survey Design and Methodology*, Version 3.0, November 2022, pp. 6-2, https://www2.census.gov/programs-surveys/acs/methodology/design_and_methodology/2022/acs_design_methodology_report_2022.pdf.

⁶⁸ U.S. Census Bureau, *Understanding and Using American Community Survey Data: What All Data Users Need to Know*, September 2020, https://www.census.gov/content/dam/Census/library/publications/2020/acs/acs_general_handbook_2020.pdf.

Figure 6. Annual Earnings of Workers in Selected Occupations in the ACS, 2010-2022

Median annual earnings of full-time year-round employed individuals aged 16+, compared with ECI growth



Source: CRS presentation of Census Bureau and BLS data.

Notes: These data are published only at the national level. The dashed line is miscellaneous agricultural workers' annual earnings reported in 2010, adjusted for growth in the ECI of wages and salaries for all private industry workers.

The Current Population Survey (CPS)

The CPS, conducted by BLS and the Census Bureau, is a survey of about 60,000 households per month. These households are contacted by telephone or in person, and trained interviewers ask many detailed questions to properly classify the labor market activities of each adult in the household.⁶⁹ The response rate of this survey has been falling in recent years, and is now about 71%.⁷⁰ Versions of the CPS have been conducted since 1940.⁷¹

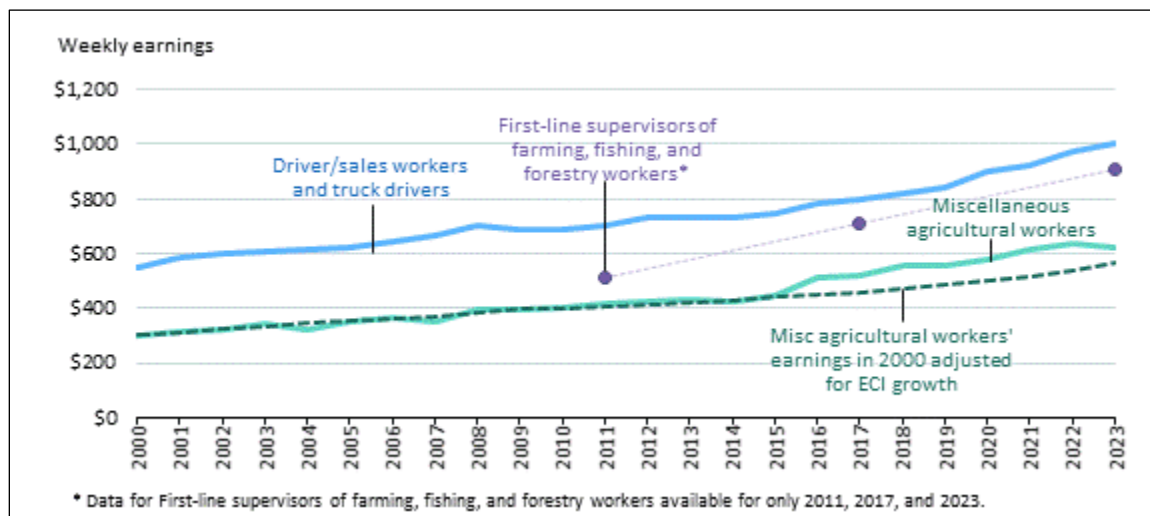
Wage data from the CPS are collected as “usual weekly earnings” or as hourly earnings multiplied by “usual weekly hours” in the main jobs of wage and salary earners and of the self-employed whose businesses are incorporated. These earnings include overtime pay, commissions, or tips usually received. Additional information gathered during the interview is used to convert earnings reported hourly, monthly, or annually into weekly earnings. The detailed earnings questions are asked only of households in a quarter of the months that they answer the survey. These earnings estimates are published quarterly by occupation groups, and annually by more detailed occupations at the national level for occupations large enough to support these estimates. **Figure 7** shows median usual weekly earnings from the CPS of selected occupations relevant for the H-2A visa program (where estimates are available), along with the earnings of miscellaneous agricultural workers in 2000 adjusted for growth in the ECI.

⁶⁹ DOL, BLS, *Monthly Employment Situation Report: Quick Guide to Methods and Measurement Issues*, February 3, 2023, <https://www.bls.gov/bls/empstquickguide.htm#household>.

⁷⁰ DOL, BLS, *Household and establishment survey response rates*, <https://www.bls.gov/osmr/response-rates/#chart1a>.

