

H-2A Program Overview



Iris Figueroa, Staff Attorney, Farmworker Justice

September 26, 1017

Farmworker Justice



Farmworker Justice is a nonprofit organization that seeks to empower farmworkers to improve their living and working conditions, immigration status, health, occupational safety, and access to justice

www.farmworkerjustice.org

Participant Poll



- How many have heard of the H-2A program?
- Have you served or worked with H-2A workers?
- Do you think the number of H-2A workers in Arizona is increasing, decreasing or about the same?

What is the H-2A Program?



- Allows employers to employ temporary foreign agricultural (H-2A) workers
 - If insufficient number of U.S. workers available
 - Wages and working conditions of workers in the U.S. will not be “adversely affected”
- Job offer (“clearance order”) is entered into the agricultural recruitment system
- H-2A workers are in the U.S. on temporary non-immigrant visas
 - Visas are tied to employers who sponsored them
 - Positions are certified by the U.S. Dept. of Labor
 - Employers must provide a required wage rate, housing, transportation to and from their home country, and workers’ compensation insurance



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H-2A Agricultural Guestworker Program Protections

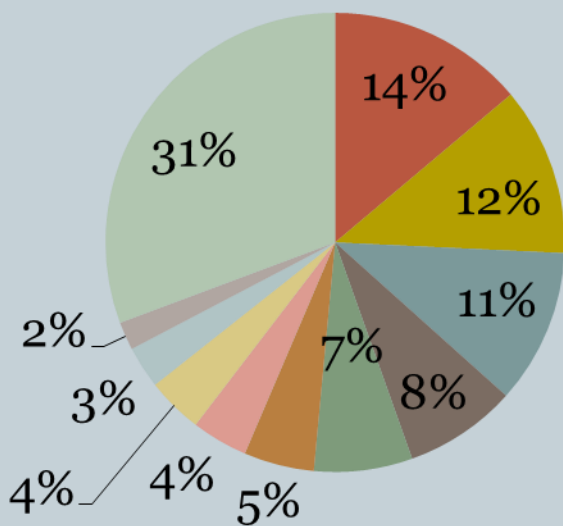


- U.S. recruitment protections and 50% rule
- Housing
- Transportation
- $\frac{3}{4}$ Guarantee
- Adverse Effect Wage Rate (higher of AEWR, minimum wage or local prevailing wage) – AZ 2017 AEWR is \$10.95
- Health Insurance and Workers' Compensation

Where are H-2A Workers?

FY 2016

- Florida
- North Carolina
- Georgia
- Washington
- California
- Louisiana
- Kentucky
- New York
- Arizona
- South Carolina
- All other states

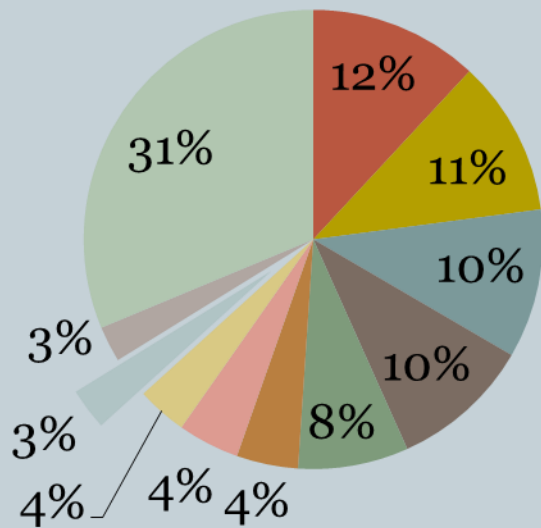


| State | # of CPs | % of CPs |
|----------------|--------------|-------------|
| Florida | 22,828 | 13.8% |
| North Carolina | 19,786 | 11.9% |
| Georgia | 17,392 | 10.5% |
| Washington | 13,689 | 8.3% |
| California | 11,106 | 6.7% |
| Louisiana | 8,301 | 5.0% |
| Kentucky | 6,779 | 4.1% |
| New York | 5,522 | 3.3% |
| Arizona | 5,391 | 3.3% |
| South Carolina | 3,896 | 2.4% |

Where are H-2A Workers?

FY 2017 YTD (*Information only through Q3)

- Georgia
- North Carolina
- Florida
- Washington
- California
- Louisiana
- Kentucky
- Arizona
- Michigan
- South Carolina
- All other states



| State | # of CPs | % of CPs |
|----------------|--------------|-------------|
| Georgia | 18,886 | 11.8% |
| North Carolina | 17,405 | 10.9% |
| Florida | 16,664 | 10.4% |
| Washington | 15,611 | 9.8% |
| California | 12,292 | 7.7% |
| Louisiana | 6,904 | 4.3% |
| Kentucky | 6,847 | 4.3% |
| Arizona | 5,659 | 3.5% |
| Michigan | 4,646 | 2.9% |
| South Carolina | 4,021 | 2.5% |

Rise in H-2A Labor Contractors



- Workers move around and are harder for outreach workers to locate
- Many workers are housed in hotels and other off-site housing
- Employer liability harder to prove
- Informal agreements between employers

Who are H-2A Workers?



