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DEPARTMENT OF LABOR

Employment and Training Administration

Labor Certification Process for the Temporary Employment of Aliens in Agriculture in the United States: 2016 Adverse Effect Wage Rates

AGENCY: Employment and Training Administration, Department of Labor.

ACTION: Notice.

SUMMARY: The Employment and Training Administration (ETA) of the Department of Labor (Department) is issuing this notice to announce the 2016 Adverse Effect Wage Rates (AEWRs) for the employment of temporary or seasonal nonimmigrant foreign workers (H-2A workers) to perform agricultural labor or services.

AEWRs are the minimum wage rates the Department has determined must be offered and paid by employers to H-2A workers and workers in corresponding employment for a particular occupation and area so that the wages of similarly employed U.S. workers will not be adversely affected. In this notice, the Department announces the annual update of the AEWRs which must be paid for agricultural work performed by H-2A and U.S. workers on or after the effective date of this notice.

DATES: *Effective Date:* This notice is effective [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER].

FOR FURTHER INFORMATION CONTACT: William W. Thompson, II, Acting Administrator, Office of Foreign Labor Certification, U.S. Department of Labor, Box 12-200, 200 Constitution Avenue NW, Washington, DC 20210. Telephone:

202-513-7350 (this is not a toll-free number).

SUPPLEMENTARY INFORMATION:

The U.S. Citizenship and Immigration Services of the Department of Homeland Security will not approve an employer's petition for the admission of H-2A nonimmigrant temporary agricultural workers in the U.S. unless the petitioner has received from the Department an H-2A labor certification. The labor certification provides that: (1) there are not sufficient U.S. workers who are able, willing, and qualified and who will be available at the time and place needed to perform the labor or services involved in the petition; and (2) the employment of the foreign worker(s) in such labor or services will not adversely affect the wages and working conditions of workers in the U.S. similarly employed. 8 U.S.C. 1101(a)(15)(H)(ii)(a), 1184(c)(1), and 1188(a); 8 CFR 214.2(h)(5); 20 CFR 655.100.

Adverse Effect Wage Rates for 2016

The Department's H-2A regulations at 20 CFR 655.120(l) provide that employers must pay their H-2A workers and workers in corresponding employment at least the highest of: (1) the AEWR; (2) the prevailing hourly wage rate; (3) the prevailing piece rate; (4) the agreed-upon collective bargaining wage rate, if applicable; or (5) the Federal or State minimum wage rate, in effect at the time the work is performed.

Except as otherwise provided in 20 CFR part 655, subpart B, the region-wide AEWR for all agricultural employment (except those occupations characterized by other than a reasonably regular workday or workweek as described in 20 CFR 655.102) for which temporary H-2A certification is being sought is equal to the annual weighted average

hourly wage rate for field and livestock workers (combined) in the State or region as published annually by the United States Department of Agriculture (USDA). 20 CFR 655.120(c) requires that the Administrator of the Office of Foreign Labor Certification publish the USDA field and livestock worker (combined) wage data as AEWRs in a Federal Register notice. Accordingly, the 2016 AEWRs to be paid for agricultural work performed by H-2A and U.S. workers on or after the effective date of this notice are set forth in the table below:

TABLE -- 2016 ADVERSE EFFECT WAGE RATES

<u>State</u>	<u>2016 AEWRs</u>
Alabama	\$10.59
Arizona	\$11.20
Arkansas	\$10.69
California	\$11.89
Colorado	\$11.27
Connecticut	\$11.74
Delaware	\$11.66
Florida	\$10.70
Georgia	\$10.59
Hawaii	\$12.64
Idaho	\$11.75
Illinois	\$12.07
Indiana	\$12.07

Iowa	\$12.17
Kansas	\$13.80
Kentucky	\$10.85
Louisiana	\$10.69
Maine	\$11.74
Maryland	\$11.66
Massachusetts	\$11.74
Michigan	\$12.02
Minnesota	\$12.02
Mississippi	\$10.69
Missouri	\$12.17
Montana	\$11.75
Nebraska	\$13.80
Nevada	\$11.27
New Hampshire	\$11.74
New Jersey	\$11.66
New Mexico	\$11.20
New York	\$11.74
North Carolina	\$10.72
North Dakota	\$13.80
Ohio	\$12.07
Oklahoma	\$11.15

Oregon	\$12.69
Pennsylvania	\$11.66
Rhode Island	\$11.74
South Carolina	\$10.59
South Dakota	\$13.80
Tennessee	\$10.85
Texas	\$11.15
Utah	\$11.27
Vermont	\$11.74
Virginia	\$10.72
Washington	\$12.69
West Virginia	\$10.85
Wisconsin	\$12.02
Wyoming	\$11.75

Pursuant to the H-2A regulations at 20 CFR 655.173, the Department will publish a separate Federal Register notice in early 2016 to announce (1) the allowable charges for 2016 that employers seeking H-2A workers may charge their workers for providing them three meals a day; and (2) the maximum travel subsistence reimbursement which a worker with receipts may claim in 2016.

Portia Wu,
Assistant Secretary,
Employment and Training Administration.

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