⁷¹ U.S. Census Bureau, *Current Population Survey Design and Methodology*, Technical Paper 77, October 2019, <https://www2.census.gov/programs-surveys/cps/methodology/CPS-Tech-Paper-77.pdf>.

Figure 7. Usual Weekly Earnings for Selected Occupations in the CPS, 2000-2023
Median usual weekly earnings (on their main job) for employed full-time workers age 16+, compared with ECI growth



Source: CRS presentation of BLS data.

Notes: Estimates are available only at the national level for wages on workers' main jobs. The dashed line is miscellaneous agricultural workers' usual weekly earnings in 2000, adjusted for growth in the ECI of wages and salaries for all private industry workers.

The Quarterly Census of Employment and Wages (QCEW)

The QCEW is assembled by BLS from the administrative data of state UI programs, supplemented with employer surveys and reviewed by BLS in collaboration with SWAs. Some farms and farmworkers are not covered in these data because they are not covered by the UI system. Workers temporarily in the United States on H-2A visas are not covered by UI.⁷² In addition, the UI program has different requirements for agricultural versus nonagricultural employers. Agricultural employers are required to participate in the UI program only if they pay wages of \$20,000 or more in any quarter of the current or preceding year or if they employ 10 or more workers on at least one day in each of 20 different weeks in the current or preceding year. These size requirements apply to both farms and farm labor contractors. Seven states (California, Florida, Minnesota, New York, Rhode Island, Texas, and Washington), Puerto Rico, the U.S. Virgin Islands, and the District of Columbia also require smaller agricultural employers to provide UI coverage.⁷³

Each quarter, private sector employers send their state UI system a report listing the total number of employees covered by UI each month and the total compensation paid to all covered employees that quarter. The components included in total compensation vary from state to state but generally include wages and salaries, bonuses, the cash value of meals and lodging, and employee contributions toward employer-provided benefits. BLS regularly surveys employers to properly classify their location and economic activity. BLS uses these data to publish quarterly

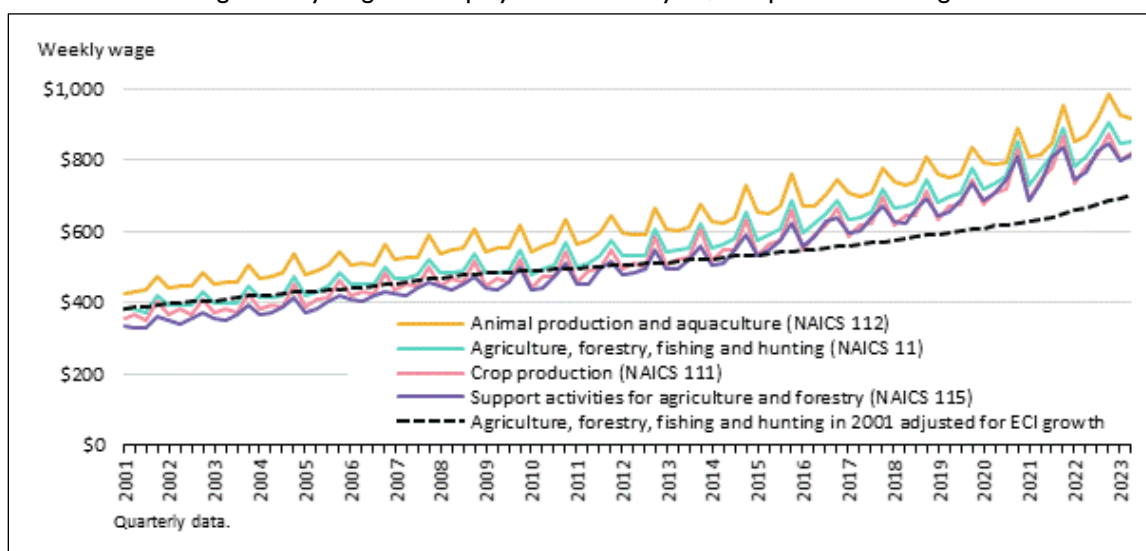
⁷² Department of the Treasury, Internal Revenue Service, *Aliens Employed in the U.S. - FUTA*, Publication 51, Cat. No. 10329R (Circular A), Agricultural Employer's Tax Guide, December 19, 2022, p. 23, <https://www.irs.gov/pub/irs-pdf/p51.pdf>.

⁷³ DOL-ETA, Office of Unemployment Insurance, *Comparison of State Unemployment Insurance Laws*, Section 1-2 <https://oui.doleta.gov/unemploy/pdf/uilawcompar/2022/coverage.pdf>.

tabulations of employment and wages at the county level by detailed industry, where there are a sufficient number of employers that publication would not reveal information provided by any individual employer. These are published about five months after the end of each quarter.⁷⁴ Unlike the data used in labor certification for H-2A visas, QCEW data are not estimated separately by occupation.

