Ag INSIDER

FARM BUREAU ARKANSAS

August 2023

How the New H-2A Wage Requirements Affect Arkansas Farmers

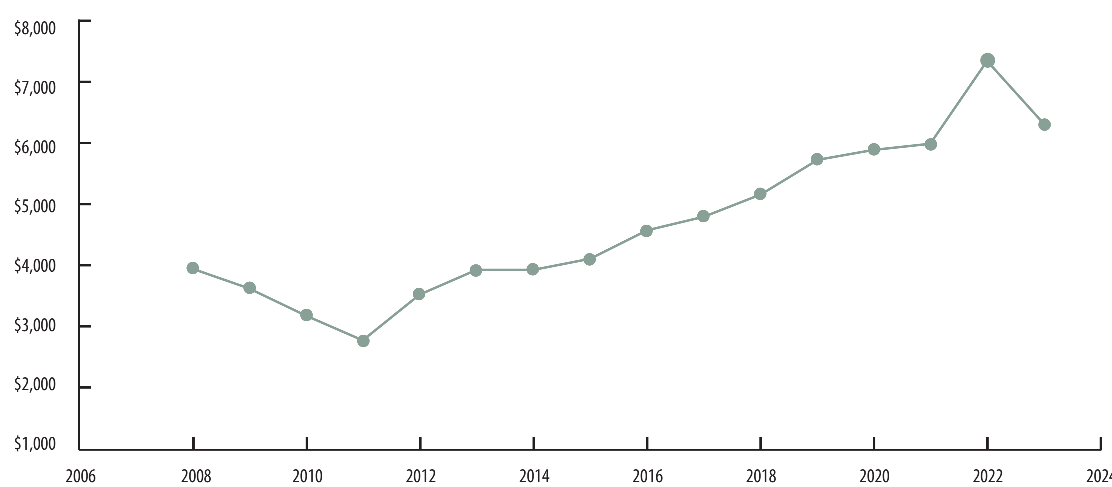
Over the past fifteen years, production agriculture in the United States has undergone a significant decline in local workforce participation. Numerous factors, such as depopulation of rural regions and the rise of more accessible, less labor-intensive job opportunities, have contributed to this issue. Nonetheless, the demand for reliable labor has driven an increasing number of farmers nationwide to adopt the practice of recruiting temporary foreign workers through the H-2A Visa program. This initiative enables employers to contract foreign labor on a short-term basis, specifically in situations where a scarcity of domestic workers exists. The H-2A Visa Program is overseen by three distinct federal agencies: the Department of Labor (DOL), the Department of Homeland Security (DHS), and the Department of State. Although the roots of the H-2A Visa Program can be traced back to the Immigration and Nationality Act of 1952, it was the Immigration Reform and Control Act of 1986 that formally established the categories of H-2A for agricultural labor and H-2B for seasonal non-agricultural work. Since its inception in 1987, the program has undergone remarkable expansion. Starting with the issuance of a mere 44 visas for H-2A foreign workers, it has evolved to the point of issuing a substantial 371,619 visas in the year 2022.

Workers from the H-2A Visa Program typically come from countries with agreements in place with the U.S. government such as Mexico, South Africa, and Romania with all workers being required to return to their home countries once their authorized work period ends. The program aims to strike a balance between supporting American agricultural enterprises and ensuring labor protections for foreign workers. H-2A labor workers often face challenges such as language barriers, cultural adjustments and separation from their families, but the workers play a crucial role in maintaining the stability of the agricultural sector by contributing to the essential food supply chain of the United States.

In Arkansas, the number of H-2A visas issued has trended up over the last several years. As referenced in Figure 1, since 2008, the reliance on H-2A

Certified H2A Workers in Arkansas

Fig. 1



workers within the Arkansas agricultural industry has surged by a substantial 80%, reflecting an average annual growth rate of approximately 5%. This shift has seen the number of certified H-2A workers in the state ascend from 3,366 in 2008 to 6,056 as of 2023. As the Arkansas agricultural sector leans more heavily on the contributions of these foreign workers, the task of sustaining a viable profit margin while managing production costs is growing in complexity, particularly in the face of new wage regulations established by the DOL.

