FARMWORKER
JUSTICE

Policy Analysis: Securing Agriculture's Workforce Act of 2026

On June 30, 2026, Representative GT Thompson (R-PA) introduced H.R. 9535, the Securing Agriculture's Workforce Act of 2026 ("SAWA"). The bill, which purportedly modernizes the process for admitting temporary foreign agricultural workers ("H-2A workers"), does not address the structural challenges facing our agricultural workforce. Instead, it reduces job opportunities for U.S. workers, weakens protections, and lowers wages for domestic and foreign workers alike.

SAWA Would Reduce Job Opportunities for U.S. Workers

The bill would eliminate the "50% percent rule," which mandates that employers accept U.S. job applicants through the first half of the H-2A contract period. Currently, failure to provide employment to US workers in this time frame can result in the employer losing their labor certification. Under SAWA, employers would only need to accept U.S. applicants until the employer's final H-2A worker departs for the place of employment—which might occur long before the contract has even begun for any worker.

Under current law, agricultural employers need to advertise jobs within a multistate region, and circulate job offers through an interstate employment service system run by the government. SAWA would get rid of these protections, allowing employers to make minimal positive recruitment efforts to offer jobs to U.S. workers before hiring H-2A workers.

Employers would, under SAWA, be able to create specific job qualifications that exclude U.S. workers. Currently, the job qualifications are set by the Secretary of Labor. SAWA transfers this authority to the employer, and removes a higher prevailing practice standard for some qualifications, such as the provision of the family housing that many U.S. workers require, enabling employers to use barracks-style housing instead.

SAWA Would Lower Farmworker Wages

The Adverse Effect Wage Rate (AEWR) is the minimum hourly wage paid to H-2A workers as well as any U.S. workers in corresponding employment. This wage is designed to encourage employers to hire domestic workers to ensure that U.S. agricultural workers are not undercut by foreign competition. In 2025, the Department of Labor (DOL) issued an interim final rule on the AEWR methodology that severely cut wages—workers have seen a drop in hourly wages of $3–7 an hour, ultimately transferring over $4 billion in farmworker wages to employers *per year*. See FJ's fact sheet on the 2025 AEWR rule, which is being challenged in federal court.[1]

The SAWA would codify these changes. Furthermore, the bill dictates that the AEWR calculation cannot consider additional forms of compensation, such as piece rates (which are a common form of payment for many crops), incentive-based pay, or overtime, which means that the resulting wage rate calculation will not be a true picture of what is necessary to prevent an adverse effect.

Workers Would Lose the Right to Minimum Wages Increases During their Contract

Workers under an H-2A contract are guaranteed to receive, at minimum, the highest of the AEWR, prevailing wage rate, agreed-upon collective bargaining wage, federal minimum wage, state minimum wage, or another rate the employer intends to pay.[2] Currently, if, during the contract, any of the above wage rates are raised above what the worker is being paid, the worker is entitled to the new, higher wage. Under SAWA, however, employers would not be obliged to pay any wage higher than the wage listed in the contract. This means that, if the minimum wage or AEWR changes between when the worker signs the contract and starts the job, the worker could be paid less than the minimum wage or AEWR for the entire length of the contract. Further, it removes the requirement to pay prevailing wages, which for many U.S. workers is the only way to make a living wage.

Employers Would Be Allowed to Charge for Subpar Housing

The law currently in place requires housing to meet the federal temporary labor camp standards as well as state and local standards for similar habitation. It also requires employers to provide family housing by request when such is the prevailing practice. SAWA would scrap language related to family housing and temporary labor camp standards.

Federal regulations on the H-2A program require that worker housing is provided free of charge.[3] SAWA, like the 2025 AEWR interim final rule, would permit employers to take a daily housing deduction from worker wages. Worker housing tends to be substandard. It may have outhouses instead of indoor plumbing, tents on cement slabs instead of a solid structure , outside cooking facilities, and/or barrack-style bunk beds or mere cots. Despite worker housing being held to much lower standards, the daily deduction is calculated from the statewide average rent of a 4-bedroom housing unit, divided between 8 workers laboring 30 days per month. Further, under SAWA, housing certifications would be able to be valid for up to three years after the date of certification, as opposed to the current requirement for annual inspections. As a result, there would be fewer safeguards for workers to ensure that their housing meets federal and/or state standards, especially considering the deterioration that occurs over the course of a three-year period.

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[1] *United Farm Workers v. DOL*, No. 1:25-cv-01614 (E.D. CA).
[2] 8 U.S.C. § 655.120(a).
[3] 20 CFR 655.122(d).

One Promised Hour Per Month Would Eliminate the 3/4 Guarantee

Currently, H-2A employers must provide a full-time job opportunity at 35 hours per week.[4] They must also issue a "three-fourths guarantee" that the worker will have the opportunity to work at least three-fourths of all the hours promised in their contract.[5] SAWA would effectively eliminate the three-fourths guarantee by all but removing the minimum hour requirement —the bill only requires employees to guarantee one hour of work for every 30-day period. This means that for a six-month contract, a worker might only be guaranteed a few hours of work. It also raises the likelihood of the H-2A program being used for trafficking. A contractor need only find a grower who has a few hours of work available to bring in large numbers of workers who may then be channeled off to work off-contract.

Insufficient Heat Plan Requirements Would Not Keep Workers Safe

Extreme heat is a grave threat to farmworkers, and there are few protections in place. SAWA would require H-2A employers to develop their own heat illness prevention plans that meet applicable state and federal standards. The plan must include: prevention measures; training for workers; and protocols on access to water and shade, breaks, and emergency response. The plan must be made available to workers in English and any language a "significant portion" of workers understand, a term which is undefined. As written, this plan is insufficient to keep farmworkers safe from the hazards of heat. The employer plans are not evaluated for efficacy by any agency. Furthermore, this policy requirement is rendered toothless by the lack of penalty for noncompliance.

