STATE OF NEW YORK PUBLIC EMPLOYMENT RELATIONS BOARD ("PERB")

In the Matter of: United Farm Workers of America, Petitioner, and Porpiglia Farms, Inc., Employer, Petition Case No.: CU-6695

In the Matter of: United Farm Workers of America, Petitioner, and A & J Kirby Farms, LLC, Employer, Petition Case No.: CU-6696

In the Matter of: United Farm Workers of America, Petitioner, and Lynn-Ette & Sons, Inc., Employer, Petition Case No.: CU-6699

BRIEF OF AMICI CURIAE

Legal Aid Society of Mid-New York, Farmworker Law Project
Worker Justice Center of New York
Farmworker Justice
Justice at Work (Friends of Farmworkers, Inc.)
New York Civil Liberties Union
National Employment Law Project
Centro de los Derechos del Migrante
Justice in Motion
Southern Poverty Law Center
Northwest Workers' Justice Project
Philadelphia Legal Assistance, Pennsylvania Farmworker Project
Mobilization for Justice
A Better Balance
Workers Center of Central New York
National Center for Law and Economic Justice
Farm Labor Organizing Committee, AFL-CIO
El Comité de Apoyo a los Trabajadores Agrícolas (The Farmworkers Support Committee)
Rural & Migrant Ministry Inc.
Heal Food Alliance
Farmworker Association of Florida
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TABLE OF CONTENTS

TABLE OF AUTHORITIES

Cases

Constitutional Provisions, Statutes, and Regulations

Other Legislative and Executive Materials

Other Authorities

QUESTIONS PRESENTED

1) Should seasonal agricultural guest workers present in the United States on H-2A visas (H-2A workers) be included in a bargaining unit certified under the State Employment Relations Act, as amended by the Farm Laborers' Fair Labor Practices Act?
2) Should H-2A workers who worked for the Employer at the time the petition for certification was filed, but who have returned to their home countries at the time the certification issues, be considered employees who are included in the proposed unit?

IDENTITY AND INTEREST OF AMICI CURIAE

Undersigned amici represent 23 organizations and academics serving farmworkers in different capacities within New York, nationally, and/or internationally.[1] Amici include civil legal services attorneys who provide representation to farmworkers—including H-2A workers—and other low-wage workers, and who engage in systemic advocacy and litigation; advocates whose goal is to ensure all workers, including H-2A workers, are provided with the full protection of federal and state employment laws; researchers, academics, and policy groups whose expertise includes H-2A and other immigrant workers; organizations providing social services to farm laborers; and a labor union that has had seasonal H-2A members for almost 20 years. Although amici engage in varied work, together, amici represent a unique collective of experts on various facets of the H-2A program, other seasonal visa programs, and the challenges faced by farm laborers and other low-wage workers in gaining and enforcing workplace rights and protections.

Via their services and outreach activities, amici have interacted with thousands of H-2A workers and other farm laborers. Amici possess a deep and nuanced understanding of the impact of collective bargaining on employees, workplaces, and industries. Amici recognize that undercutting one segment of the workforce affects all workers' ability to compete for fair wages and working conditions. Attorney-amici also regularly grapple with employment law as applied to farmworkers, including H-2A workers, and the constitutional/equal protection implications of exclusions based on immigration status, which are raised herein.

Attorneys employed internally by several members of the amici below authored this brief in its entirety. No party's counsel authored this brief in whole or in part. All undersigned amici have consented to signing on to this brief.

[1] A full description of each amici organization can be found in Exhibit A.

SUMMARY OF THE ARGUMENT

Amici use our extensive experience advocating for agricultural workers to supplement the parties' briefing by answering both questions with a resounding yes. Farm laborers do essential yet physically demanding and dangerous work. H-2A workers are in the additional precarious position of having their immigration status tied to their particular employer.

In an effort to extend rights to vulnerable farmworkers, in 2019 the New York legislature amended the State Employment Relations Act ("SERA") to provide "farm laborers" with the right to organize and bargain collectively. N.Y. Lab. Law § 703. H-2A workers are, by definition, farm laborers. That should be the beginning and end of the issue.

However, Respondent-employers erroneously argue that SERA includes an implicit exclusion of H-2A workers. In doing so, they ignore the crucial context surrounding the SERA amendments—that they passed shortly following a key decision in *Hernandez v. State*, 173 A.D.3d 105 (N.Y. App. 3d Dep't 2019). In *Hernandez*, the Court held that the right to organize and collectively bargain was a fundamental right guaranteed to "employees" by the New York State Constitution's Bill of Rights, N.Y. Const. art. I, § 17, and therefore any exclusion would be subject to strict scrutiny. The Court emphatically declared that the then-existing SERA exclusion of "farm laborers" from its definition of "employees" did not withstand strict scrutiny. In including "farm laborers", without exception, in the definition of "employees" under the SERA amendments, the legislature codified the *Hernandez* decision and thereby corrected the state's prior unconstitutional practice.

Thus, as amici include many civil litigators, we implore the Board to consider the serious constitutional and federal law violations raised by Respondents' contentions, a full discussion of which is missing from the Parties' briefs. Excluding H-2A workers would deny a discrete group access to the right to organize—a fundamental right under the New York Constitution—on the

basis of their immigration status—a protected class under the Equal Protection Clause of the Fourteenth Amendment of the U.S. Constitution. Such an exclusion would trigger, and fail, strict scrutiny in both instances. Moreover, excluding H-2A workers would constitute impermissible alienage discrimination under the Civil Rights Act. *See* 42 U.S.C. § 1981.

In addition, contrary to Respondents' preemption arguments, excluding H-2A workers would actually contravene the purpose of the H-2A program, whose structure and regulations center around not adversely affecting the wages and working conditions of workers in the United States. Respondents' argument is plainly belied by the H-2A regulations themselves, which require employers to comply with all employment-related state and local laws and regulations, as well as to pay any agreed-upon collective bargaining wage, should it be the highest available wage. Every H-2A clearance order in the country contains state law requirements, and each of the hundreds of orders coming out of New York each year includes New York-specific laws as well.

Finally, other seasonal industries have long been organizing without issue. The National Labor Relations Board ("NLRB") does not exclude seasonal workers, including those who work via an H-2B visa, a similar program to the H-2A program but for non-agricultural employment. Seasonal work is intermittent, but consistent, with an expectation of reemployment. Collective bargaining agreements currently cover H-2B workplaces across the country, as well as H-2A workplaces in North Carolina, California, and Oregon.

Agricultural employers in New York increasingly rely on H-2A visa holders to comprise the workforce. Moreover, many H-2A visa holders return to the same New York farms to work year after year. Accordingly, H-2A workers are an integral component of agriculture in New York, and their inclusion in bargaining units is essential to ensuring that farmworkers' right to organize and bargain collectively is meaningful and realized.

ARGUMENT

I. H-2A Employees Cannot Be Excluded Without Violating the Plain Text of SERA, the New York State Constitution, the U.S. Constitution, and the Civil Rights Act.

A. The Plain Text of SERA Section 703 Includes H-2A Employees, As SERA Explicitly Covers Farm Laborers.

As the Supreme Court of the United States recently opined, "when the meaning of the statute's terms is plain, our job is at an end. The people are entitled to rely on the law as written, without fearing that courts might disregard its plain terms based on some extratextual consideration." *Bostock v. Clayton Cnty.*, 140 S. Ct. 1731, 1749 (2020). The text at issue here, Section 703 of the SERA, unambiguously declares that "[e]mployees shall have the right of self-organization, to form, join, or assist labor organizations, to bargain collectively . . . and to engage in concerted activities . . . ."

Following the Third Department's judgment in *Hernandez*, 173 A.D.3d at 115, which found that "the wholesale exclusion of farm laborers from SERA's statutory framework" was unconstitutional, the legislature explicitly included "farm laborers" as employees under SERA. Section 701(3)(c) now reads as follows: "The term 'employee' shall also include farm laborers. 'Farm laborers' shall mean any individual engaged or permitted by an employer to work on a farm." As the United Farm Workers briefing makes clear, there is no reading of the plain text that can exclude H-2A employees from SERA's full-throated protections of the right to organize.

In fact, federal law *mandates* that H-2A employees engage exclusively in agriculture. The section of the Immigration and Nationality Act ("INA") that creates the H-2A nonimmigrant visa limits its recipients to performing "agricultural labor or services." 8 U.S.C. § 1101(a)(15)(H)(ii)(a). The statute then incorporates several definitions of agriculture, including from the Fair Labor Standards Act ("FLSA"). Like the New York Labor Law, the FLSA defines agriculture broadly:

> 'Agriculture' includes farming in all its branches and among other things includes the cultivation and tillage of the soil, dairying, the production, cultivation, growing, and harvesting of any agricultural or horticultural commodities . . . , the raising of livestock . . . and any practices . . . performed . . . *on a farm* . . . . 29 U.S.C. § 203(f) (emphasis added).

In New York, H-2A employees perform essential labor at fruit farms, orchards, nurseries, greenhouses, and other agriculture and horticultural workplaces governed by the SERA. Indeed, it would "violate federal law", a phrase Respondents use repeatedly, for employers to assign H-2A employees to perform tasks *other* than those contemplated by the SERA.

This reading is also consistent with the plain meaning of "employee" and related phrases throughout other state and federal laws that protect H-2A workers. The New York Labor Law defines an "employee" to include a "laborer working for another for hire." N.Y. Lab. Law § 2(5). H-2A workers are "employed" for purposes of the FLSA and the minimum wage provisions of the New York Labor Law because they are specifically brought in to perform work for a certain employer, who permits them to work. They perform duties as directed by that employer, who monitors their work hours and is responsible for paying them. *See* 29 U.S.C. § 203(e)(1), (g); N.Y. Lab. Law § 651(5)-(6). They are protected by anti-discrimination laws such as Title VII, 42 U.S.C. § 2000e-2 *et seq.*, and the New York Human Rights Law, N.Y. Exec. Law § 290 *et seq.*, as well as disability laws such as the Americans with Disabilities Act, 42 U.S.C. § 12101 *et seq.* They are protected from retaliation for exercising their rights under the New York Labor Law under Section 215. They accrue sick leave and are eligible for New York Disability Leave after four weeks of employment and New York Paid Family Leave after 26 weeks of employment. N.Y. Work. Comp. Law §§ 203-204. When H-2A workers are hurt on the job, which happens frequently, they obtain medical care and lost wage benefits through New York's Workers' Compensation system. N.Y. Work. Comp. Law § 3. They also, as employees, receive W-2s and are subject to federal and state

income tax on their wages. *See* 20 C.F.R. § 655.122(p)(1). For the undersigned amici who work in New York, none of these rights has ever been in question. Amici regularly advise H-2A workers of these rights and represent H-2A workers in claims to vindicate them, including after workers have returned home.