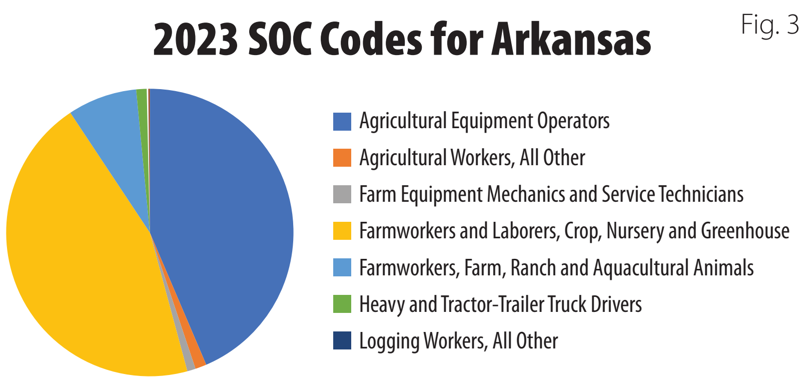
Standard Occupational Classification (SOC) codes play a pivotal role in the H-2A visa program, offering a standardized framework to categorize and define various job roles within the agricultural sector. However, the DOL has recently come out with a highly scrutinized "Final Rule" that will greatly affect how some of these SOC codes are applied and the wage rate that the H-2A worker receives. The applicable Adverse Effect Wage Rate (AEWR) for a job opportunity is determined by the SOC code. In this context, most H-2A positions are anticipated to align with the "Big Six" SOC codes related to field and livestock work, subjecting them to the Farm Labor Survey (FLS)-based AEWR, which for the state of Arkansas is currently $13.67. If the job opportunity falls outside of those six SOC codes, then the wage rate will be subject to the Occupational Employment and Wage Statistics (OEWS)-based AEWR. Consequently, this "Final Rule" has spurred concerns, particularly when H-2A job roles encompass duties both within and beyond the "Big Six" categories. In such instances, the higher AEWR must be applied to compensate H-2A workers for all hours worked, where some wages could roughly see a 65% increase per SOC code assigned. This evolution underscores the intricate interplay between SOC codes and wage determination within the dynamic landscape of the H-2A program. Figure 2 shows a few different SOC codes and the average wage rates that go with those codes.

Fig. 2

SOC (Occupation Code)	Occupation Title	Average Hourly Wage
45-2041	Graders and Sorters, Agricultural Products	$16.09
45-2091	Agricultural Equipment Operators	$14.92
45-2092	Farmworkers and Laborers, Crop, Nursery, and Greenhouse	$14.35
45-2093	Farmworkers, Farm, Ranch, and Aquacultural Animals	$15.28
53-7064	Packers and Packagers, Hand	$14.98
45-2099	Agricultural Workers, All Other	
45-4021	Fallers	$23.88
45-4022	Logging Equipment Operators	$22.40
45-4023	Log Graders and Scalers	$17.40
53-3032	Heavy and Tractor-Trailer Truck Drivers	$22.64
53-3033	Light Truck Drivers	$20.45

Highlighted are the "Big Six" and fall under the FLS AEWR of $13.67 for Arkansas.

Fig. 3



According to the information provided by the DOL, Figure 3 shows the prevailing SOC codes in Arkansas. These codes primarily encompass roles like Agricultural Equipment Operators or Farmworkers and Laborers, Crop, Nursery and Greenhouse, both of which fall within the category subject to the Farm Labor Survey (FLS) Adverse Effect Wage Rate

(AEWR) of $13.67 for Arkansas. However, a notable shift might occur due to the prominent involvement of Heavy and Tractor-Trailer Truck Drivers in contemporary farming practices, a category not covered by the "Big Six" codes. This could potentially lead to a significant increase in the average pay rate for H-2A workers in Arkansas, further amplifying the existing upward trajectory. The inclusion of these roles introduces a new dimension to the wage dynamics, prompting a comprehensive review of compensation structures in the state's agricultural sector.