Figure 8 shows national average weekly wages from the QCEW for agricultural industries, compared with growth in the ECI. The QCEW classifies industries using the North American Industrial Classification System (NAICS). Agriculture is part of NAICS sector 11: “Agriculture, Forestry, Fishing, and Hunting.” Within this sector, most employers of H-2A visas are in industries 111: “Crop Production”; 112: “Animal Production”; and 115: “Support Activities for Agriculture and Forestry,” which contains the detailed industry 115115: “Farm Labor Contractors and Crew Leaders.” QCEW data are available for many detailed industries. For example, there are many counties in which these quarterly average wage data are available for the detailed industry 11114: “Wheat farming.” **Figure 8** also shows QCEW wages for all of NAICS sector 11 in 2001, adjusted for growth in the ECI since 2001. Actual wage growth in this sector has been greater than the growth in the ECI.

Figure 8. Weekly Wage for Selected Industries in the QCEW, 2001(Q1)–2023(Q2)
Average weekly wage for employees covered by UI, compared with ECI growth



Source: CRS presentation of BLS data.

Notes: These are national estimates; estimates are also available at the county level by detailed industry. The dashed line is average weekly wages for workers in the “Agricultural, forestry, fishing, and hunting” industry in 2001, adjusted for growth in the ECI of wages and salaries for all private industry workers.

The National Economic Accounts

In its 2020 *Federal Register* Notice suspending the FLS,⁷⁵ the USDA identified the National Economic Accounts as one of several existing data sources that could be relied upon for at least

⁷⁴ DOL, BLS, *Handbook of Methods: Quarterly Census of Employment and Wages*, <https://www.bls.gov/opub/hom/cew/home.htm>.

⁷⁵ USDA-NASS, “Notice of Revision to the Agricultural Labor Survey and Farm Labor Reports by Suspending Data (continued...)”

part of the information collected in the FLS. The National Economic Accounts consist of the National Income and Product Accounts, prepared by the Bureau of Economic Analysis (BEA); the Industry Economic Accounts, also prepared by BEA; and the Financial Accounts of the United States, prepared by the Board of Governors of the Federal Reserve System. The accounts are compiled largely from data collected by other statistical agencies, such as the QCEW and, in agriculture, the ARMS. They provide consistent, integrated measures of the size and composition of the U.S. economy. However, they do not provide additional information on wages in the agricultural sector beyond those published in the sources described above.⁷⁶

The National Agricultural Workers Survey (NAWS)

The NAWS is funded by DOL-ETA and conducted by JBS International, Inc., a management and information technology consulting firm.⁷⁷ This survey interviews 1,500 to 3,600 field workers active in crop agriculture over two-year periods in the contiguous United States. In addition to excluding animal production workers and all workers in Alaska, Hawaii, Puerto Rico, and other U.S. territories from its sample, the NAWS does not collect data from temporary foreign workers (such as H-2A visa holders) in any state.⁷⁸ It asks other farmworkers questions not found in any of the other surveys described in this report, such as how long have they been doing farm work, what other jobs do they hold, and what is their legal status, among other questions.⁷⁹ It also collects information on hourly and piece-rate wages.⁸⁰

ETA periodically publishes tables of the demographic and employment characteristics of NAWS respondents, based on at least two years of data collection. Hourly earnings estimates for the United States in the NAWS publications are shown in **Figure 9**. Similar estimates are available for regions (East, Midwest, Northwest, Southeast, Southwest) and for California. They are not available separately by occupation.

Collection for October 2020,” 85 *Federal Register* 61419, September 30, 2020, <https://www.govinfo.gov/content/pkg/FR-2020-09-30/pdf/2020-21592.pdf>.

⁷⁶ BEA, *Concepts and Methods of the U.S. National Income and Product Accounts*, December 2023, <https://www.bea.gov/resources/methodologies/nipa-handbook/pdf/all-chapters.pdf>.

⁷⁷ Letter from Susan M. Gabbard, Project Director, to Sample Agricultural Employer, https://www.dol.gov/sites/dolgov/files/ETA/naaws/pdfs/NAWS_Sample_Letter_to_Agricultural_Employer.pdf.