In the experience of the undersigned amici, H-2A employers have no issue calling H-2A workers farm laborers when seeking to avoid overtime pay at 40 hours, or when avoiding spread-of-hours pay. *Compare*, N.Y. Comp. Codes R. & Regs. tit. 12, § 142-2.2 (establishing the overtime threshold at 40 hours per week for most laborers, excluding farm laborers), *and* N.Y. Comp. Codes R. & Regs. tit. 12, § 142-2.4 (requiring spread-of-hours pay for most laborers, excluding farm laborers, *with* N.Y. Comp. Codes R. & Regs. tit. 12, § 190-2.4 (establishing the overtime threshold for farm laborers at 60 hours per week, decreasing to 40 over the next 10 years). That H-2A workers are farm laborers under the SERA should be obvious.

B. The Employers' Imaginary Exception Would Be Unconstitutional and Would Constitute Unlawful Discrimination.

Though appellants did not grapple with the ability of their implicit exclusion to pass state or federal constitutional and statutory muster, any ruling on the issue must do so. And while the plain language of the SERA clearly applies its protections to H-2A laborers, it bears noting that the Respondents' proposed construction of the statute is unconstitutional on its face. Respondents cherry-pick the legislative history to argue that H-2A workers should not be included in collective bargaining units because the legislature "did not intend" to include them. But even if the text were ambiguous, which it is not, and even if the legislature did voice an intention to exclude H-2A workers, which it did not, that would mean the legislature intended to exclude a discrete and insular group from their right to organize on account of their immigration status. The right to organize is a fundamental right under the New York State Constitution, and immigration status is a protected

class under the Equal Protection Clause of the Fourteenth Amendment to the U.S. Constitution. Respondents' reading is therefore a clear violation of both the New York State and U.S. Constitutions.

1. Reading H-2A Workers Out of SERA Would Violate the New York State Constitution Under Hernandez.

One month before FLFLPA passed, the Third Department held in *Hernandez v. State* that SERA's then-exclusion of "farm laborers" was unconstitutional. 173 A.D.3d 105, 114 (N.Y. App. 3d Dep't 2019). The Plaintiff, represented by one of the undersigned amici, the New York Civil Liberties Union, was fired from his job as a farm laborer for exploring the possibility of organizing with co-workers, for which he could have sought relief and damages had he been in almost any other industry. The court found the then-active exclusion in SERA to be unconstitutional, as farm laborers fit within the plain meaning of "employees" under Section 17 of the New York State Constitution, which forms part of the Bill of Rights under which New Yorkers receive fundamental rights. *Id*. In no uncertain terms, the court held that "[a]s the farm laborer exclusion cannot conceivably withstand strict scrutiny, it violates the NY Constitution." *Id.* at 115.

In the wake of this ruling, the legislature expanded the SERA's right to organize to include farm laborers, and amici could find no evidence indicating that the legislature even considered excluding H-2A workers from this definition. Instead, the legislature's own introduction to these amendments discusses New York's decision to include farm laborers, who perform arduous and dangerous jobs, in the right to organize, due to their exclusion from the National Labor Relations Act. ("NLRA"). Assemb. 8419, 2019-2020 Leg., 242d Sess., (N.Y. 2020), at 1-2. Now, the SERA's wording echoes other parts of the Labor Law—parts that have long applied to H-2A

workers.[2] Thus any argument that the legislature snuck in some *implicit* exclusion of H-2A workers from the definition of "farm laborers" when responding to a finding that the *explicit* exclusion of "farm laborers" from "employees" was unconstitutional defies credulity.

Had the legislature actually intended to exclude H-2A workers—and again, the legislative history supports a contrary finding—it would have had to do so in a way that was narrowly tailored to a compelling state interest. *See Hernandez*, 173 A.D.3d at 114-15. But as the *Hernandez* decision indicates, the exclusion of farm laborers cannot survive such a test, reasoning that would apply equally to H-2A workers, who are, as discussed above, farm laborers.

Of course, the state legislature certainly did not narrowly tailor the exception—it did not even articulate one. Even if it had, there is nothing narrow about excluding nearly 10,000 farm laborers from a statute required by the state constitution to apply to all farm laborers.[3] In certain industries such as apples, such an exclusion would have the effect of excluding most farmworkers.[4] Similarly, there is no compelling state interest in denying H-2A workers a fundamental right under

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[2] *Compare*, N.Y. Lab. Law § 701(3)(c) ("'Farm laborers' shall mean any individual engaged or permitted by an employer to work on a farm."), *and* N.Y. Lab. Law § 701(2)(b) (defining "agricultural employers" as "any employer engaged in cultivating the soil or in raising or harvesting any agricultural or horticultural commodity [and] employers engaged in the business of crops, livestock and livestock products"), *with* N.Y. Lab. Law § 2(18) ("'Farm laborer' shall mean any individual who works on a farm and is an employee . . ."), *and* N.Y. Lab. Law § 671(1) (defining "farm" to include "stock, dairy . . . fruit [farms], orchards, nurseries, greenhouses, or other similar structures, used primarily for the raising of agricultural or horticultural commodities.").

[3] In 2022, there were 9,876 certified H-2A workers working on a wide variety of farms across New York. Exhibit B at 9. In 2006, there were only 3,153 H-2A workers in New York. *Id.* These figures highlight the high, and exponentially growing, percentage of H-2A workers in an industry with approximately 53,000-55,000 employees. Margaret Gray, Nina Donaldson, & Kelly Miller, *The New York Farmworker: Hours, Wages & Injuries* 10 (UMass Amherst Labor Center 2023). Nationwide, the H-2A program has grown by 529% since 2006. Exhibit B at 8.

[4] *See, e.g.*, Exhibit B at 10 (showing the high percentage of H-2A workers who come to New York to do "Fruit and Tree Nut Farming").

the state constitution, without explanation, solely on account of their immigration status. The legislature articulated no such interest, and Respondents made no such argument.

2. Reading H-2A Workers Out of SERA Would Violate the Equal Protection Clause of the Fourteenth Amendment to the U.S. Constitution.

Respondents' reading of the statutes presupposes that the state legislature violated not only the New York Constitution, but also the U.S. Constitution. The U.S. Supreme Court has long held that state statutes that discriminate against noncitizens are suspect under the Equal Protection Clause of the Fourteenth Amendment. *E.g., Graham v. Richardson*, 403 U.S. 365, 372 (1971) ("[Noncitizens] . . . are a prime example of a 'discrete and insular' minority for whom such heightened judicial solicitude is appropriate."); *Examining Bd. of Eng'rs, Architects & Surveyors v. Flores De Otero*, 426 U.S. 572, 602 (1976) ("state classifications based on alienage are subject to 'strict judicial scrutiny.'"); *see also Dandamudi v. Tisch*, 686 F.3d 66, 72 (2d Cir. 2012) (citing *Graham* to find that "the power of a state to apply its laws exclusively to alien inhabitants as a class is confined within narrow limits"). Any exclusion would therefore be subject to strict scrutiny and must be narrowly tailored to serve a compelling state interest. *Graham*, 403 U.S. at 372. State action based on alienage will be upheld only if the state is able to demonstrate "that its purpose or interest is both constitutionally permissible and substantial, and that its use of the classification is necessary to the accomplishment of its purpose or the safeguarding of its interest." *In re Griffiths*, 413 U.S. 717, 722 (1973).[5]

[5] The federal government, unlike the states, can and does differentiate on the basis of immigration status without implicating Equal Protection concerns. *See Mathews v. Diaz*, 426 U.S. 67, 84 (1976) ("It is the business of the political branches of the Federal Government, rather than that of either the States or the Federal Judiciary, to regulate the conditions of entry and residence of aliens."). Federal statutes that exclude H-2A workers, such as Social Security and Medicare, do not raise Equal Protection concerns. *See* 42 U.S.C. § 410(a)(1)); *Mathews*, 426 U.S. at 85 ("Thus, a division by a State of the category of persons who are not citizens of that State into subcategories of United States citizens and aliens has no apparent justification, whereas, a comparable classification by the Federal Government is a routine and normally legitimate part of its business."). Indeed, the only

An implicit exclusion of H-2A workers would thus be a constitutionally suspect exclusion that would not withstand strict scrutiny without a showing of narrow tailoring to a compelling state interest. In the case of SERA, the legislature has not even delineated an exclusion, much less narrowly tailored it.[6]

3. Reading H-2A Workers Out of SERA Would Constitute Impermissible Alienage Discrimination Under the Civil Rights Act.

Similarly, excluding H-2A workers from bargaining units would likely violate the Civil Rights Act's guarantee of equal rights under the law. Codified as 42 U.S. Code Section 1981, the Act prohibits, *inter alia*, state actors from discrimination in the enforcement of employment contacts. That Section 1981 prohibits discrimination against noncitizens is long-settled law. *Takahashi v. Fish & Game Comm'n*, 334 U.S. 410, 419-20 (1948) ("the section [1981] and the Fourteenth Amendment on which it rests in part protect 'all persons' against state legislation bearing unequally upon them either because of alienage or color."); *Anderson v. Conboy*, 156 F.3d 167, 180 (2d Cir. 1998) (prohibiting discrimination "on the basis of alienage"), *Vaughn v. City of New York*, 2010 U.S. Dist. LEXIS 50791, at *28 (E.D.N.Y. May 24, 2010) (Section 1981 prevents "discrimination on the basis of alienage, i.e., non-U.S. citizenship"). The exclusion of H-2A

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part of the FLFLPA that explicitly excludes H-2A workers is with regard to unemployment insurance, as required by federal law. *See* 26 U.S.C. § 3304; N.Y. Lab. Law § 564(2). Because state unemployment insurance, as opposed to state employment and workplace protections, is subject to the approval of the federal government due to federal funding, *see* 26 U.S.C. § 3304, and the federal government excludes H-2A workers from coverage, *see* 26 U.S.C. § 3306(c)(1)(B), the state had no choice but to exclude H-2A workers. In this circumstance, the state was not only clear with the wording of its exclusion, but it limited it to only what was required.