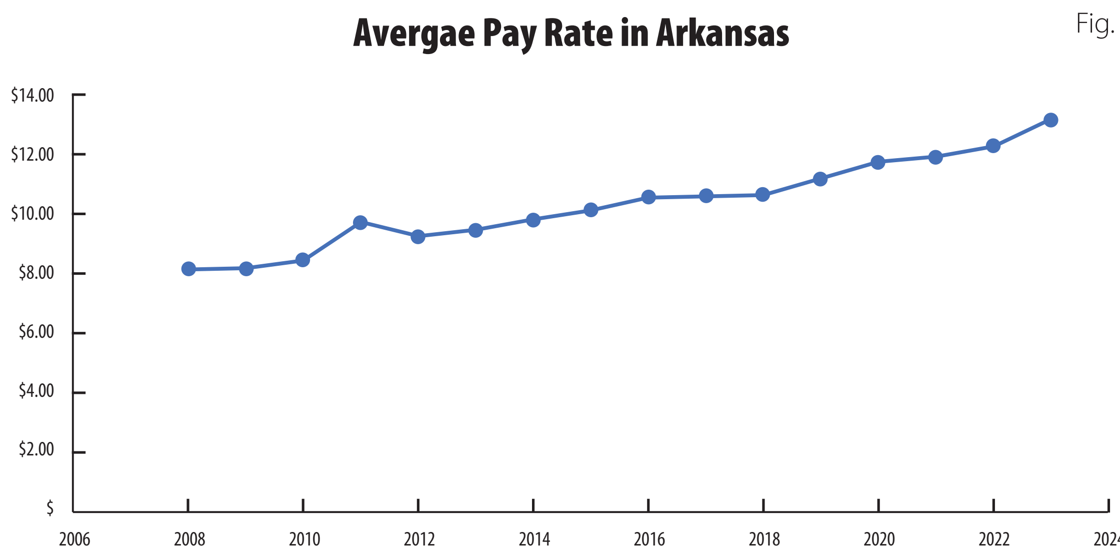
Illustrating this scenario in Figure 4, let's consider a hypothetical farm employing 10 H-2A workers, each earning the wage rate of $13.67. Consequently, the employer's payout for a week's work totaling 48 hours per employee would amount to $6,561.60. However, a glance towards the future reveals the potential for increased wages if certain employees shift into a different SOC code, such as Heavy and Tractor-Trailer Truck Drivers. To exemplify, envision a scenario with six workers currently classified within the prevailing "Big Six" codes and four employees who now fall under the newly implemented methodology. This adjustment would translate into an additional expenditure of $1,722.24 per week, representing a notable 26% surge in weekly labor costs.

Fig. 4

Codes	Amount of H2A Employees	Hours Worked Weekly	Wage Rate	Total Wage	
SOC: 45-2091	10	48	13.67	$6,561.60	
				$-	
SOC: 45-2091	6	48	13.67	$3,936.96	
SOC: 53-3032	4	48	22.64	$4,346.88	**Percent Increase**
				$8,283.84	26%

If the current trajectory of wage rate progression, as shown in figure 5, persists, compounded by the elevated wage rates associated with roles beyond the "Big Six" categories, agricultural producers may face an uphill battle against the already escalating cost of production. This could potentially force producers to consider scaling down their operations to reduce labor demand or, even worse, ceasing operations all together. The specialty crop sector is uniquely vulnerable to these impacts and it's important to remember that any loss of food production in the U.S. could create food security concerns domestically. The possibility of reduced agricultural activity could diminish employment opportunities in rural areas, specifically for indirectly related to agricultural production, affecting the overall economic vitality of the region. As the cost dynamics of the H-2A labor market evolve, strategic adjustments become essential for maintaining a balance between sustainable production and

Fig. 5



economic well-being.

In addition to the newly implemented "Final Rule" regarding wage rates, producers are contending with an array of persistent challenges within the framework of the H-2A Visa Program. The expenses linked to the program, encompassing visa applications, continue to escalate annually. As previously mentioned, the program's oversight involves three distinct federal agencies. This creates logistical complexities, resulting in administrative hurdles and excessively convoluted application procedures for producers. Presently, neither agency offers an electronic filing system, compelling producers to rely on traditional mail for submitting paper copies, consequently exacerbating delays in application processing. The heightened frequency of housing inspections and the need for driver's license applications further impede the efficiency of workers in carrying out their responsibilities. Owing to the higher AEWR in other regions of the country, numerous producers face the challenge of workers departing for more lucrative employment opportunities. Given the prominence of these challenges, Arkansas producers are advocating for a reduction in program costs, alongside the simultaneous streamlining of the application process, extension of visa durations, simplification of the process to obtain driver's licenses for returning workers, improvement in the efficiency of housing inspection procedures, and increased enforcement on workers' to keep their commitments to labor contracts.

Conclusion:
The H-2A program emerges as a vital lifeline for American agriculture, bridging labor gaps through the employment of temporary foreign workers in essential roles. This solution becomes especially pronounced in regions like Arkansas, where the adoption of H-2A labor has surged significantly over the years. However, this growing reliance has brought many issues with the program to light and raises complex challenges for maintaining profitability amid evolving wage regulations. The interplay of Standard Occupational Classification (SOC) codes further underscores the intricate dynamics of wage determination, potentially reshaping compensation structures. As wage trends continue and rates for roles beyond the "Big Six" categories rise, agricultural producers face the delicate task of managing production costs to sustain economic well-being. Balancing these considerations is essential to ensure the continued stability of the agricultural sector while supporting the broader local economies that rely on its prosperity.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