- Most H-2A workers are young men between 18 and 35 years old
 - *Not necessarily single men
- Vast majority are from Mexico
- H-2A workers from Central America and Haiti may be on the rise

H-2A Workers & Labor Trafficking



- **Signs:**
 - Confiscation of passport, visa, or other documents
 - Debt
 - Recruited through false promises concerning the nature and conditions of his/her work
 - Threats to family members in home country
 - Threatened or intimidated by an employer, supervisor, or recruiter
 - Fear of employer, supervisor, or authorities
- Contact local legal aid or the trafficking hotline - [National Human Trafficking Resource Center Hotline](https://www.humantraffickingresourcecenter.org/hotline) at 1-888-373-7888 or text HELP to BeFree (233733)

H-2A Workers' Labor Rights



- Federally funded legal aid programs can serve H-2A workers
- H-2A workers are protected by the Fair Labor Standards Act and state contract & employment laws
- The Department of Labor, Wage and Hour Division can enforce the H-2A protections
- H-2A workers are not covered by AWPA (the Migrant and Seasonal Agricultural Worker Protection Act)

Participant Poll



- How many of you have provided medical services to H-2A workers?
- How many of you have provided other types of services to H-2A workers?
- What are some barriers you have encountered to finding or delivering services to H-2A workers?

Barriers to General Health Care Access

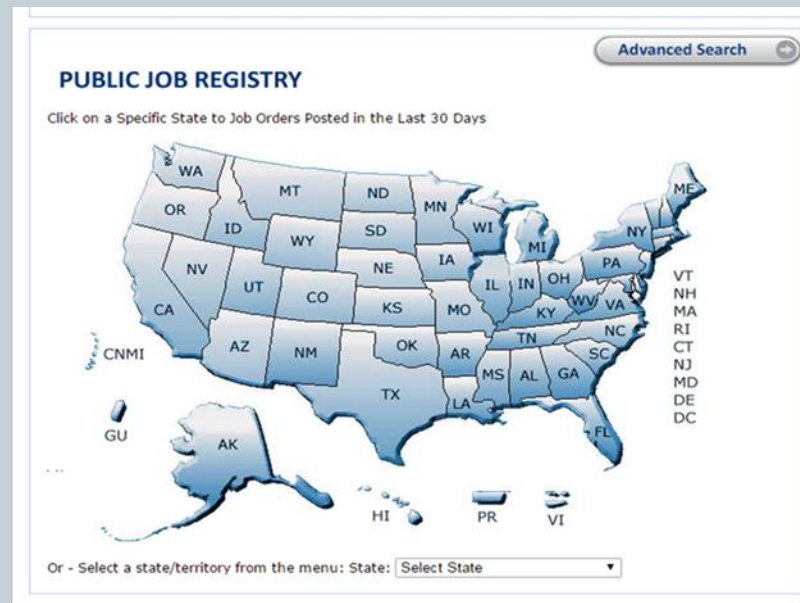


- **Workers have limited access to clinics**
 - More isolated than general farmworker population
 - Reliance on employer for transportation
- **Workers may be reluctant to go to a doctor or access medical care**
 - Concern about cost of visit or treatment
 - Fear of employer retaliation (especially for work-related injuries)
 - May not trust health care provider or outreach worker
 - Use of traditional medicine and home remedies
- **Workers may find it hard to communicate with or understand health care providers**
 - Language barriers
 - Education/literacy levels

Outreach to H-2A Workers



- To find out where H-2A workers are in your area, you can go to the Dept. of Labor's iCERT portal – <https://icert.doleta.gov/>



Outreach to H-2A Workers



- Search for a job order on iCERT

UNITED STATES DEPARTMENT OF LABOR
Employment & Training Administration

A to Z | Site Map | FAQs | Forms | About DOL | Contact Us | Español

Enter Search Term Search

ETA Home Find Job & Career Info Business & Industry Workforce Professionals Grants & Contracts TAA Program Foreign Labor Certification Performance & Results Regions & States

ETA Home > iCERT Portal > Public Job Registry

Public Job Registry

Advanced Search

Quick Search

ETA Case Number:

Case Type:

Status: (circled in blue)

State or Territory of Intended Employment:

Job Location within: of ZIP Code:





















Job Title:

Employer Name:

Job Order Posting Date Range: From: To: (circled in blue)

