

Congress of the United States

Washington, DC 20515

September 2, 2025

Lori Frazier Bearden
Acting Assistant Secretary, Employment and Training Administration
U.S. Department of Labor
200 Constitution Avenue
Washington, DC 20210

Re: RIN 1205-AC25, *Recission of Final Rule: Improving Protections for Workers in Temporary Agricultural Employment in the United States*

Dear Ms. Bearden:

We write in strong opposition to the Department of Labor's (DOL) proposal¹ to rescind the 2024 Farmworker Protection Rule (2024 Rule)² governing the H-2A visa program. The 2024 Rule represents an overdue modernization of a rapidly growing program that is crucial to U.S. agriculture yet historically susceptible to labor abuses. Rescinding this rule would place H-2A workers at heightened risk of exploitation, drive down labor standards for U.S. workers in similar occupations, and give a competitive advantage to unscrupulous employers who cut costs by violating the law. We urge the Department to abandon this proposal and fully implement the 2024 Rule.

The H-2A workforce has become a lifeline to America's food production. Between 2017 and 2022, the number of certified H-2A workers grew by 64.7%.³ Despite this growth, the total number of agricultural jobs has remained stable since the 1990s, indicating that H-2A workers are filling persistent seasonal gaps as U.S.-based farmworkers make up a smaller share of the labor force.⁴ However, this increased demand only magnifies the longstanding structural risks that have plagued the H-2A program for decades. Since H-2A visas tie immigration status to a single employer and often place workers in isolated environments with little to no legal or community support, these features can create leverage points that can and have been abused. These farmworkers may face language barriers, debt burdens, and extreme dependency on their employers for housing and transportation, making them more vulnerable to retaliation, coercion, and exploitation. For example, the National Human Trafficking Hotline identified 2,841 H-2A

¹ Recission of Final Rule: Improving Protections for Workers in Temporary Agricultural Employment in the United States, 90 Fed. Reg. 28919 (proposed July 2, 2025).

² Improving Protections for Workers in Temporary Agricultural Employment in the United States, 89 Fed. Reg. 33898 (effective June 28, 2024).

³ The Expanding Role of H-2A Workers in U.S. Agriculture, AM. IMMIGR. COUNCIL, Jun. 11, 2024, <https://www.americanimmigrationcouncil.org/report/h-2a-workers-us-agriculture/>.

⁴ Adriel Orozco, Collective Action Protections for H-2A Workers Face Uphill Legal Battles, AM. IMMIGR. COUNCIL, Oct. 25, 2024, <https://www.americanimmigrationcouncil.org/blog/collective-action-protections-h2a-workers-face-uphill-legal-battles/>.

workers as labor trafficking victims from 2018-2020.⁵ Furthermore, recruitment networks tend to be quite opaque and abusive. In 2021, the Department of Justice indicted dozens of individuals running a human smuggling and labor trafficking operation in the H-2A program primarily in South Georgia.⁶ This race to the bottom in poor conditions and weak labor protections inevitably harms all farmworkers and erodes public trust in the H-2A program's legitimacy.

The 2024 Rule addressed these documented vulnerabilities through specific, enforceable workplace protections that target the most serious forms of exploitation. It mandated seatbelt use in employer-provided transportation, addressing the rise in safety violations that resulted in many worker injuries and deaths.⁷ It protected concerted activity and limited compulsory captive audience meetings for H-2A workers not covered by the *National Labor Relations Act*^{8,9}, preventing employers from using strategies to dissuade workers from asserting their labor rights. Finally, the 2024 Rule established criteria to allow for for-cause termination, so dismissal cannot be wielded as a tool for intimidation or retaliation against workers who report unsafe conditions, wage theft, or other labor violations.¹⁰

Building on these workplace protections, the 2024 Rule also strengthened wage protections for both H-2A and U.S.-based workers through sensible reforms that address the potential dangers of wage theft and suppression. The rule restored the longstanding practice of updating and implementing the Adverse Effect Wage Rate (AEWR) immediately upon publication, instead of allowing for a delay.¹¹ This is especially important given that AEWRs are already based in prior-year data, which means that even when updated, they tend to lag actual market rates and may actually erode real wages mid-contract. Contrary to industry claims, real AEWR growth has been modest, averaging just 0.9% annually over the past decade.¹² Rolling back this provision would deny appropriate pay for current work and undermine one of the core purposes of the AEWR: to prevent a temporary foreign labor program from exerting any downward pressure on domestic wages. The 2024 Rule also required disclosure of all wage terms, including prevailing wage rates, productivity standards, and minimum qualifications, before workers accept a job.¹³ This helps prevent bait-and-switch tactics that have been used to justify arbitrary firings and make sure that H-2A workers understand the terms of employment from the outset. Ensuring timely and transparent payments of the updated AEWR is how a minimum floor is guaranteed for fairness for both foreign and U.S. farmworkers. These wage protections work in tandem with the 2024 Rule's anti-retaliation and other workplace provisions to guarantee that H-2A workers can

⁵ Labor Trafficking on Specific Temporary Work Visas Report, POLARIS, <https://polarisproject.org/labor-trafficking-on-specific-temporary-work-visas-report/> (last visited Aug. 28, 2025).