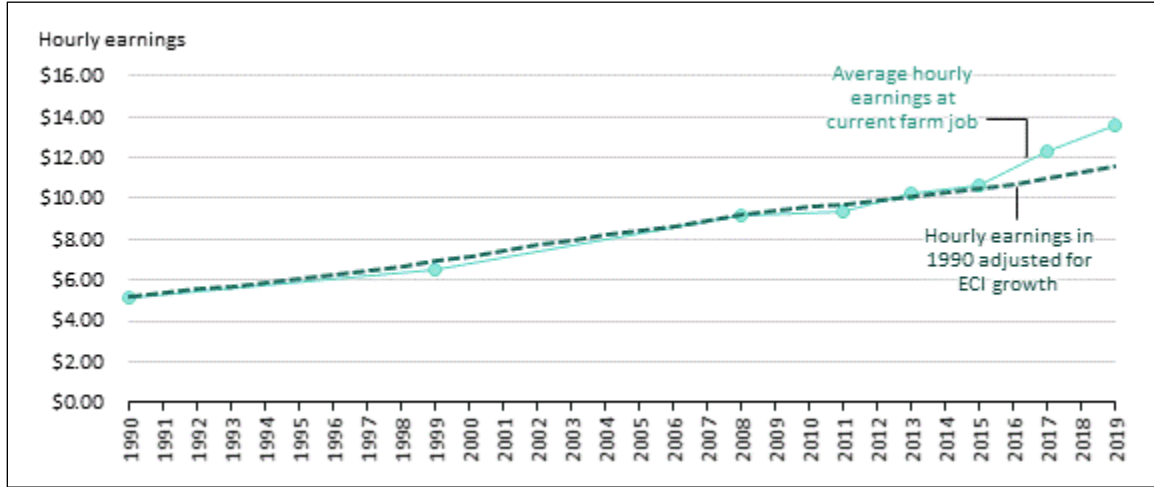
⁷⁸ DOL-ETA, *Statistical Methods of the National Agricultural Workers Survey*, https://www.dol.gov/sites/dolgov/files/ETA/naaws/pdfs/NAWS_Statistical_Methods_AKA_Supporting_Statement_Part_B.pdf.

⁷⁹ DOL-ETA, *Justification for the National Agricultural Workers Survey*, https://www.dol.gov/sites/dolgov/files/ETA/naaws/pdfs/NAWS_Justification.pdf.

⁸⁰ DOL-ETA, *Questionnaire Content & How to Obtain Copies of the Questionnaire*, <https://www.dol.gov/agencies/eta/national-agricultural-workers-survey/questionnaire>.

Figure 9. Hourly Earnings of Farmworkers in the NAWS, 1989-2020

Average hourly earnings at current farm job, compared with ECI growth



Source: CRS presentation of DOL-ETA data.

Notes: These are estimates for the contiguous 48 states. The dashed line is hourly earnings in 1990, adjusted for growth in the ECI of wages and salaries for all private industry workers.

Conclusion

Table 3 provides a comparison of all the wage data sources discussed in this report. It shows that the FLS and the OEWS are the only data sources currently available that provide state- or region-level wage estimates for agricultural occupations. However, the FLS currently provides state- or region-level wage estimates only for field and livestock workers (combined). In addition, the OEWS is a survey of nonfarm businesses, which weakens the accuracy of its wage estimates for predominantly agricultural occupations such as farm managers or supervisors of agricultural workers. The President’s budget request for FY2024 includes \$1,137,000 to add data collection for farms to the OEWS program.

Figures 3-9 of this report include comparisons of wages over time in each data source with growth in the ECI (a measure of overall U.S. employer costs for wages and salaries). These figures show that in each source, agricultural sector wages have been growing faster than the ECI for all private-sector wages and salaries in recent years. This means that the wages used in labor certification for the H-2A visa are increasing due to wage growth in the agricultural sector that is higher than wage growth for the private sector as a whole. This pattern is found in all these data sources, not only in those currently used in labor certification.