Industry: Search NAICS Code

Search Reset


| ETA Case Number | Job Posting Date | Case Type | Status | Employer Name | State | Work Start Date | Work End Date | Job Title | Job Order | Cert |
|---------------------------------|------------------|-----------|----------|-------------------------|-------|-----------------|---------------|-------------------------|---|------|
| H-300-15212-788 | 08/06/2015 | H-2A | ACTIVE | Severt's Tree Farm... | VA | 09/17/2015 | 12/20/2015 | Farmworker |   | |
| H-300-15205-324 | 07/31/2015 | H-2A | ACTIVE | WOODBINE FARMS ... | VA | 09/09/2015 | 11/03/2015 | farmworker laborer c... |   | |
| H-300-15207-655 | 07/31/2015 | H-2A | INACTIVE | Springwood farm | VA | 09/10/2015 | 10/31/2015 | Farmworkers and lab... |   | |
| H-300-15203-424 | 07/30/2015 | H-2A | ACTIVE | Mt. Clifton Fruit Co... | VA | 09/08/2015 | 12/10/2015 | Orchard Worker |   | |
| H-300-15205-324 | 07/29/2015 | H-2A | INACTIVE | NICHOLS FARM LC | VA | 09/08/2015 | 11/03/2015 | Farmworker and Lab... |   | |
| H-300-15203-779 | 07/28/2015 | H-2A | INACTIVE | FRED L. GLAIZE, L.C. | VA | 09/08/2015 | 10/30/2015 | Farmworker and Lab... |   | |
| H-300-15205-697 | 07/27/2015 | H-2A | ACTIVE | RUSSELL ORCHARDS | VA | 09/08/2015 | 11/06/2015 | Farmworker and Lab... |   | |
| H-300-15195-450 | 07/23/2015 | H-2A | INACTIVE | FRUIT HILL ORCHA... | VA | 09/01/2015 | 10/31/2015 | Farmworker and Lab... |   | |
| H-300-15195-145 | 07/22/2015 | H-2A | INACTIVE | Westwood Farm Inc | VA | 09/01/2015 | 10/16/2015 | Farmworker and Lab... |   | |
| H-300-15195-658 | 07/22/2015 | H-2A | INACTIVE | Timber Ridge Fruit ... | VA | 09/03/2015 | 10/30/2015 | Farmworker and Lab... |   | |

10 / 9 10 84 Row(s)

Disability Access: If you have a disability and are unable to access some of the information contained on the Job Registry portion of this Website because of its format or other features, please email H-2A@registry.chicago.dol.gov or call 1-312-866-9000. Your request will be referred to the appropriate Department of Labor office responsible for providing assistance to you in this regard. In order to help us serve you better, please provide us with a description of your disability and your contact information so we can reach you in the event questions arise while identifying or addressing a solution to your request.

Outreach to H-2A Workers

- Sample job order



U.S. Department Labor
Employment and Training Administration

#26

R E C E I V E D

SEP 2 2015

AGRICULTURAL SERVICES

OMB Control No. 1205-0134
Expiration Date: October 31, 2015

Agricultural and Food Processing Clearance Order ETA Form 790
Orden de Empleo para Obreros/Trabajadores Agrícolas y Procesamiento de Alimentos

(Print or type in each field block - To include additional information, go to BLOCK # 28 - Please follow Step-By-Step Instructions)
(Favor de usar letra de molde en la solicitud - Para incluir información adicional vea el punto # 28 - Favor de seguir las instrucciones paso-a-paso)