[6] Further, by asking the PERB to adopt a policy that violates the U.S. Constitution, Respondents effectively ask the PERB to risk civil liability under 42 U.S. Code Section 1983.

workers from the proposed bargaining units based on their citizenship status would thus plainly constitute unlawful discrimination.[7]

II. Excluding H-2A Workers from the Right to Organize Would Conflict with One of the Primary Purposes of the H-2A Program—Not Adversely Affecting the Wages and Working Conditions of Domestic Employees—By Undercutting Working Conditions for Local Farm Laborers.

A. In Creating the H-2A Program, Congress Focused on Preserving Local Labor by Establishing a Floor for H-2A Workers' Wages and Working Conditions.

Respondents also overlook one of the most fundamental aspects of the H-2A program: that its entire structure is dedicated to not adversely affecting the wages and working conditions of local workers. Excluding H-2A workers—who are already in a precarious position—from the right to organize would do exactly that.

The H-2A program is currently authorized by the INA, where Congress explicitly conditions an employer's participation in the H-2A program upon the following certifications by the Secretary of Labor:

> there are [no] sufficient workers who are able, willing, and qualified, and who will be available at the time and place needed, to perform the labor or services involved in the petition, and the employment of the alien in such labor or services will not adversely affect the wages and working conditions of workers in the United States similarly employed. 8 U.S.C. § 1188(a)(1).

The Department of Labor ("DOL" or "U.S. DOL") sets out the regulations for the temporary nonimmigration visa programs, including the H-2A program, at 20 C.F.R. § 655.0 *et seq*. The DOL details its intent to comply with the INA by establishing regulations that would allow it to determine "minimum" wages and working conditions. 20 C.F.R. § 655.0(a)(1)-(2); *see* 20 C.F.R.

[7] Again, because Respondents ask the agency to enact a policy of refusing to enforce contract rights on the basis of alienage, in violation of federal law, they ask the agency to open itself to civil liability under 42 U.S. Code Section 1983.

§ 655.100(a); 20 C.F.R. § 655.103(a). DOL thus requires employers to pay "at least" the highest of the Adverse Effect Wage Rate ("AEWR"), the local prevailing wage rate for a specific crop or activity (if available), the agreed-upon collective bargaining wage, the federal minimum wage, or the state minimum wage. 20 C.F.R. § 655.120(a); 20 C.F.R. § 655.122(l). Beyond wages, employers must offer the same benefits, wages, and working conditions to both H-2A workers and local workers during the H-2A contract period. 20 C.F.R. § 655.122(a). Such local workers are considered to be in "corresponding employment", or the same community of interest. *See* 20 C.F.R. § 655.100(b); 20 C.F.R. § 655.103(b).

Conversely to what Respondents' briefs imply, nowhere does the DOL establish a ceiling on wages or conditions. Rather, the DOL "puts a floor under wages so foreign workers will not depress . . . " wages and working conditions in the United States. *Snake River Farmers Association, Inc. v. Dep't of Labor*, 9 F.3d 792, 794 (9th Cir. 1993); *see Shoreham Cooperative Apple Producers Association, Inc. v. Donovan*, 764 F.2d 135, 137 (2d Cir. 1985); *Salazar-Calderon v. Presidio Valley Farmers Ass'n*, 765 F.2d 1334, 1338 (5th Cir. 1985).

The history of the program, and its protections of local labor, are longstanding. The origins of today's H-2A program trace back to the beginning of the twentieth century. The earliest guest worker programs, such as the 1942 Bracero Program, were primarily centered on agricultural employment to address shortages in labor during World War II. *See* Mexican Farm Labor Agreement, Mex.-U.S., Aug. 4, 1942, Exec. Agreement Series 278, Dep't of State Pub. 1872. In 1951, Congress expanded the recruitment of guest workers in other industries and established the H-2 temporary work visa as part of the INA, amending it with the Immigration Reform and Control Act ("IRCA") in 1986. Act of July 12, 1951, Pub. L. No. 78, 65 Stat. 119 (amending 7 U.S.C. §

1421 to codify the Bracero program); Immigration Reform and Control Act of 1986, Pub. Law. No. 99-603, 100 Stat. 3359 (codified at 8 U.S.C. § 1101 *et seq.*).[8]

Congress's intent in creating the H-2A visa program was not to legislate in the arena of labor or employment law, nor to preempt any existing or future regulation in that area. Rather, the primary purpose in enacting the H-2A program was to secure the admission of H-2A workers to fill the need for agricultural workers in the United States, many of whom might have been displaced because of IRCA provisions strengthening enforcement against illegal immigration. The overall goal of the legislation was to effectively oversee the admission of workers into the United States, as the H-2A visa "responds to the potential need for seasonal agricultural workers which might result from the control of illegal immigration . . . by streamlining the procedures for the admission of H-2 nonimmigrant temporary agricultural workers." H.R. Comm. on the Judiciary, 99th Cong., *The "Immigration Reform and Control Act of 1986" (P.L. 99-603), A Summary and Explanation*, 6 (Comm. Print 1986).

With the H-2A program, Congress recognized immigration reform's natural connection to job security for those already living in the United States, particularly if H-2A workers could be hired for lower wages and worse working conditions. The committee went on to state that "the new provisions are intended simultaneously to make genuinely needed workers more easily available to employers, and to increase protections for both U.S. and alien labor." *Id.* at 13.[9]

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[8] The history of agricultural guest work is the subject of extensive research. *See, e.g.*, Etan Newman, *No Way to Treat a Guest: Why the H-2A Agricultural Visa Program Fails U.S. and Foreign Workers* 12-14 (2012).

[9] *See also, e.g.*, Charles C. Mathes, Note, *The Department of Labor's Changing Policies Toward the H-2B Temporary Worker Program: Primarily for the Benefit of Nobody*, 80 Fordham L. Rev. 1801, 1807 (2012) ("the essential objective of the H-2 program was . . . to permit employers to use temporary foreign workers if U.S. workers could not be found, and if the use of such workers would not adversely affect the wages or working conditions of similarly employed domestic workers.").

Whether it achieves its goal or not, the H-2A program thus exists to create similar working conditions and standards for H-2A and domestic workers alike.[10]

B. Contrary to Respondents' Baseless Preemption Arguments, In Order to Ensure Incoming H-2A Workers Do Not Adversely Affect Local Wages and Working Conditions, the Department of Labor Has Promulgated Numerous Regulations Mandating Compliance with State and Local Laws.

1. The H-2A Regulations, as Part of the Floor They Establish, Explicitly Require Compliance with State and Local Laws.

Congress's consideration of the effect of the H-2A program on local workers did not somehow transform the program into a measure seeking to preempt the field of employment regulation. The contemplation of any restriction of immigration into a country necessarily involves the consideration of what impact entry would have on labor conditions in the country of entry. Applying Respondents' preemption arguments to their full logical end would transform any legislation concerning immigration into a preemption of state and local labor laws and regulations. Such a result would not only betray the principles of federalism, but would also unintentionally interfere with the enforcement of a multitude of state and local labor and employment laws.[11]

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[10] This belies Respondents' contention that H-2A workers do not share a community of interest with domestic workers. If anything, the Department of Labor's regulation of the conditions applicable to H-2A workers ensures that they will share a community of interest with their domestic counterparts.

[11] For instance, in the international realm, and in the context of other employee-groups excluded from the NLRA, U.S. representatives have argued the opposite of what Respondents suggest, declaring that certain labor issues are the purview of state and local governments. *Int'l Labor Org. Committee on Freedom of Association*, Case No. 2741, Report No. 362, at ¶ 756 (2011), https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:50002:0::NO::P50002_COMPLAINT_TEXT_ID:2912150#B. ("The regulation of labour [sic] relations in the United States respects the constitutionally-mandated distribution of power among the national, state and local governments. When Congress enacted the National Labor Relations Act (NLRA), it specifically excluded state and local government employers from the scope of the law, thereby deferring to principles of federalism.").

Further, consideration of state and local labor and employment laws is foremost in the H-2A regulations, specifically to *protect* the purposes of the H-2A program.[12]

The argument that the INA and the H-2A regulations preempt the SERA is foreclosed by the express language of 20 C.F.R. § 655.135(e), which mandates that "the employer must comply with all applicable Federal, State, and local laws and regulations . . . . " In fact, in signing and submitting a completed Form ETA-790/790A/9142A—mandatory, DOL-created forms that H-2A employers ultimately submit to DOL for approval—the employer certifies its "knowledge of and compliance with applicable Federal, State, and local employment-related laws and regulations . . . ." 20 C.F.R. § 655.121(a)(1).[13] Each of the employers in this case do this yearly.

By requiring compliance with state and local laws in the area of intended employment, the DOL regulations attempt to create a level playing field for H-2A workers and domestic workers. *See* 20 C.F.R. § 655.122(a) (requiring that H-2A workers be given the same *minimum* level of benefits, wages, and working conditions as U.S. workers in corresponding employment). Many of these required conditions address working standards already applicable to workers through state statutes. Perhaps most importantly, employers are required to pay the highest of one of a few types of wages, two of which are the state minimum wage and any "agreed-upon collective bargaining

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[12] Amici adopt the general argument against preemption found in the briefing by the United Farm Workers, and provide the information herein as supplemental.

