



GEORGIA DEPARTMENT OF LAW

40 Capitol Square SW
Atlanta, Georgia 30334-1300

CHRISTOPHER M. CARR
ATTORNEY GENERAL

www.law.ga.gov
(404) 458-3600

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The Honorable Julie Su
Secretary of Labor
U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, D.C. 20210

The Honorable Thomas Vilsack
Secretary of Agriculture
U.S. Department of Agriculture
1400 Independence Avenue, S.W.
Washington, D.C. 20250

Dear Secretaries Su and Vilsack:

Our office is greatly concerned with the Department of Labor's updated rule regarding the Adverse Effect Wage Rate (AEWR) and H-2A workers. To put it plainly, the implementation of this rule - which has lacked any transparency whatsoever and appears to be arbitrarily crafted - will have a serious and harmful effect upon Georgia farmers. In turn, this newly imposed financial burden would result in higher food costs for consumers and increase reliance upon foreign produce.

In Georgia, agriculture remains the state's largest industry with agribusiness contributing about \$69 billion to our total economy.¹ Our warm weather and rich soil provide our farmers with the climate required to be amongst the nation's most prolific growers of blueberries, pecans, peanuts, cotton, and peaches. With over 42,000 farms and 9.9 million acres of production to maintain, a sizable labor force is required for our farmers to harvest their yield within season to supply grocery stores and feed families nationwide.²³

Given the critical role of agriculture in Georgia, our office is concerned with the news surrounding the shocking 7% increase in the AEWR for 2024 that follows a 14% increase handed down by the federal government for foreign H-2A labor in 2023. As background,

¹ Sharon Kane, "Ag Snapshots 2022: A Brief Focus on Georgia's Agriculture Industry," UGA Center for Agribusiness & Economic Development, 2023, <https://caed.uga.edu/content/dam/caes-subsite/caed/publications/ag-snapshots/2022CAEDAgSnapshotsWeb.pdf>

² Kane, "Ag Snapshots 2022."

³ "About Georgia Ag - Georgia's \$69.4 Billion Industry", Georgia Farm Bureau, 2023, <https://www.gfb.org/learn/abt-ga-ag#:~:text=Agriculture%20contributes%20approximately%20%2469.4%20billion,agriculture%2C%20for%20or%20related%20fields>

the Department of Labor (DOL) uses the Farm Labor Survey (FLS) data to determine AEWR. The FLS data and the collection methodology, as you both are aware, are unavailable to the public and has always caused some concern in and of itself. Now, the DOL uses both the FLS and Bureau of Labor Occupational Employment and Wage Statistics (OEWS) when determining the H2-A wages. OEWS data consists of **all** industry standards rather than just agriculture, resulting in higher average wages than FLS data. Since many H-2A job descriptions overlap between FLS and OEWS classifications, agriculture employers are forced to pay the higher OEWS wage for the same job. Once again, the data and methodology remain unavailable to the public and is now causing even greater concern regarding the lack of transparency. In addition, and this is anecdotal, but we are not aware of a single Georgia farmer that was contacted to participate in the survey.

Georgia farmers currently pay H-2A laborers \$13.67 per hour, nearly double the federal minimum wage rate. The new rate for 2024 will rise to \$14.66. We would point out, this rate does not include the costs from increasing nonimmigrant visa fees or those associated with travel and lodging.⁴ The 21% increase in the last 14 months will now make the program unaffordable for some growers. Compounding the problems, under the new overlapping classification scheme employers may now have to pay that same worker \$29.74 per hour **for the same work** or be required to file multiple applications which only make the program more cost prohibitive. Such a massive increase would devastate farmers and potentially collapse the agricultural landscape in Georgia.⁵ For farmers that use hundreds of H-2A laborers every season, this new policy would cost millions of dollars that they simply do not have.

The lack of transparency concerning the methodology can only lead our constituents to reasonably assume these mandated wage increases were established arbitrarily and without regard for the wellbeing of Georgia farmers. Therefore, we ask for more information on what methodology and raw data was used to justify the substantial wage increase and the discrepancy between the proposed AEWR and private sector rates. We also request that the increases are halted while we await the responses from your agencies and our office has the opportunity to evaluate them.

Sincerely,



Chris Carr, Georgia Attorney General

⁴ "H-2A Agricultural Worker Training Program: Georgia Farm Bureau Annual Convention", (presentation, U.S. Department of Labor's Office of Foreign Labor Certification, December 4th, 2023).

⁵ "H-2A Agricultural Worker Training Program", 2023.