



September 23, 2019

*Submitted via regulations.gov*

Adele Gagliardi  
Administrator, Office of Policy Development and Research  
Employment and Training Administration  
U.S. Department of Labor  
200 Constitution Avenue NW, Room N-5641  
Washington, DC 20210

**Re: DOL Docket No. ETA-2019-0007, RIN 1205-AB89  
Comments in Response to Proposed Amendments: Temporary Agricultural Employment of H-2A Nonimmigrants in the United States**

Dear Ms. Gagliardi,

On behalf of the Interfaith Center on Corporate Responsibility ([ICCR](http://www.iccr.org)), a coalition of faith-based and values-driven institutional investors representing \$500 billion in assets under management, we are writing in response to the Department of Labor's (DOL) abovementioned proposed amendment, to express our strong opposition.

Integral to the sustainability of our economy, our food system and our agricultural industry, is the health, welfare and prosperity of our workforce, both domestic U.S. and foreign, yet workers in the agricultural sector have experienced a long history of egregious human rights violations. Investors in our coalition are long-term investors and have engaged the world's largest corporations, including agricultural companies, on environmental, social and governance issues such as human rights issues which can affect the long-term performance and returns of these companies. For over four decades, our members have been encouraging more robust occupational worker health and safety standards, protection of labor rights and human rights of workers as well as accountability throughout the business value chain that will protect the long-term value of agricultural companies.

We express our strong opposition to the proposed amendments and have highlighted below a few key examples of changes that would undermine the main policy objective of the DOL to increase protections and improve working conditions for workers.

**Wages - Elimination of Prevailing Wage Guarantees**

Under the H-2A program, workers are to be offered wages at the highest of four different wage rates namely the adverse effect wage rate (AEWR); the prevailing wage; the minimum wage or the agreed collective bargaining wage. The proposed amendment provides that the DOL would no longer be obliged to issue prevailing wage rates for all crop activities and agricultural activities for every State. In the absence of the previously required prevailing wage determination, employers could lawfully offer below-market wage rates to workers, removing a critical safeguard for workers.

## Revision to Employer-Provided Housing for Workers

Employer-provided housing is subject to DOL's pre-occupancy inspections and housing certifications are issued for each work contract period. The proposed change extends the housing certification for a period of 24 months, and allows employers to "self-inspect" their provided housing during this extended period. In light of continuing reports of violations of minimum housing standards,<sup>1</sup> it is imperative that DOL and its state agencies continue at a minimum to annually inspect such housing.

## Revision to Transportation Requirements

The H-2A program currently requires employers to reimburse workers for their long-distance travel costs from their homes to the place of employment. The proposed change is to only require employers to pay the costs of transportation for H-2A workers to and from the U.S. consulate or embassy in their home country, rather than their homes. As workers are recruited where they live and often live far from the U.S. consulate or embassy locations, this proposal would pass on home country transportation costs, which the DOL quotes at being about \$320 per worker annually, to workers who can ill afford it and would drive many foreign workers further into debt. This cost should continue to be covered by employers, not workers.

In addition we stress that the H-2A program, notwithstanding the proposed changes discussed in this letter, fails to provide critical protections for H-2A workers such as:

- workers are excluded from key federal employment law for farmworkers namely, the Migrant and Seasonal Agricultural Worker Protection Act and are not subject to anti-discrimination laws; and
- workers are only allowed to work for a single employer who petitioned for their entry to the US, leaving them vulnerable to exploitation akin to modern day slavery as workers become beholden to the demands of their employers.

For all the reasons stated above, ICCR strongly opposes the proposed rule changes which would violate the right of every worker to adequate and decent working conditions include the human right to a living wage, health and safety and adequate housing. By jeopardizing the well-being of our workforce, these changes would pose significant long-term risks to the agricultural industry and consumers.

Sincerely,



Josh Zinner, CEO  
Interfaith Center on Corporate Responsibility

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<sup>1</sup> U.S. Department of Labor, Press Release: '[U.S. Department of Labor Obtains Preliminary Injunction To Prevent Agriculture Employer From Violating Obligations of H-2A Visa Program](https://www.dol.gov/newsroom/releases/whd/whd20180809-2)', August 9, 2018 accessed at <https://www.dol.gov/newsroom/releases/whd/whd20180809-2>

Together with the following investors as co-signatories:

<b>Adrian Dominican Sisters, Portfolio Advisory Board</b>
<b>Aquinas Associates</b>
<b>Bon Secours Mercy Health</b>
<b>CommonSpirit Health</b>
<b>Conference on Corporate Responsibility - Indiana and Michigan</b>
<b>Congregation of Sisters of St. Agnes</b>
<b>Congregation of St. Basil</b>
<b>Congregation of St. Joseph</b>
<b>Dana Investment Advisors</b>
<b>Daughters of Charity Ministries, Inc.</b>
<b>Daughters of Charity, Province of St. Louise</b>
<b>Domini Impact Investments LLC</b>
<b>Dominican Sisters</b>
<b>Dominican Sisters ~ Grand Rapids</b>
<b>Dominican Sisters of San Rafael</b>
<b>Dominican Sisters of Sinsinawa</b>
<b>Dominican Sisters of Springfield, IL</b>
<b>Franciscan Sisters of Allegany NY</b>
<b>Maryknoll Sisters</b>
<b>Mercy Investment Services, Inc.</b>
<b>Northwest Coalition for Responsible Investment</b>
<b>Oxfam America</b>
<b>Providence St Joseph Health</b>
<b>Region VI Coalition for Responsible Investment</b>
<b>Religious of Sacred Heart of Mary WAP</b>
<b>School Sisters of Notre Dame - Central Pacific Province</b>
<b>Seventh Generation Interfaith Coalition for Responsible Investment</b>
<b>Sisters of Charity of New York</b>
<b>Sisters of Charity, Halifax</b>
<b>Sisters of Mary Reparatrix</b>
<b>Sisters of St. Dominic of Caldwell</b>

<b>Sisters of St. Francis of Philadelphia</b>
<b>Sisters of St. Joseph of Orange</b>
<b>Skye Advisors LLC</b>
<b>Socially Responsible Investment Coalition</b>
<b>T'ruah: The Rabbinic Call for Human Rights</b>
<b>The Episcopal Church (DFMS)</b>
<b>Tri-State Coalition for Responsible Investment</b>
<b>Trillium Asset Management</b>
<b>Trinity Health</b>
<b>Union of Concerned Scientists</b>
<b>Unitarian Universalist Association</b>