[13] *See, e.g.*, U.S. Dep't of Labor, *H-2A Agricultural Clearance Order Form ETA-790A*, at 4 (2023) https://api.seasonaljobs.dol.gov/job-order/H-300-23002-674672 (currently active clearance order for Lynn-Ette & Sons, Inc.) (hereinafter "Lynn-Ette Clearance Order"). Amici also note that the DOL recently fined a farm in New York for failure to comply with the New York Labor Law's day-of-rest requirement. The farm was required to comply with state law as part of the H-2A program. Press Release, U.S. Dep't of Labor, Department of Labor Recovers $37k in Back Wages Owed To 86 Workers Employed In Western New York By 3 Agricultural Companies (June 15, 2023), https://www.dol.gov/newsroom/releases/whd/whd20230615.

wage", which necessarily relies on state laws such as SERA, as the NLRA excludes agricultural laborers. *See* 20 C.F.R. § 655.122(l); 20 C.F.R. § 655.120(a)(3).[14] Other references to state laws abound: If H-2A workers are housed in rental or public accommodations, local or state standards apply. 20 C.F.R. § 655.122(d)(1)(ii). A state authority with "jurisdiction over the location" of any employer-provided housing must inspect it prior to occupancy. 20 C.F.R. § 655.122(d)(6)(ii). Employers must provide Workers' Compensation insurance "in compliance with state law . . . ." 20 C.F.R. § 655.122(e)(1). Employer-provided transportation also must comply with state and local law. 20 C.F.R. § 655.122(h)(4). And employers must obey H-2A requirements that are generally found in state labor laws regarding, *e.g.*, frequency of pay, earnings statements, and deductions. *See generally* 20 C.F.R. § 655.122; N.Y. Lab. Law §§ 190-199-d.

2. Every Clearance Order Approved in the State of New York—Hundreds Per Year—Includes Mandates for Employers to Follow State Law.

The Respondents' preemption argument is particularly untenable in light of the application procedure H-2A employers, including Respondents, must follow. Not only is state labor law not preempted, the U.S. DOL generally only sees clearance orders that have already been approved by a local State Workforce Agency ("SWA") for compliance with state conditions (in New York, this is the New York Department of Labor ("NY DOL")). 20 C.F.R. § 655.121(e); *see* 20 C.F.R. § 655.103(b) (defining a "State Workforce Agency"). In fact, SWAs receive federal funding for the express purpose of acting as a local expert to ensure that job qualifications and requirements are "bona fide and consistent with the normal and accepted qualifications required by employers that

[14] Even the AEWR, which is established through the Department of Agriculture's Farm Labor Survey ("FLS"), charts the average wage rate for field and livestock workers in each state. Adverse Effect Wage Rate Methodology for the Temporary Employment of H-2A Nonimmigrants in Non-Range Occupations in the United States, 88 Fed. Reg. 12760 (March 30, 2023) (to be codified at 20 C.F.R. 655 *et seq.*).

do not use H-2A workers in the same or comparable occupations and crops." 20 C.F.R. § 655.122(b), *see* 20 C.F.R. § 655.103(b).

New York H-2A employers thus undergo initial review of their completed applications by NY DOL for compliance with program standards. *See* 20 C.F.R. § 655.121(e)(2); U.S. Dep't of Labor, *Agricultural Clearance Order Form ETA-790* (2022), https://foreignlaborcert.doleta.gov/pdfs/ETA-790-instructions-addendums.pdf. If NY DOL identifies any deficiencies, it sends the application back to the employer for corrections. 20 C.F.R. § 655.121(e)(2). Only then does the application undergo review by U.S. DOL's National Processing Center. 20 C.F.R. § 655.140. State SWAs are also obligated to discontinue services to employers who misrepresent or fail to provide any terms and conditions of employment. 20 C.F.R. § 658.501(a)(3).

As noted above, in signing and submitting its application, the employer acknowledges it will comply with 20 C.F.R. § 655.135(e) by certifying compliance with all state and local employment-related laws. 20 C.F.R. § 655.130(a) (requiring employers to submit a clearance order), *e.g.* Lynn-Ette Clearance Order, *supra* n.16, at 4 (requiring Lynn-Ette have "knowledge and [be in] compliance with applicable Federal, State, and local employment-related laws and regulations"); *id.* at 6 (requiring that Lynn-Ette pay "any agreed-upon collective bargaining rate," should it be the highest of the regulatory options); *id.* at 7-8 (Lynn-Ette office manager certifying under penalty of perjury that the clearance order is true and accurate). Further, clearance orders must declare all benefits, wages, and working conditions, including each of the state-specific requirements discussed *supra*. 20 C.F.R. § 655.122(c)-(q). On Form ETA-9142A, Appendix A, employers attest that they understand they must pay any collective bargaining wage, should it be the highest applicable wage, and that the employer is not seeking H-2A workers in order to replace

workers who are on strike or engaged in a labor dispute.[15] Each one of the thousands of clearance orders approved across the United States each year is scrutinized for these requirements prior to approval.

And in New York, every clearance order—again, all of which are ultimately approved by the U.S. DOL—*also* includes references to specific New York Labor Law protections, including frequency of pay, overtime pay, the adoption of a sexual harassment policy, prohibitions on illegal deductions, and the standards of New York's new Paid Sick Leave Law. *E.g.*, Lynn-Ette Clearance Order, *supra* n.16. Employers, including Respondents, sign and submit these clearance orders, with these requirements, every year, without any argument that the H-2A program preempts compliance—because it quite obviously does not.

3. Unions That Include H-2A Workers Have Existed Since 2004.

H-2A workers have long been organizing in other states under state labor laws. Unions that include H-2A workers already exist in North Carolina, California, and Oregon. *See generally*, Exhibit C.[16] One of the undersigned amici, the Farm Labor Organizing Committee ("FLOC"), has had collective bargaining agreements covering H-2A workers in North Carolina since 2004. Allison Kidd, *Union Access to Migrant Farmworkers: The Mt. Olive Pickle Company, Cucumber Farmers, And Farmworkers*, Labor Law. Winter/Spring 2005, at 342 ("On September 16, 2004, . . . FLOC and the North Carolina Growers Association signed a historic collective bargaining

[15] U.S. Dep't of Labor, *H-2A Application for Temporary Employment Certification, Form ETA-9142A – Appendix A* (2023), https://www.dol.gov/sites/dolgov/files/ETA/oflc/pdfs/FR_03_ETA-9142A_Appendix%20A_11-30-2025.pdf.

[16] Exhibit C contains data, including the number of H-2A workers and number of days offered per contract, for all H-2A clearance orders subject to collective bargaining agreements in North Carolina, California, and Oregon.

agreement allowing the union to oversee the employment of 8,000 farmworkers on more than 1,000 farms.").

Undersigned amici are not aware of a single instance in the last 20 years in which the U.S. DOL, or any federal agency for that matter, has determined that employers in North Carolina, California, or Oregon have "violated federal law", as the Respondents allege, by engaging in collective bargaining, as Respondents disingenuously claim would happen in New York.

C. Excluding H-2A Workers Would Undercut All Farm Laborers and Undermine Congressional Intent in Creating the Program.

When employers are able to underpay one class of workers or subject them to worse working conditions, the impact is felt across the workforce of the entire industry. Without labor protections, H-2A workers would be placed at an economic disadvantage to local workers in corresponding employment. This could carry the effect of introducing a subclass of workers subjected to diminished working standards and would lead to the depreciation of market wages for agricultural workers across the board, the exact outcome the H-2A regulations attempt to avoid.

Arbitrarily excluding H-2A workers from the right to organize would lead to exactly this outcome, because undercutting one segment of workers undercuts all workers by making them less competitive. For instance, in the past few years agricultural construction firms have petitioned for thousands of H-2A workers across the country. Because those projects occur on farms, these employers have avoided paying overtime at 40 hours under the FLSA and hiring local union labor, which is more expensive—leading to a severe decrease in business for unionized construction workers.[17] While such exploitation does not negate the real need for agricultural labor, the fact

[17] *See* Stephen Franklin et al., *The Visa Loophole That Big Ag Construction Firms Love to Exploit*, In These Times (Apr. 30, 2018), https://inthesetimes.com/features/farm_industry_migrant_workers_h2a_visa_exploitation.html. The overtime loophole is currently being litigated. *See Vanegas v. Signet Builders, Inc.*, 46 F.4th 636, 645 (7th Cir. 2022) (petition for certiorari

remains that excluding H-2A workers from basic protections harms and divides U.S. workers and contravenes the intent of the H-2A program. Preserving the rights of farm laborers is *also* the intent of the FLFLPA. Assemb. 8419, 2019-2020 Leg., 242d Sess., (N.Y. 2020), at 1-2. The two should thus operate in tandem to improve conditions for all agricultural workers.

III. Bargaining Units in Other Industries Routinely Include Seasonal Workers, Including Workers with Temporary Employment-Based Visas.

In other industries, the NLRB regularly certifies bargaining units containing seasonal employees.[18] The NLRB applies the same test as it does for the certification of any unit: whether seasonal employees share a sufficient community of interest with other employees to warrant inclusion in the unit. *See In re Kelly Bros. Nurseries, Inc*., 140 N.L.R.B. 82, 85-86 (1962); *N.L.R.B. v. C.H. Sprague & Son Co*., 428 F.2d 938, 940 (1st Cir. 1970) ("We think the winter drivers meet the Board's criteria with respect to seasonal employees in that they share a community of interest with the other employees and possess a substantial interest in employment conditions that would warrant inclusion in the same bargaining unit"); *Knapp-Sherrill Co. v. N.L.R.B.*, 488 F.2d 655, 659-60 (1st Cir. 1974) (enforcing NLRB order finding temporary seasonal employees were eligible to vote in union certification); *Daylight Grocery Co. v. N.L.R.B.*, 678 F.2d 905, 908 (11th Cir. 1982) (enforcing NLRB decision finding students who worked part-time and on an as-needed basis were appropriately members of the same bargaining unit with their full-time counterparts based on similarity of wages, benefits, and working conditions and duties); *N.L.R.B. v. Jesse Jones Sausage Co.*, 309 F.2d 664, 665-67 (4th Cir. 1962) (laid-off seasonal employees are entitled to

pending as of Mar. 6, 2023) (holding that construction work on farms is not de facto agricultural work).