Table 3. Comparison of Selected Sources of Agricultural Wage Data

Source	Coverage	Scale of Current Data Collection	Wages or Earnings Measure	Detail of Published Estimates	Current Use in Labor Certification
<p>The Farm Labor Survey (FLS) Conducted by the National Agricultural Statistics Service (NASS), https://www.nass.usda.gov/Surveys/Guide_to_NASS_Surveys/Farm_Labor/</p>	<p>Workers employed directly on farms and ranches (not employed by labor contractors)</p>	<p>About 16,000 farm and ranch operators in the continental United States and Hawaii</p>	<p>Average hourly gross wages, including base wages, overtime, and monetary bonuses, but not benefits such as housing or meals</p>	<p>State- or region-level estimates for the Big Six^a occupations</p>	<p>The Adverse Effect Wage Rate (AEWR) is based on this survey for the Big Six^a occupations in all U.S. states except Alaska</p>
<p>The Occupational Employment and Wage Statistics (OEWS) Conducted by the Bureau of Labor Statistics (BLS), https://www.bls.gov/oes/</p>	<p>Workers employed by nonfarm employers and covered by state unemployment insurance (UI) programs, or employed in rail transportation A FY2024 budget request proposes additional funding to include workers on farms</p>	<p>1.1 million nonfarm business establishments over a three-year period in all U.S. states and DC Data also collected in Puerto Rico, Guam, and the U.S. Virgin Islands</p>	<p>Hourly or annual wages, including production bonuses but not overtime pay Publications include average wages and selected percentiles of the wage distribution</p>	<p>State- or territory-level wage estimates (where there are sufficient employers) by detailed occupation</p>	<p>The AEWR is based on this survey wherever the FLS data does not publish a wage estimate for an occupation or a geographic area</p>
<p>Agricultural Prevailing Wage Surveys Conducted by state agencies, see https://www.dol.gov/agencies/eta/foreign-labor/wages/agriculture</p>	<p>U.S. workers in place-specific crop or agricultural activities believed to receive higher pay than the applicable AEWR</p>	<p>Surveys must include wage reports from at least 30 U.S. workers (unless there are fewer) and at least five employers (unless there are fewer) to be used in wage certification</p>	<p>Average hourly or piece-rate wages for U.S. workers in a single crop activity or agricultural activity in a local geographic area</p>	<p>Average wages in a single crop activity or agricultural activity</p>	<p>Required wage for labor certification in the locally applicable crop activity or agricultural activity, if a prevailing wage is estimated</p>

Source	Coverage	Scale of Current Data Collection	Wages or Earnings Measure	Detail of Published Estimates	Current Use in Labor Certification
Agricultural Resources Management Survey (ARMS) Conducted by NASS, https://www.nass.usda.gov/Surveys/Guide_to_NASS_Surveys/Ag_Resource_Management/	Farm and ranch operators	About 30,000 farm and ranch operators in the continental United States	None—survey collects data on labor expenses per farm	Five regions, as well as the 15 states with the greatest agricultural sales receipts	Not currently used
The American Community Survey (ACS) Conducted by the Census Bureau, https://www.census.gov/programs-surveys/acs	People who reside in the United States and have been (or will be) living in the surveyed household for at least two months	295,000 addresses per month in the United States, as well as 36,000 addresses per year in Puerto Rico.	Total wages earned in the past 12 months from all jobs	Median annual earnings by main occupation in the United States	Not currently used
The Current Population Survey (CPS) Conducted by the Census Bureau in coordination with BLS, https://www.bls.gov/cps/	People who reside in the surveyed household	60,000 households per month in the United States	Usual weekly earnings on main job (or hourly wages multiplied by usual weekly hours), including overtime pay, commissions, or tips usually received	Median usual weekly earnings by occupation in main job in the United States	Not currently used
The Quarterly Census of Employment and Wages (QCEW) Conducted by BLS, https://www.bls.gov/cew/	Employers covered by UI, including larger farms and larger farm labor contractors Workers in the United States on H-2A visas are <i>not</i> covered by UI	Quarterly reports from all employers covered by UI	Total compensation paid to all employees Components vary by state, but generally include wages and salaries, bonuses, the cash value of meals and lodging, and employee contributions toward employer-provided benefits	Average weekly wages by detailed industry are published for every quarter at the county level	Not currently used

Source	Coverage	Scale of Current Data Collection	Wages or Earnings Measure	Detail of Published Estimates	Current Use in Labor Certification
The National Agricultural Workers Survey (NAWS) Funded by the Employment and Training Administration, https://www.dol.gov/agencies/eta/national-agricultural-workers-survey	U.S. field workers active in crop production in the contiguous 48 states	1,500 to 3,600 field workers over a two-year period	Average hourly earnings at current farm job	Average earnings in this survey are published periodically for U.S. regions and California	Not currently used

Source: CRS compilation based on the sources cited in the table.

- a. The Big Six agricultural occupations are “Graders and Sorters, Agricultural Products”; “Agricultural Equipment Operators”; “Farmworkers and Laborers, Crop, Nursery, and Greenhouse”; “Farmworkers, Farm, Ranch, and Aquacultural Animals”; “Packers and Packagers, Hand”; and “Agricultural Workers, All Other.”

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