



## Correction

**For Immediate Release**  
July 16, 2019

**Contact:** Bruce Goldstein, Farmworker Justice  
202.293.5420 ext. 304 [bgoldstein@farmworkerjustice.org](mailto:bgoldstein@farmworkerjustice.org)

### **Trump Department of Labor Proposes Harmful Changes to H-2A Agricultural Guestworker Program**

Yesterday, the U.S. Department of Labor announced plans to engage in a sweeping revision of the H-2A agricultural guestworker program. The proposed changes to the H-2A program regulations would reduce labor protections for U.S. workers and H-2A temporary foreign workers in a variety of ways.

The proposed rule and the accompanying explanation are 489 pages long. We are reviewing the proposal and will be preparing a substantial analysis and formal comments.

The proposal would sharply reduce the obligation to recruit U.S. workers. The rule proposes eliminating the “50% rule,” a key protection for U.S. workers that requires employers to hire qualified U.S. workers through at least the mid-way point of the contract; and replacing it with a requirement to hire U.S. workers only for the first 30 days of a contract, or until the end of the staggered entry of H-2A workers (staggered entry also being a new provision that could make it more difficult for U.S. workers to learn of job opportunities at H-2A employers). Some U.S. workers would lose job opportunities.

The proposal would shift H-2A program costs from employers onto the backs of H-2A workers, who are predominantly from poor countries. DOL proposes to end requiring transportation cost reimbursement from the worker’s home in the country of origin to the place of employment, and only require that employers pay for transportation from the US consulate or embassy where the workers obtain their visa, which is often far from their homes. A 2008 Bush rule made a similar change and the costs shifted to workers at the time was about \$4.7 million; a cost that would be much higher today.

The rule proposes significant, complex changes to the wage rates required under the H-2A program for both U.S. and foreign workers. The proposal includes changing the methodology for the Adverse Effect Wage Rate (AEWR), resulting in lower wages for many H-2A workers. For example, the DOL notice apparently is indicating that under the proposed formula in California where the 2018 AEWR was \$13.18 per hour, the field workers’ wages would have been lower at \$12.92. In Texas, the rate for 2018 under the proposed rules would have been \$11.53 for field workers, rather than the 2018 AEWR of \$11.87. Wage decreases would occur in other states as well. For low-wage farmworkers these are harmful pay cuts that undermine the labor market.

It also includes changing the methodology for the prevailing wage for particular jobs in local areas in a way that makes it difficult to ensure a prevailing wage is even available.

“The Trump Administration’s proposal would make it easier for farmers to bring in temporary foreign workers under substandard wages and working conditions, denying these valuable workers the economic and democratic freedoms on which this country is based,” said Bruce Goldstein, President of Farmworker Justice. “The Administration’s immigration enforcement and threats against undocumented immigrants are harming

farmworker families and undermining the agricultural sector, where a majority of farmworkers are undocumented,” he added. “The Trump Administration is doing nothing to deal responsibly with the most basic challenge: the majority of the current farm labor force is undocumented. Congress should grant undocumented farmworkers and their family members the opportunity for immigration status and a path to citizenship.”

The H-2A temporary foreign agricultural worker program, which originated during World War II, is intended to allow agricultural employers to hire foreign citizens on temporary work visas for temporary or seasonal agricultural work if they can demonstrate a shortage of labor and that the wages and working conditions will not “adversely affect” the wages and working conditions of U.S. workers. The H-2A program has been growing rapidly recently, from 139,832 jobs in 2015 to over 242,000 in 2018, undermining the argument that the program is too burdensome for employers.

Farmworker Justice is a national advocacy organization for farmworkers and has extensive experience regarding the H-2A program. Our report, “No Way to Treat a Guest: Why the H-2A Agricultural Visa Program Fail U.S. and Foreign Workers” is available on our website.

###