[18] PERB often looks to the decisions of the National Labor Relations Board where there is little PERB precedent for the relevant issue. *See, e.g., Jonathan A. Zenz v. Our Lady of Lourdes High School*, 49 PERB ¶3401 at 9 (2016).

vote in representation election where they have reasonable expectation of reemployment within foreseeable future).

A. There is No Principled Reason to Inquire into Immigration Status for Analyzing Inclusion in a Bargaining Unit.

The NLRB makes no inquiry into the immigration status of seasonal workers in the proposed unit. As explained above, a seasonal worker remains an "employee" for the purposes of inclusion in a collective bargaining unit and for the purposes of voting in an election even during the off-season when she is not working. *See, e.g.*, *Knapp-Sherrill Co. v. N.L.R.B.*, 488 F.2d at 659-60 (5th Cir.).

When determining the expectation of future employment for voting eligibility, the NLRB considers factors such as the "size of the area labor force, the stability of the [e]mployer's labor requirements and the extent to which it is dependent on seasonal labor, the actual reemployment season-to-season of the worker complement, and the [e]mployer's recall or preference policy regarding seasonal employees." *Maine Apple Growers, Inc*., 254 N.L.R.B. 501, 502 (1981). For example, in *California Vegetable Concentrates, Inc*., the Board found that permanent year-round and seasonal employees employed at vegetable processing plants should be included within the same unit. The Board reasoned that they were regularly employed for the same three- or four-month period each year, which indicated a "relatively stabilized demand for, and dependence on," seasonal employees, as well as a reliance on seasonal employment by a "substantial number of employees in the labor market." *Cal. Vegetable Concentrates, Inc*., 137 N.L.R.B. 1779, 1781 (1962).

In *UFW v. Lynn-Ette & Sons*, CU-6699 (2023), at 4-5 (2023), the parties stipulated that H-2A, seasonal, and year-round workers are involved in the planting and harvesting of certain vegetable crops, that Lynn-Ette employs approximately 50-80 H-2A workers per year for up to 10

months, and that H-2A workers perform identical work to seasonal domestic workers. Clearly, this indicates stabilized demand for and dependence on seasonal employees, as well as a community of interest between H-2A workers and domestic workers. The composition of Lynn-Ette's workforce is not exceptional among New York agricultural employers. Staff of several amici organizations regularly interact with H-2A workers who have been returning to the same New York farms every season, year after year—sometimes for decades. Indeed, A & J Kirby Farms LLC, Lynn-Ette & Sons Inc., and Porpiglia Farms Inc. each have three current 2023 clearance orders.[19] These employers have demonstrated their intent to continue employing H-2A workers—either the same individuals they employed in previous seasons, or others who will fill the same roles and should have the benefit of the union representation for which their predecessors voted.

Seasonal farmworkers, including those with temporary visas, are similarly situated to off-season workers in other industries, whether or not they travel during the off-season. There is no reason for PERB to deviate from the NLRB's time-tested practice of including seasonal employees, including those with temporary visas, in bargaining units.[20] By utilizing the H-2A system, employers demonstrate their willingness to apply for temporary work visas and comply with the regulatory requirements in order to recruit seasonal workers abroad. Accordingly, the H-

[19] Currently active clearance orders can be accessed via the U.S. Department of Labor at https://seasonaljobs.dol.gov/.

[20] While PERB should decline to impose distinctions among workers based on their status as temporary visa holders because such a distinction is legally irrelevant, it should also recognize that drawing any such distinction would require the agency to conduct highly complex, fact-intensive, and personally invasive inquiries into each individual worker's immigration status, due to the complex nature of immigration law. For example, a worker who initially came to work in New York on an H-2A visa may acquire work authorization concurrently through another process, and thus be eligible to remain and continue working in the U.S. year-round. Even under the rationale proposed by the employers in these cases, there would be no basis to exclude such a worker from a bargaining unit of these farms' employees. PERB should not be in the position of inquiring into each signatory's immigration status and whereabouts in order to adjudicate a certification petition.

2A workers they ultimately hire have the same reasonable expectation of reemployment as any other seasonal farmworker.[21]

B. H-2B Visa Holders are Routinely Included in Bargaining Units, as are H-2A Visa Holders in Other States.

The H-2B visa program provides a mechanism for *non*-agricultural employers to recruit workers abroad, also for seasonal employment. *See* 8 U.S.C. § 1101(a)(15)(H)(ii)(b); 8 C.F.R. § 214.2(h)(6). Many H-2B workers find employment in industries covered by the NLRA, such as construction, manufacturing, and hospitality, so it is entirely commonplace for H-2B holders to work in unionized workplaces, where they are included in bargaining units, have their wage rates determined by collective bargaining agreements, and pay union dues. *See* Exhibit D. Exhibit D reflects certified H-2B job orders from 2022 in which the H-2B workers' wage rates were determined by a collective bargaining agreement. Like H-2A workers, H-2B workers are recruited abroad, come to the U.S. on temporary visas, and are authorized to work in the U.S. seasonally. None of these characteristics has proven to be an impediment to their inclusion in bargaining units certified by the NLRB or to their employers' compliance with the H-2B program rules. Amici also note that the days offered per the H-2B contracts in Exhibit D are quite similar to the days offered by New York H-2A employers, *see* Exhibit B at 10, and by H-2A workplaces subject to collective bargaining agreements in North Carolina, California, and Oregon. *See generally*, Exhibit C.

[21] Such workers would have the right to file an unfair labor practice charge with PERB if the reason they were not offered employment in a future season was because of their union organizing activity. Indeed, the failure to rehire an H-2A worker may be the basis of a retaliation claim under federal law. *See, e.g.*, *Reyes-Fuentes v. Shannon Produce Farm, Inc*., 671 F. Supp. 2d 1365, 1373 (S.D. Ga. 2009) (denying Defendant-farm's motion to dismiss H-2A workers' claims that Defendant's refusal to rehire them was retaliatory); *Guijosa-Silva v. Wendell Roberson Farms, Inc*., 2012 U.S. Dist. LEXIS 33358, at *58 (M.D. Ga. 2012) (denying Defendant-farm's motion for summary judgment as Defendant failed to prove that their decision not to rehire H-2A workers was not FLSA retaliation); *Myers v. Dutton*, 2006 Vt. Super. LEXIS 23, at *1-*2 (Sept. 22, 2006) (denying Defendant-farm's motion to dismiss an H-2A worker's retaliation claim based on refusal to rehire).

It is no different in the H-2A context. As noted *supra*, in North Carolina, H-2A workers have been covered by collective bargaining agreements for almost 20 years. These agreements have included protections for workers who have returned home for the season. *Agreement Between the Farm Labor Organizing Committee and the North Carolina Growers Association*, Global Forum on Migration and Development (Dec. 22, 2015), https://www.gfmd.org/pfp/ppd/2350 ("The union agreement secured important protections: the right to appeal unjust warnings and firings, protection from retaliation . . . and [a] system allowing workers who successfully finished their last contract to submit a bid to return the following year.").[22]

PERB should look to the successful inclusion of H-2B workers in bargaining units around the country, and H-2A workers in other states, as evidence that no principled reason exists to exclude H-2A workers from bargaining units in New York.

C. Workers Retain Labor and Employment Rights Outside the United States.

Excluding H-2A workers from the right to organize would be the first instance of employees losing a workplace protection upon exiting the country.[23] Seasonal workers, including H-2A and H-2B visa holders, may assert their right to labor and employment protections such as wage and hour laws, anti-discrimination statutes, and anti-retaliation provisions, after returning to

[22] Including H-2A workers in bargaining units in North Carolina was critical: In 1997, the North Carolina Growers Association, the largest H-2A employer in the country, had published a blacklist consisting of "more than 1,000 names of undesirable former guest workers". Southern Poverty Law Center, *Close to Slavery* 16 (2013), SPLC-Close-to-Slavery-2013.pdf (splcenter.org).

[23] Courts routinely adjudicate temporary visa holders' claims for violation of employment laws. *See, e.g.*, *Teoba v. Trugreen Landcare LLC*, 769 F. Supp. 2d 175, 177 (W.D.N.Y. 2011) (upholding FLSA, New York Labor Law, and other claims brought by H-2B workers who resided outside of the United States); *Castillo v. W. Range Ass'n*, 2022 U.S. Dist. LEXIS 173327, at *3 (D. Nev. Sep. 23, 2022) (considering five causes of action under Nevada Labor Law and in equity by H-2A worker); *Rodriguez v. SGLC Inc.*, 2014 U.S. Dist. LEXIS 6509, at *3-*4 (E.D. Cal. Jan. 14, 2014) (granting motion for approval of a settlement agreement to recover wages under the FLSA and California Labor Law for 45 H-2A workers).

their home countries. Several undersigned amici regularly represent H-2A workers after they have returned home to their countries of origin and have never encountered a (successful) proposition that guest workers' rights are extinguished once they cross the border. Nothing about the SERA suggests that there should be any difference with respect to workers' rights to organize, engage in concerted activity, and bargain collectively.

CONCLUSION

For the foregoing reasons, H-2A workers should be included in any proposed collective bargaining unit, including when they have returned to their home countries between seasons.

Dated: June 28, 2023

Respectfully submitted,

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EXHIBIT LIST

Exhibit A

List of Amici Curiae

Legal Aid Society of Mid-New York, Farmworker Law Project. The Farmworker Law Project (FLP) provides free legal assistance and outreach to indigent and low-income agricultural workers across New York State, including H-2A workers. FLP's legal practice and advocacy focuses on wage and hour claims, workplace safety, substandard housing conditions and unlawful evictions, civil rights, discrimination, and other issues faced by farmworkers. Contact: Alaina Varvaloucas; (845) 802-6640; alaina.varvaloucas@lasmny.org; 52 South Manheim Blvd., New Paltz, NY 12561; https://www.lasmny.org/farmworker.

Worker Justice Center of New York. The Worker Justice Center of New York interacts with farmworkers on multiple levels. We provide legal services to low-wage workers, with a focus on farmworkers, including H-2A workers. Our outreach and education team visits farms throughout the year, talking directly to farmworkers about their experiences in New York, providing education on their rights, and referring farmworkers who have experienced violations of their labor rights to our legal team. Our advocacy branch also focuses on the rights of farmworkers at the legislative level. Contact: Maureen Hussain; mhussain@wjcny.org; (845) 331-6615; 245 Saw Mill River Road, Suite 106 Hawthorne, NY 10532; https://www.wjcny.org/.