| Nos. 4 through 8 for STATE USE ONLY Números 4 a 8 para USO ESTATAL | | | | | | | | | | | | | | | | | |
|--|--|-------------------|-------------------|---|----------------|---|------------------|---|------------------|---|-------------------|---|-----------------------|---|--|--|--|
| <p>1. Employer's and/or Agent's Name and Address (Number, Street, City, State and Zip Code / Nombre y Dirección del Empleador/Patrón y/o Agente (Número, Calle, Ciudad, Estado y Código Postal):</p> <p>The Nuthouse Inc. 1680 Horse Pasture Rd Roseboro, NC 28382</p> <p>a) Federal Employer Identification Number (FEIN) / Número federal de identificación del Empleador: [REDACTED]</p> <p>b) Telephone Number / Número de Teléfono: (910) 564-2421</p> <p>c) Fax Number / Número de Fax: (910) 564-5459</p> <p>d) E-mail Address / Dirección de Correo Electrónico: lbp@intrstar.net</p> | <p>4. SOC (O*NET/OES) Occupational Code / Código Industrial: 45-2092</p> <p>a. SOC (O*NET/OES) Occupational Title / Título Ocupacional: Farmworkers & Laborers</p> <p>5. Job Order No. / Num. de Orden de Empleo: 10415624</p> | | | | | | | | | | | | | | | | |
| <p>2. Address and Directions to Work Site / Domicilio y Direcciones al lugar de trabajo: 1680 Horse Pasture Rd, Roseboro, Sampson County, NC 28382</p> <p>See attached map with driving directions.</p> <p>Fixed-site employer. Employer owns and/or controls the worksite.</p> | <p>6. Address of Order Holding Office (include Telephone number) / Dirección de la Oficina donde se radica la oferta (incluya el número de teléfono): P.O. Box 27625 Raleigh, NC 27611</p> <p>a. Name of Local Office Representative (include direct dial telephone number) / Nombre del Representante de la Oficina Local (incluya el número de teléfono de su línea directa): W.L. Grant</p> | | | | | | | | | | | | | | | | |
| <p>3. Address and Directions to Housing / Domicilio y Direcciones al lugar de vivienda: 1680 Horse Pasture Rd, Roseboro, Sampson County, NC 28382</p> <p>See attached map with driving directions.</p> <p>a) Description of Housing / Descripción de la vivienda: DWMH (Cap > 2)</p> | <p>7. Clearance Order Issue Date / Fecha de Emisión de la Orden de Empleo: 9-2-15</p> <p>8. Job Order Expiration Date / Fecha de Vencimiento o Expiración de la Orden de Empleo: Exempt</p> <p>9. Anticipated Period of Employment / Periodo anticipado o previsto de Empleo: From / Desde: 11/01/2015 To / Hasta: 08/27/2016</p> <p>10. Number of Workers Requested / Número de Trabajadores Solicitados: -- -2-</p> | | | | | | | | | | | | | | | | |
| <p>11. Anticipated Hours of Work per Week / Horas Anticipadas/Previstas de Trabajo por Semana. Total: 35</p> <table style="width: 100%; font-size: small;"> <tr> <td>Sunday / Domingo</td><td style="text-align: center;">0</td> <td>Thursday / Jueves</td><td style="text-align: center;">6</td> </tr> <tr> <td>Monday / Lunes</td><td style="text-align: center;">6</td> <td>Friday / Viernes</td><td style="text-align: center;">6</td> </tr> <tr> <td>Tuesday / Martes</td><td style="text-align: center;">6</td> <td>Saturday / Sábado</td><td style="text-align: center;">5</td> </tr> <tr> <td>Wednesday / Miércoles</td><td style="text-align: center;">6</td> <td></td><td></td> </tr> </table> | Sunday / Domingo | 0 | Thursday / Jueves | 6 | Monday / Lunes | 6 | Friday / Viernes | 6 | Tuesday / Martes | 6 | Saturday / Sábado | 5 | Wednesday / Miércoles | 6 | | | <p>12. Anticipated range of hours for different seasonal activities / Rango previsto de horas par alas diferentes actividades de la temporada: 7 a.m. to 3 p.m.</p> |
| Sunday / Domingo | 0 | Thursday / Jueves | 6 | | | | | | | | | | | | | | |
| Monday / Lunes | 6 | Friday / Viernes | 6 | | | | | | | | | | | | | | |
| Tuesday / Martes | 6 | Saturday / Sábado | 5 | | | | | | | | | | | | | | |
| Wednesday / Miércoles | 6 | | | | | | | | | | | | | | | | |
| <p>13. Collect Calls Accepted from / Aceptan Llamadas por Cobrar de:</p> | | | | | | | | | | | | | | | | | |

Immigration Policy and H-2A Workers



- Requirement to carry immigration status documents (includes H-2A visas)
- Employer concerns over enforcement = (even further) increase in use of H-2A
- Climate of uncertainty
- Possible changes in legal immigration programs

H-2A Proposals



- **Bills Related to Agricultural Guestworkers**
 - Bills amending current program: “DAIRY” Act, “BARN” Act, “Family Farm Relief”, “Paperwork Reduction Act”
 - Bills proposing new programs: “State-Sponsored Visa” Act, [Goodlatte Bill (H-2C)]
- **Other Possible Changes**
 - Appropriations riders – expansion to year-round industry
 - New bi-lateral agreement between U.S. and Mexico?

Agricultural Worker Proposals



- **Agricultural Worker Program Act**
 - Path to LPR and citizenship for agricultural workers
 - Spouse and minor children as well
 - Work authorization and ability to travel
 - Past and future work requirements

Questions?



Resources



- Farmworker Justice's Workers' Comp Guide for Clinicians - http://www.farmworkerjustice.org/sites/default/files/GUIDE_WorkersComp_FINAL_ONLINE.pdf
- Farmworker Justice's ACA Guides for Workers - <http://www.farmworkerjustice.org/content/access-healthcare-0>
 - Guide for H-2A workers
 - Guide on Employer-Provided Health Insurance
 - Guide on the Health Insurance Requirement
 - Guide on Enrollment
- Dos Opciones, Un Camino - <https://www.youtube.com/watch?v=KRpHlZf9-bY&t=62s>

Thank you!!



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