The H-2A Visa Waiver Would Not Help Undocumented Families

The bill would create a "visa waiver" program wherein undocumented farmworkers can apply for an H-2A visa. **It does not include a path to permanent legal status nor does it allow for family members to adjust their immigration status or gain employment authorization.** The visa waiver program would be available to undocumented individuals who: (a) have voluntarily left the US; or (b) were unlawfully present in the US on May 31, 2026 *and* worked as a farmworker in the US for at least 180 days in the two years prior to the enactment of the bill. SAWA specifies that the applicant must have worked at least 5.75 hours on each of those 180 days. Individuals who tried to obtain public benefits would not be eligible for the visa waiver program, whether or not they were successful.

Workers Would Have Fewer Protections In the Event of a Natural Disaster

SAWA would include a contract impossibility clause called "force majeure termination." It would allow employers to terminate the contract in the event of a natural disaster, such as a flood, hurricane, drought, infestation, or any other reason determined to be beyond the employer's control. Such determination can be made by the Secretary of Labor and the Secretary of Agriculture. In such an event,

[4] 20 CFR 655.135(f).
[5] 20 CFR 655.122(i).

the employer would be required to try to transfer the worker to a comparable employment situation, and notify the Secretaries of Labor and Agriculture within 72 hours of the termination. While the transfer of employment must be "acceptable to the worker," there would be no requirement to notify workers in advance of such a transfer.

The corollary current federal regulation on H-2A contract impossibility includes the three-fourths guarantee for the elapsed period of the contract; an obligation to try to transfer the worker to an acceptable, comparable employer and pay for such transport; or, if no transfer occurs, an employer obligation to pay for the worker to return to the place they were prior to the contract.[6] If the SAWA provisions were to supersede the current regulation, it would exclude these protections, potentially stranding a worker in a remote area without the resources to travel home.

SAWA Would Reduce the Grace Period for Leaving the Country

In the event that an H-2A worker has their visa denied or withdrawn, SAWA would require the worker to depart the U.S. within 30 days, unless they gain H-2A employment before then. This is shorter than the 60-day grace period currently in place under the DHS 2024 H-2 rule.[7]

Expanding Definitions Would Defeat the Purpose of the H-2A Program

The H-2A program was designed to help agricultural employers find labor for "temporary and seasonal" jobs that do not attract local applications due to their difficult and nonpermanent nature, such as planting and harvesting of crops or herding sheep. SAWA would eliminate "seasonal" from the requirement, and expand the H-2A program to any "temporary" job that can be performed in under 350 days. This transforms the H-2A program from seasonal to year-round, allowing employers to displace U.S. workers and give stable jobs to foreign workers with fewer rights and protections, while denying them permanent immigration status.

Under SAWA, the definition of "agricultural labor and services" would be able to be changed at will by the Secretary of Agriculture, and would include new sectors including: aquaculture; management and training of horses; and harvest and processing of meat and poultry, including slaughter and carcass breakdown. These jobs, which are not traditionally considered agricultural, are often performed by U.S. workers as well as workers on H-2B visas. Permitting it under the H-2A program would allow employers to circumvent the statutory cap on the number of H-2B visas that can be issued annually. The H-2A program has no such limitation.

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[6] 20 CFR 655.122(o).

[7] Modernizing H-2 Program Requirements, Oversight, and Worker Protections, 89 Fed. Reg. 103202 (Dec. 18, 2024).

Unpredictable, Unilateral Modifications Would Hurt Workers

Finally, the SAWA would allow the Secretary of Labor, Secretary of Agriculture, and Secretary of Homeland Security to "establish, by regulation, alternate procedures that modify the requirements under this section," which applies to nearly the entire bill. This would allow political appointees to make arbitrary and harmful modifications to the H-2A program with no oversight or input by lawmakers.

Additional Changes

SAWA also makes other changes to the H-2A program that are worth noting.

- Currently, labor certifications are only valid for one year. Under SAWA's H-2A certification process, an employer's labor certification would be valid for up to three years.
- Under SAWA, employers would be able to file amendments on approved labor certification for dates and places of employment, housing provided, modes of daily transportation, and the type of agricultural activities performed by the H-2A worker, as long as "such activities are substantially similar to the activities included in the approved labor certification." The bill does not specify that, if the activities fall into a different occupational classification, that the wage must be updated to reflect the new role.
- SAWA instructs the State Department to prioritize the adjudication of H-2A visas over all other visas, and would permit the Secretary of State to waive interview requirements for returning H-2A workers. In the event of a shutdown, H-2A certification, processing, and admission would be considered essential.
- SAWA would require the Secretary of Labor to make an annual determination of whether employment of H-2A workers adversely affected wages and working conditions of U.S. workers. This further puts the wage calculation for the AEWR at risk of political action, and would allow for widespread adverse effects in certain regions and types of activity.

SAWA is Bad for the U.S. Agricultural System and Its Workers

SAWA is a short-term solution that does not address the long-term needs for a stable U.S. food system. It hurts U.S and H-2A workers. The H-2A program was never meant to be used as a primary source of labor for U.S. farmers. Rather, it is to be used as a last resort for employers who are unable to fill temporary or seasonal jobs. SAWA not only harms farmworkers but would also create a slippery slope for the expanded use of temporary workers in other industries, including landscaping and construction. A stable U.S. food system requires solutions that support farmers and farmworkers. American agriculture deserves better.

Published July 6, 2026