Farmworker Justice. Farmworker Justice is a non-profit organization that seeks to empower farmworkers to improve their wages and working conditions, immigration status, health, occupational safety, and access to justice. Farmworker Justice accomplishes these aims through policy monitoring, public education, advocacy, litigation, and support for worker organizing. Founded in 1981 and based in Washington, D.C., Farmworker Justice collaborates with organizations throughout the country and has a long history of assisting farmworkers, including H-2A workers, regarding rights under state and federal labor and employment laws. Farmworker Justice's vision is of a future in which farmworkers enjoy the same workplace rights that protect employees in other occupations and can exercise them without retaliation. Contact: Trent Taylor; (614) 584-5339; ttaylor@farmworkerjustice.org; 1126 16th Street NW, Suite LL101, Washington, DC 20036; www.farmworkerjustice.org.

Justice at Work (Friends of Farmworkers, Inc.). Justice at Work (Friends of Farmworkers, Inc.) is a non-profit legal services organization based in Pennsylvania and was founded in 1975 to represent farmworkers and mushroom workers. In recent years our scope of operations has expanded to encompass low-wage and immigrant workers more generally. Justice at Work has represented domestic and foreign workers employed by employers utilizing the H-2, H-2A, and H-2B temporary foreign worker programs since at least 1981. Justice at Work successfully litigated the coverage of workers in the Pennsylvania mushroom industry under the Pennsylvania Labor Relations Act of 1937. *See* Vlasic Farms Inc. v. Pa. L.R.B, 565 Pa. 555, 777 A.2d 80 (Pa. 2001). Contact: Arthur N. Read; (215) 690-5687; aread@justiceatworklegalaid.org; 990 Spring Garden Street, Suite 300 Philadelphia, PA 19123-2606; https://www.justiceatworklegalaid.org/.

New York Civil Liberties Union (NYCLU). NYCLU, the New York State affiliate of the American Civil Liberties Union, is a not-for-profit, nonpartisan organization with eight offices across the state and over 180,000 members and supporters. NYCLU defends and promotes the fundamental principles and values embodied in the Bill of Rights, the U.S. Constitution, and the

New York Constitution through an integrated program of litigation, legislative advocacy, public education, and community organizing. NYCLU represented the Plaintiff in *Hernandez v. State*, 173 A.D.3d 105 (N.Y. App. 3d Dep't 2019) and has engaged in legislative advocacy on behalf of farmworkers, including the Farm Laborers Fair Labor Practices Act. Contact: Lisa Zucker; (917) 733-6344; lzucker@nyclu.org; 55 Broadway, New York NY 10006; https://nyclu.org.

National Employment Law Project. The National Employment Law Project ("NELP") is a non-profit legal organization based in New York with over 50 years of experience advocating for the employment and labor rights of low-wage, immigrant, and migrant workers, including those workers hired by employers using the H-2A visa program. In partnership with community groups, unions, and proactive public agencies, NELP seeks to ensure that all workers receive the full protection of employment laws, regardless of an individual's immigration status. This includes advocating for policies that end the exclusion of farmworkers from key labor and employment rights, such as the rights to collectively bargain and receive overtime pay. NELP provides trainings and performs surveys of workers to learn from and educate workers in economically insecure jobs and has litigated and participated as amicus in numerous cases addressing the rights of immigrant workers. NELP also provides legal assistance to labor unions and immigrant worker organizations regarding the rights of immigrant workers. Contact: Marisa Diaz; (510) 663-5709; mdiaz@nelp.org; 90 Broad Street, Suite 1100, New York, NY 10004; https://www.nelp.org/.

Centro de los Derechos del Migrante (CDM). CDM is a U.S. nonprofit organization with offices in Baltimore, MD, and Mexico that seeks to improve the working conditions of migrant workers throughout the U.S., with a particular emphasis on workers with H-2A and H-2B visas who work in agriculture and other low-wage industries. CDM's work focuses on protecting the employment rights of temporary foreign workers who travel to the U.S. to work on temporary employment visas. CDM frequently represents H-2A workers in wage theft, employment discrimination, retaliation and labor trafficking matters. In 2011, CDM founded Migration that Works (formerly known as the International Labor Recruitment Working Group), a coalition of more than two dozen workers' rights and anti-trafficking organizations that seeks to eliminate abuses of temporary foreign workers across visa categories and promote transparency in foreign labor recruiting. CDM currently serves as the ILRWG's chair. CDM therefore has a strong interest in ensuring that H-2 workers have effective tools to organize and act in concert to improve their labor conditions. Contact: Benjamin Botts; (410) 783-0236; ben@cdmigrante.org; 711 W 40th Street, Suite 412, Baltimore, MD 21211; www.cdmigrante.org.

Justice in Motion. Justice in Motion (JiM) is a national nonprofit organization dedicated to ensuring that migrants are treated fairly and have equal access to justice across borders by providing lawyers in the United States and human rights defenders in Mexico and Central America with advice, referral, and case facilitation services. Justice in Motion has a keen interest in the rights of low-wage migrant workers from Mexico and Central America who work in the U.S. with H-2 visas because temporary foreign workers cross borders by the design of the program: returning home after the job is over, as is required by the visa program, should not disqualify them from exercising their basic employment rights. Contact: Nan Schivone; (716) 304-3859; nan@justiceinmotion.org; P.O. Box 160128, Brooklyn, NY, 11216; https://www.justiceinmotion.org/.

Southern Poverty Law Center. The Southern Poverty Law Center (SPLC) is a non-profit organization founded in 1971 that is a catalyst for racial justice in the South and beyond, working in partnership with communities to dismantle white supremacy, strengthen intersectional movements, and advance the human rights of all people. The SPLC's immigrant justice team engages in litigation and advocacy that defends and expands workplace rights, removes barriers to collective action and unionization, and protects workers from retaliation for spotlighting abuse. The immigrant justice team seeks to address the unique legal needs of migrant workers and represents thousands of low-wage workers—including U.S. workers and H-2A and H-2B temporary foreign workers—throughout the South. The SPLC has also published extensive reports on the abuses in the temporary foreign worker system and the historical development of foreign worker programs in the United States. Contact: Meredith Stewart; (334) 531-6807; meredith.stewart@splcenter.org; 201 St. Charles Ave, Suite 2000, New Orleans, LA 70170; https://www.splcenter.org/.

Northwest Workers' Justice Project. NWJP represents low-wage, immigrant, and contingent workers in civil employment matters. We represent workers who are organizing or otherwise engaged in collective activity. We frequently represent H-2A workers. We have represented Pineros y Campesinos Unidos del Noroueste (PCUN), Oregon's farmworker union, in numerous matters. Contact: D. Michael Dale; (505) 525-8454; michael@nwjp.org; 310 SW 4th Ave., Suite 320, Portland, OR 97204; https://nwjp.org/.

Philadelphia Legal Assistance, Pennsylvania Farmworker Project. Philadelphia Legal Assistance (PLA) is a Section 501(c)(3) non-profit law firm that has served the civil legal needs of low-income individuals and families for 27 years. PLA provides a diverse array of legal services to farmworkers throughout the state of Pennsylvania. In this work, PLA supports hundreds of H-2A visa holders who come to Pennsylvania for seasonal agricultural work and has a strong interest in protecting the legal rights that those workers have while in the United States. Contact: Thomas Power; (215) 981-3812; tpower@philalegal.org; 718 Arch Street, Ste. 300N, Philadelphia, PA 19106; https://philalegal.org/pennsylvania-farmworker-project.

Mobilization for Justice. Mobilization for Justice's (MFJ) mission is to achieve justice for all. MFJ prioritizes the needs of people who are low-income, disenfranchised, or have disabilities as they struggle to overcome the effects of social injustice and systemic racism. We provide the highest-quality free, direct civil legal assistance, conduct community education, and build partnerships, engage in policy advocacy, and bring impact litigation. We assist more than 14,000 New Yorkers each year, benefitting over 24,000. Contact: Bernadette Jentsch; (212) 417-3772; bjentsch@mfjlegal.org; William Street, 6th Floor, New York, NY 10038; https://mobilizationforjustice.org/

A Better Balance. A Better Balance advocates for the rights of all workers to improve working conditions. We provide legal services to workers in New York State, including farmworkers, to educate workers on their legal rights, advise them of their legal options, and represent them in legal claims. Contact: Katherine Greenberg; (212) 430-5989; kgreenberg@abetterbalance.org; 250 West 55th Street, 17th floor, New York, NY 10019; www.abetterbalance.org.

Workers Center of Central New York. We are a member organization serving workers in low-wage sectors, with our primary membership and outreach being focused on farmworkers. We regularly do outreach, educational sessions, and meetings with farmworkers and H-2A workers, including farm and housing visits. We also engage in advocacy and support around issues of fair pay, health and safety, just housing and access to drivers' licenses. Contact: Jessica Maxwell; (315) 218-5708; jmaxwell@workerscentercny.org; 2013 E Genesee St, Suite 8, Syracuse, NY 13210; www.workerscny.org.

National Center for Law and Economic Justice. NCLEJ advances racial and economic justice for low-income families, individuals, and communities across the country, using groundbreaking impact litigation, policy advocacy, and support for grassroots organizing. NCLEJ works to build systems that provide economic security and full participation in society to all, including advancing the rights of lower wage workers. NCLEJ represents farmworkers across the country in the groundbreaking Worker-driven Social Responsibility (WSR) model created by the Coalition of Immokalee Workers in Florida, including its expansion to dairy farmworkers in New York and Vermont through the Milk with Dignity Program. Contact: Leah Lotto; (413) 841-0980; lotto@nclej.org; 50 Broadway, New York, NY 10004; www.nclej.org.

