

**AMENDMENT TO THE AMENDMENT IN THE NA-
TURE OF A SUBSTITUTE OFFERED BY MR.
GOODLATTE OF VIRGINIA
OFFERED BY MR. CONYERS OF MICHIGAN**

Page 3, insert after line 3 the following (and conform all provisions accordingly):

1 “(1) ADVERSE EFFECT WAGE RATE.—The term
2 ‘adverse effect wage rate’ means the annual weight-
3 ed average hourly wage for field and livestock work-
4 ers (combined) in the States or regions as published
5 annually by the Department of Agriculture based on
6 its quarterly wage survey.”.

Beginning on page 17, strike line 23, and all that follows through line 2 on page 19, and insert the following:

7 “(2) REQUIRED WAGES.—In the case of an em-
8 ployer petitioning for an H-2C worker, the following
9 conditions apply to wages:
10 “(A) If the H-2C worker is paid by the
11 hour, the employer shall pay, for every hour or
12 portion thereof worked during a pay period, not

1 less than the highest of the following (as in ef-
2 fect at the time work is performed):

3 “(i) The adverse effect wage rate.

4 “(ii) The prevailing hourly wage rate.

5 “(iii) The prevailing piece rate or
6 other alternative wage payment system.

7 “(iv) Any applicable collective bar-
8 gaining rate.

9 “(v) The Federal or State minimum
10 wage rate.

11 “(B) The offered wage may not be based
12 on commission, bonuses, or other incentives, un-
13 less the employer guarantees a wage paid on a
14 weekly, semi-monthly, or monthly basis that
15 equals or exceeds the wage rate required under
16 subparagraph (A).

17 “(C) If the worker is paid on a piece rate
18 basis and at the end of the pay period the piece
19 rate does not result in average hourly piece rate
20 earnings during the pay period at least equal to
21 the amount the worker would have earned had
22 the worker been paid at the appropriate hourly
23 rate—

24 “(i) the worker’s pay must be supple-
25 mented at that time so that the worker’s

1 earnings are at least as much as the work-
2 er would have earned during the pay pe-
3 riod if the worker had instead been paid at
4 the appropriate hourly wage rate for each
5 hour worked;

6 “(ii) the piece rate must be no less
7 than the piece rate prevailing for the activ-
8 ity in the area of intended employment;
9 and

10 .“(iii) if the employer who pays by the
11 piece rate requires one or more minimum
12 productivity standards of workers as a con-
13 dition of job retention, such standards
14 must be specified in the job offer and be
15 no more than those normally required (at
16 the time of the first H-2C application) by
17 other employers for the activity in the area
18 of intended employment.”.