⁶ Press Release, U.S. ATTORNEY'S OFF., S. DIST. OF GEORGIA, Human Smuggling, Forced Labor Among Allegations in South Georgia Federal Indictment (Nov. 22, 2021), <https://www.justice.gov/usao-sdga/pr/human-smuggling-forced-labor-among-allegations-south-georgia-federal-indictment>.

⁷ Id. at 33903.

⁸ 29 U.S.C. §§ 151-169.

⁹ Id. at 33992.

¹⁰ Id. at 33901.

¹¹ Id. at 33901.

¹² Daniel Costa, The Farmworker Wage Gap, ECON. POLICY INST. (Oct. 5, 2023), <https://www.epi.org/blog/the-farmworker-wage-gap-farmworkers-earned-40-less-than-comparable-nonagricultural-workers-in-2022/>.

¹³ Improving Protections for Workers in Temporary Agricultural Employment in the United States, *supra* note 1 at 33902.

enforce their right to fair compensation and safe working conditions without fear of dismissal or deportation.

For employers, the 2024 Rule improved administrative and regulatory clarity and reduced litigation risk for responsible businesses while still going after non-compliant operations. By requiring upfront disclosure of recruiters—agents and sub-agents—and identification of owners and on-site supervisors, the 2024 Rule provided cost-saving transparency to prevent fraud and legal ambiguity in the long run.¹⁴ It also streamlined debarment and successor rules so that bad actors cannot reconstitute on paper to evade penalties and sanctions.¹⁵ These are mainstream compliance tools that prevent costly legal and reputational harms and provide much-needed stability for agricultural producers currently navigating economic uncertainty and tight labor markets. The 2024 Rule improved worker retention and bolstered long-term competitiveness, especially for good faith businesses that have already invested the time and resources to implement better compliance and employment practices, making their operations more resilient and their exports more attractive as global markets increasingly value risk mitigation and resiliency in supply chains.

Moreover, diminished enforcement capacity of labor protections for guest farmworkers makes these transparency provisions particularly invaluable. The Government Accountability Office (GAO) found that DOL’s Wage and Hour Division (WHD) investigated only 2,857 H-2A employers from Fiscal Years 2018-2023, while the Office of Foreign Labor Certification (OFLC) certified 92,051 H-2A applications during that same period.¹⁶ When investigations do occur, violations are frequently found in FLCs, yet historic staffing and funding shortfalls at WHD have limited enforcement actions.¹⁷ GAO also found that enforcement has been hampered by the need to prioritize application processing over oversight.¹⁸ By requiring comprehensive disclosures at the certification stage, the 2024 Rule required DOL be provided with the information it needs to identify potential violators before abuses occur, effectively streamlining regulatory compliance and multiplying the impact of limited enforcement resources. This front-end transparency is especially crucial given the isolated nature of many agricultural worksites and the vulnerability of H-2A workers to retaliation when they report violations.

The Department’s stated rationale for rescinding the 2024 Rule as burdensome, overreaching, and inconsistent does not withstand legal scrutiny or reflect the economic and labor data. Each provision rests squarely on DOL’s statutory duty to enforce our labor laws and the *Immigration and Nationality Act* requirement¹⁹ to certify that the employment of temporary foreign workers will not adversely affect the wages and working conditions of similarly employed U.S.-based workers. Requiring that employers clearly disclose contract terms, refrain from seizing workers’ IDs, and provide safe transportation are not extraordinary mandates. These are just the bare-minimum standards needed to safeguard dignity and fairness in a labor program. To reverse this

¹⁴ Improving Protections for Workers in Temporary Agricultural Employment in the United States, *supra* note 1 at 33902.

¹⁵ *Id.* at 33903.

¹⁶ U.S. GOV’T ACCOUNTABILITY OFF., GAO-25-106389, Agencies Should Take Additional Steps to Improve Oversight and Enforcement 30 (Nov. 2024), <https://www.gao.gov/assets/gao-25-106389.pdf>.

¹⁷ *Ibid.*

¹⁸ *Ibid.*

¹⁹ 8 U.S.C. 1188(a)(1).

progress would mean opening the door to more labor violations—worsening the risks of wage suppression, trafficking, and fraud—that will ultimately destabilize rural economies, threaten agricultural supply chains, and deter fair market competition.

The Trump Administration has repeatedly emphasized its commitment to combating labor trafficking and protecting American workers from unfair competition. Rescinding the 2024 Rule would directly undermine both of these priorities. The 2024 Rule strengthens wages for U.S. and H-2A farmworkers alike, streamlines employer transparency that enables proactive, cost-saving oversight, and deters exploitative practices that fuel forced labor. It is fully consistent with U.S. commitments to combat worker exploitation and with DOL's own precedent of using the certification process to set sensible guardrails for program participation. At its core, the 2024 Rule is about protecting workers, leveling the playing field for law-abiding businesses, and improving the stability and legitimacy of the H-2A system. We urge the Depart to maintain the 2024 Rule and re-focus its attention on implementation rather than dismantling such essential worker protections.

Sincerely,



Ilhan Omar
Member of Congress
Ranking Member,
Subcommittee on Workforce
Protections



Robert C. "Bobby" Scott
Member of Congress
Ranking Member, Committee
on Education and Workforce