Farm Labor Organizing Committee (FLOC), AFL-CIO. FLOC obtained the first collective bargaining agreement covering H-2A workers in 2004, and still represents H-2A workers in North Carolina. Formerly, these workers had little say in who employed them or in the conditions of their work. Now through their union, they have their own direct voice, and are directly involved in labor negotiations, grievance procedures, and building structures to address issues like transportation from their home areas in Mexico, health care, and immigration policies. Contact: Baldemar Velasquez, President; (419) 243-3456; info@floc.com; 1221 Broadway Street, Toledo, OH 43609; https://floc.com/.

El Comité de Apoyo a los Trabajadores Agrícolas (CATA - The Farmworkers Support Committee). CATA is a non-profit organization founded by migrant farmworkers in New Jersey in 1979. CATA is a grassroots, membership-based organization working with farmworkers and the Latino immigrant community in New Jersey, Pennsylvania, and Maryland. CATA's work focuses on workers' rights, health and safety in the workplace, immigrants' rights, and food justice. CATA has been directly involved in supporting farmworkers rights to form and join labor organizations and engage in concerted protected activity in both New Jersey and Pennsylvania. CATA has been actively involved in advocating on behalf of both domestic U.S. workers and temporary foreign workers employed under the H-2, H-2A, and H-2B programs. CATA has been an organizational plaintiff in multiple cases on behalf of workers in those programs. CATA participated as an amicus party in *Hernandez v. State*, 173 A.D.3d 105 (N.Y. App. 3d Dep't 2019). Contact: Jessica Culley, General Coordinator; (856) 881-2507; jculley@cata-farmworkers.org; P.O. Box 510, Glassboro, NJ 08028; https://www.cata-farmworkers.org/.

Rural & Migrant Ministry Inc. RMM implements its mission through popular education, accompaniment, and youth empowerment. RMM works for the creation of a just rural New York State by nurturing leadership, standing with the disenfranchised and changing unjust systems and

structures. RMM works with farmworkers on leadership development and advocacy across New York State. Contact: Richard Witt; P.O. Box 475 Cornwall on Hudson NY 12520; (845) 485-8627; rcyrilwitt@aol.com; https://www.ruralmigrantministry.org/.

Heal Food Alliance. HEAL (Health, Environment, Agriculture, Labor) Food Alliance is a national multi-sector, multi-racial, member-led coalition of 45 organizations who represent over 2 million farm and food chain workers, rural and urban farmers, ranchers, fishers, indigenous groups, scientists, public health advocates, policy experts, community organizers, and activists. Together, these groups are organizing for food systems that nourish our families, are accessible and affordable for all communities, and are fair to the working people who grow, process, distribute, prepare, and serve our food—while protecting the air, water, soil, and biodiversity we all depend on. HEAL works to advance the needs of farmworkers and other food chain workers through policy advocacy, support for worker-led campaigns, fundraising, trainings, and communications. HEAL was co-founded by the Food Chain Workers Alliance. The food and farm workers represented by HEAL are low-wage workers, and many are H-2A workers who have been directly harmed by the lack of basic protections and rights while at work, including the right to unionize. These workers are based in California, Florida, Idaho, Illinois, Missouri, and New York. Contact: Maleeka Manurasada; (858) 284-7641; maleeka@healfoodalliance.org; 1625 Clay Street Oakland, 6th Floor, California 94612; https://healfoodalliance.org.

Farmworker Association of Florida. We are a grassroots farmworker organization that works directly with farmworkers regardless of their immigration or visa status to build power among them so that they can take part in the social, economic, health, and environmental issues that affect their lives. We provide heat stress and pesticide exposure trainings, as well as help them file wage theft complaints and other labor violations. We have seen how H-2A workers are especially exploited and abused and have, in addition to the training we provide, advocated for better working and housing conditions. Contact: Nezahualcoyotl Xiuhtecutli; (407) 886-5151; neza@floridafarmworkers.org; 1264 Apopka Blvd, Apopka, FL 32703; https://floridafarmworkers.org/.

Immigration Research Initiative. We conduct economic analysis and data research about immigrant workers and farmworkers. Contact: David Dyssegaard Kallick; (646) 284-1240; ddkallick@immresearch.org; 115 East 9th Street, Suite 6L, New York, NY 10003; https://immresearch.org/.

Margaret Gray, Associate Professor, Adelphi University*. Margaret Gray is an expert on New York farmworkers—their working and living conditions, advocacy efforts, and collective bargaining. Her research began in 2000. Contact: Margaret Gray; (917) 596-6366; gray5@adelphi.edu; One South Avenue, BLD 202, Garden City, NY 11530.

Emma Scott, Associate Director, Harvard Law School Food Law & Policy Clinic*. Emma Scott engages in policy advocacy and research regarding farmworkers and other food system workers, as well as teaches these subjects in a law school setting. Contact: Emma Scott; (916) 833-0502; escott@law.harvard.edu; 1607 Massachusetts Ave., Cambridge, MA 02138.

*Institutional affiliation for identification purposes only.

Exhibit B

Summary of H-2A Program National Statistics

Sources: https://www.dol.gov/agencies/eta/foreign-labor/performance

Annual Performance Reports 2006-2016; Selected Statistics by Program 2017-2022

VISA TYPE	ACTIONS	FY2006	FY2007	FY2008	FY2009	FY2010	FY2011	FY 2012	FY 2013	FY 2014
H-2A	Determinations	6,717	7,740	8,096	7,857	7,378	7,361	8,047	8,388	9,405
	Labor Certification Applications Certified	6,550	7,491	7,944	7,665	6,988	7,000	7,845	8,118	9,152
	Positions Requested	64,146	80,413	86,134	91,739	89,177	83,844	90,362	105,735	123,528
	Positions Certified	59,110	76,814	82,099	86,014	79,011	77,246	85,248	98,821	116,689

VISA TYPE	ACTIONS	FY 2015	FY2016	FY2017	FY2018	FY2019	FY2020	FY2021	FY2022
H-2A	Determinations	10,339	8,684	10,097	11,698	13,095	14,063	16,334	18,816
	Labor Certification Applications Certified	9,962	8,297	9,797	11,319	12,626	13,552	15,619	18,560
	Positions Requested	145,874	172,654	206,156	251,679	268,729	286,900	330,486	382,354
	Positions Certified	139,832	165,741	200,049	242,762	257,667	275,430	317,619	371,619

VISA TYPE	ACTIONS	Increase 2006-2022	% Increase
H-2A	Determinations	12,099	180%
	Labor Certification Applications Certified	12,010	183%
	Positions Requested	318,208	496%
	Positions Certified	312,509	529%

Summary of H-2A Program NY Statistics

#	Year	H-2A Positions Certified	#	Year	H-2A Positions Certified
1	2006	3,153	11	2016	5,522
2	2007	4,102	12	2017	6,870
3	2008	4,201	13	2018	7,634
4	2009	4,313	14	2019	8,104
5	2010	3,858	15	2020	8,482
6	2011	3,938	16	2021	9,192
7	2012	3,632	17	2022	9,876
8	2013	4,699	**Increase 2006 to to 2022**		6,723
9	2014	4,680	**% Increase**		213.23%

Sources:

https://www.dol.gov/agencies/eta/foreign-labor/performance

Historical Case Disclosure Data

Annual Performance Reports 2006-2016

Selected Statistics by Program 2017-2022

U.S. DOL H-2A Labor Certifications New York Employers FY2022				
NAICS 4 Digit	**NAICS Industry**	**H-2A Workers**	**% H-2A Workers**	**Maximum Period of Days H-2A Job**
1	Agriculture	27	0.3%	218
111	Crop Production	758	7.7%	304
1111	Oilseed and Grain Farming	33	0.3%	304
1112	Vegetable and Melon Farming	1,437	14.6%	303
1113	Fruit and Tree Nut Farming	5,533	56.0%	303
1114	Greenhouse, Nursery, and Floriculture Production	530	5.4%	305
1119	Other Crop Farming	1,021	10.3%	305
1121	Cattle Ranching and Farming	38	0.4%	303
1123	Poultry and Egg Production	98	1.0%	289
1124	Sheep and Goat Farming	5	0.1%	303
1129	Other Animal Production	44	0.4%	302
115	Support Activities for Agriculture and Forestry	29	0.3%	211
1151	Support Activities for Crop Production	163	1.7%	289
2362	Nonresidential Building Construction	15	0.2%	243
3121	Beverage Manufacturing	58	0.6%	299
3323	Architectural and Structural Metals Manufacturing	6	0.1%	77
424	Merchant Wholesalers, Nondurable Goods	12	0.1%	199
4249	Miscellaneous Nondurable Goods Merchant Wholesalers	52	0.5%	255
4871	Scenic and Sightseeing Transportation, Land	1	0.0%	229
4884	Support Activities for Road Transportation	4	0.0%	123
5617	Services to Buildings and Dwellings	12	0.1%	298
	All Agricultural Industries	9,876	100%	305

Source:	2022 H-2A_Disclosure_Data_FY2022_Q4.xlsx Employment and Training Administration - Performance Data https://www.dol.gov/agencies/eta/foreign-labor/performance

Exhibit C

H-2A Job Orders UFW Collective Bargaining Agreements

ST	Case Number	Employer Name	Joint Employer	Work Begin Date	Work End Date	Days Work	Workers H-2A Certified	Job Title	DOL Job Summary
CA	H-300-23019-715083	Elkhorn Packing Co. LLC	D'Arrigo Bros.Co., of California	3/20/2023	11/11/2023	236	701	Field Worker	https://seasonaljobs.dol.gov/jobs/H-300-23019-715083
CA	H-300-22297-547112	Balletto Ranch, Inc.		1/6/2023	11/2/2023	300	60	Field Worker (Wine Grapes)	https://seasonaljobs.dol.gov/jobs/H-300-22297-547112
CA	H-300-22044-898407	I.S.A. Contracting Services, Inc.	Gargiulo, Inc	4/16/2022	11/5/2022	203	168	Farmworker	https://seasonaljobs.dol.gov/jobs/H-300-22044-898407
OR	H-300-23007-687771	Castle Rock Farms, LLC		3/1/2023	11/4/2023	248	26	Agricultural Equipment Operator	https://seasonaljobs.dol.gov/jobs/H-300-23007-687771
OR	H-300-22319-588798	Castle Rock Farms, LLC		1/15/2023	11/15/2023	304	31	Agricultural Equipment Operator	https://seasonaljobs.dol.gov/jobs/H-300-22319-588798
		Total					986		

