



**U.S Department of Labor
Wage and Hour Division**



June 20, 2025

Field Assistance Bulletin No. 2025-2

MEMORANDUM FOR: Regional Administrators
District Directors

FROM: Donald M. Harrison, III
Acting Administrator

SUBJECT: H-2A Farmworker Protection Rule Enforcement Guidance

This Field Assistance Bulletin provides enforcement guidance to Wage and Hour Division (WHD) field staff regarding the Final Rule entitled *Improving Protections for Workers in Temporary Agricultural Employment in the United States*, published April 29, 2024 (89 Fed. Reg. 31234), and effective June 28, 2024. In light of multiple federal court injunctions and ongoing regulatory reconsideration, WHD will suspend enforcement of the 2024 Final Rule as of the effective date of this Bulletin.

Background

The 2024 Final Rule amended several regulatory provisions governing the H-2A temporary agricultural labor certification program under the Immigration and Nationality Act. Among other revisions, the rule addressed matters such as rights to engage in concerted activity; worker guest access to employer-provided housing; termination standards and progressive discipline; seat belt requirements; wage disclosure and payment obligations; and employer disclosure and certification obligations.

Following its publication, multiple federal courts issued preliminary injunctions affecting enforcement of the rule in whole or in part:

- The U.S. District Court for the Southern District of Georgia enjoined enforcement of the 2024 Final Rule in 17 States and with respect to certain entities. *Kansas v. U.S. Dep't of Labor*, 749 F. Supp. 3d 1363 (S.D. Ga. 2024).
- The U.S. District Court for the Eastern District of Kentucky enjoined key provisions of the 2024 Final Rule in an additional four States and with respect to certain entities. *Barton v. U.S. Dep't of Labor*, 757 F. Supp. 3d 766 (E.D. Ky. 2024).



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- The U.S. District Court for the Southern District of Mississippi issued a nationwide stay of specific provisions of the 2024 Final Rule, namely 20 C.F.R. §§ 655.135(h)(2) and (m), which address concerted activity protections. *Int'l Fresh Produce Ass'n, et al. v. U.S. Dep't of Labor, et al.*, 758 F. Supp. 3d 575 (S.D. Miss. 2024).
- By contrast, the U.S. District Court for the Eastern District of North Carolina upheld the 2024 Rule. *N.C. Farm Bureau Fed'n, Inc. v. U.S. Dep't of Labor*, No. 5:2024-cv-527, 2025 WL 129624 (E.D.N.C. May 5, 2025).

In response to the injunctions, the Department's Office of Foreign Labor Certification (OFLC) issued guidance requiring that employers revert to submitting H-2A job orders and Applications for Temporary Employment Certification using the forms in effect on June 27, 2024, prior to the effective date of the 2024 Final Rule.

These multiple injunctions have created significant legal uncertainty and operational challenges for WHD staff, regulated employers, and affected workers. A temporary, nationwide suspension of enforcement ensures clarity and consistency while existing litigation over the legality of the 2024 Final Rule continues, and the Department considers further regulatory action.

Enforcement Guidance

The Department is currently evaluating the 2024 Final Rule and considering future regulatory actions. This enforcement policy is intended to provide clarity and consistency for WHD staff while that process is underway.

Effective immediately, WHD will suspend enforcement of all provisions introduced in the 2024 H-2A Final Rule. Field staff shall:

- Discontinue enforcement of the 2024 Final Rule;
- Apply the version of 20 CFR part 655, subpart B, and 29 CFR part 501 in effect on June 27, 2024, for purposes of assessing employer compliance;
- Refer questions about specific scenarios or legal obligations to the National Office for further guidance.

This suspension applies until further notice or issuance of updated enforcement guidance. Nothing in this FAB limits WHD's authority to enforce H-2A requirements or practices in place before the 2024 Final Rule took effect or the Fair Labor Standards Act, nor does it affect the Department's enforcement discretion under other applicable statutes or regulations.

The Department reserves its right to exercise its enforcement authority in specific matters explicitly deemed appropriate by the Administrator, or designee, as an appropriate allocation of resources.

The guidance in this FAB supersedes any contrary or conflicting guidance to field staff or the public addressing this topic.



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This FAB is intended solely as internal guidance for Department personnel, and as a notice to the public of WHD's enforcement position. It does not create any legally enforceable rights or obligations and does not alter any statutory or regulatory requirements.