Joint Employer Association: North Carolina Growers Association
H-2A 2022 Job Orders Subject to Collective Bargaining Agreement

#	Case Number	Employment Begin Date	Employment End Date	Days	Workers H-2A Certified	Job Title	Total Worksite Records*	Job Order Summary
1	H-300-21323-717150	1/21/2022	11/12/2022	295	17	Farmworkers and Laborers, Crop, Nursery and Greenhouse	4	https://seasonaljobs.dol.gov/jobs/H-300-21323-717150
2	H-300-21333-728327	1/29/2022	11/12/2022	287	10	Farmworkers and Laborers, Crop, Nursery and Greenhouse	3	https://seasonaljobs.dol.gov/jobs/H-300-21333-728327
3	H-300-21337-742866	2/4/2022	11/12/2022	281	5	Farmworkers and Laborers, Crop, Nursery and Greenhouse	2	https://seasonaljobs.dol.gov/jobs/H-300-21337-742866
4	H-300-21337-742860	2/4/2022	11/12/2022	281	14	Farmworkers and Laborers, Crop, Nursery and Greenhouse	2	https://seasonaljobs.dol.gov/jobs/H-300-21337-742860
5	H-300-21337-742857	2/4/2022	11/12/2022	281	42	Farmworkers and Laborers, Crop, Nursery and Greenhouse	7	https://seasonaljobs.dol.gov/jobs/H-300-21337-742857
6	H-300-21337-742955	2/4/2022	11/12/2022	281	15	Farmworkers and Laborers, Crop, Nursery and Greenhouse	5	https://seasonaljobs.dol.gov/jobs/H-300-21337-742955
7	H-300-21344-758330	2/11/2022	11/12/2022	274	78	Farmworkers and Laborers, Crop, Nursery and Greenhouse	17	https://seasonaljobs.dol.gov/jobs/H-300-21344-758330
8	H-300-21344-758346	2/11/2022	11/12/2022	274	14	Farmworkers and Laborers, Crop, Nursery and Greenhouse	6	https://seasonaljobs.dol.gov/jobs/H-300-21344-758346
9	H-300-21344-758378	2/11/2022	12/10/2022	302	24	Farmworkers and Laborers, Crop, Nursery and Greenhouse	4	https://seasonaljobs.dol.gov/jobs/H-300-21344-758378
10	H-300-21344-758414	2/11/2022	12/10/2022	302	4	Farmworkers and Laborers, Supervisor	2	https://seasonaljobs.dol.gov/jobs/H-300-21344-758414
11	H-300-21344-758403	2/11/2022	12/10/2022	302	34	Farm Equipment Operator	11	https://seasonaljobs.dol.gov/jobs/H-300-21344-758403
12	H-300-21344-758338	2/11/2022	12/10/2022	302	155	Farmworkers and Laborers, Crop, Nursery and Greenhouse	38	https://seasonaljobs.dol.gov/jobs/H-300-21344-758338
13	H-300-21344-758367	2/11/2022	12/10/2022	302	18	Farmworkers and Laborers, Crop, Nursery and Greenhouse	5	https://seasonaljobs.dol.gov/jobs/H-300-21344-758367
14	H-300-21344-758359	2/11/2022	12/10/2022	302	28	Farmworkers and Laborers, Crop, Nursery and Greenhouse	10	https://seasonaljobs.dol.gov/jobs/H-300-21344-758359
15	H-300-21344-758374	2/11/2022	12/10/2022	302	184	Farmworkers and Laborers, Crop, Nursery and Greenhouse	7	https://seasonaljobs.dol.gov/jobs/H-300-21344-758374
16	H-300-21351-773014	2/18/2022	12/18/2022	303	20	Farmworkers and Laborers, Crop, Nursery and Greenhouse	2	https://seasonaljobs.dol.gov/jobs/H-300-21351-773014
17	H-300-21351-773005	2/18/2022	12/10/2022	295	9	Farmworkers and Laborers, Crop, Nursery and Greenhouse	3	https://seasonaljobs.dol.gov/jobs/H-300-21351-773005
18	H-300-21351-772997	2/18/2022	12/10/2022	295	7	Farmworkers and Laborers, Crop, Nursery and Greenhouse	2	https://seasonaljobs.dol.gov/jobs/H-300-21351-772997
19	H-300-21351-772999	2/18/2022	11/12/2022	267	47	Farmworkers and Laborers, Crop, Nursery and Greenhouse	5	https://seasonaljobs.dol.gov/jobs/H-300-21351-772999

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Joint Employer Association: North Carolina Growers Association
H-2A 2022 Job Orders Subject to Collective Bargaining Agreement

#	Case Number	Employment Begin Date	Employment End Date	Days	Workers H-2A Certified	Job Title	Total Worksite Records*	Job Order Summary
20	H-300-21351-773015	2/18/2022	12/10/2022	295	15	Farm Equipment Operator	5	https://seasonaljobs.dol.gov/jobs/H-300-21351-773015
21	H-300-21351-774157	2/18/2022	12/10/2022	295	38	Farmworkers and Laborers, Crop, Nursery and Greenhouse	3	https://seasonaljobs.dol.gov/jobs/H-300-21351-774157
22	H-300-21351-772991	2/18/2022	11/12/2022	267	9	Farmworkers and Laborers, Crop, Nursery and Greenhouse	7	https://seasonaljobs.dol.gov/jobs/H-300-21351-772991
23	H-300-21351-772995	2/18/2022	12/10/2022	295	26	Farmworkers and Laborers, Crop, Nursery and Greenhouse	10	https://seasonaljobs.dol.gov/jobs/H-300-21351-772995
24	H-300-21351-773157	2/18/2022	12/10/2022	295	38	Farmworkers and Laborers, Crop, Nursery and Greenhouse	5	https://seasonaljobs.dol.gov/jobs/H-300-21351-773157
25	H-300-21357-785006	2/25/2022	12/17/2022	295	9	Farmworkers and Laborers, Crop, Nursery and Greenhouse	2	https://seasonaljobs.dol.gov/jobs/H-300-21357-785006
26	H-300-21357-785003	2/25/2022	12/10/2022	288	33	Farmworkers and Laborers, Crop, Nursery and Greenhouse	3	https://seasonaljobs.dol.gov/jobs/H-300-21357-785003
27	H-300-21357-784996	2/25/2022	11/12/2022	260	42	Farmworkers and Laborers, Crop, Nursery and Greenhouse	4	https://seasonaljobs.dol.gov/jobs/H-300-21357-784996
28	H-300-21357-784992	2/25/2022	12/25/2022	303	6	Farmworkers and Laborers, Crop, Nursery and Greenhouse	2	https://seasonaljobs.dol.gov/jobs/H-300-21357-784992
29	H-300-21357-784998	2/25/2022	12/10/2022	288	32	Farmworkers and Laborers, Crop, Nursery and Greenhouse	6	https://seasonaljobs.dol.gov/jobs/H-300-21357-784998
30	H-300-21357-784994	2/25/2022	12/10/2022	288	34	Farmworkers and Laborers, Crop, Nursery and Greenhouse	13	https://seasonaljobs.dol.gov/jobs/H-300-21357-784994
31	H-300-21357-784988	2/25/2022	11/12/2022	260	18	Farmworkers and Laborers, Crop, Nursery and Greenhouse	8	https://seasonaljobs.dol.gov/jobs/H-300-21357-784988
32	H-300-21357-785001	2/25/2022	12/10/2022	288	172	Farmworkers and Laborers, Crop, Nursery and Greenhouse	9	https://seasonaljobs.dol.gov/jobs/H-300-21357-785001
33	H-300-21364-793513	3/4/2022	12/10/2022	281	1	Farmworkers and Laborers, Crop, Nursery and Greenhouse	2	https://seasonaljobs.dol.gov/jobs/H-300-21364-793513
34	H-300-21364-793553	3/4/2022	12/10/2022	281	78	Farmworkers and Laborers, Crop, Nursery and Greenhouse	5	https://seasonaljobs.dol.gov/jobs/H-300-21364-793553
35	H-300-21364-793531	3/4/2022	12/18/2022	289	10	Farmworkers and Laborers, Crop, Nursery and Greenhouse	2	https://seasonaljobs.dol.gov/jobs/H-300-21364-793531
36	H-300-21364-793617	3/4/2022	11/12/2022	253	40	Farmworkers and Laborers, Crop, Nursery and Greenhouse	14	https://seasonaljobs.dol.gov/jobs/H-300-21364-793617
37	H-300-21364-793609	3/4/2022	11/12/2022	253	25	Farmworkers and Laborers, Crop, Nursery and Greenhouse	9	https://seasonaljobs.dol.gov/jobs/H-300-21364-793609
38	H-300-21364-793704	3/4/2022	12/10/2022	281	64	Farmworkers and Laborers, Crop, Nursery and Greenhouse	17	https://seasonaljobs.dol.gov/jobs/H-300-21364-793704

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Joint Employer Association: North Carolina Growers Association
H-2A 2022 Job Orders Subject to Collective Bargaining Agreement

#	Case Number	Employment Begin Date	Employment End Date	Days	Workers H-2A Certified	Job Title	Total Worksite Records*	Job Order Summary
39	H-300-21364-793596	3/4/2022	12/10/2022	281	13	Farm Equipment Operator	5	https://seasonaljobs.dol.gov/jobs/H-300-21364-793596
40	H-300-21364-794138	3/4/2022	12/10/2022	281	140	Farmworkers and Laborers, Crop, Nursery and Greenhouse	34	https://seasonaljobs.dol.gov/jobs/H-300-21364-794138
41	H-300-21364-793521	3/4/2022	12/10/2022	281	24	Farmworkers and Laborers, Crop, Nursery and Greenhouse	5	https://seasonaljobs.dol.gov/jobs/H-300-21364-793521
42	H-300-21364-793587	3/4/2022	12/10/2022	281	46	Farmworkers and Laborers, Crop, Nursery and Greenhouse	5	https://seasonaljobs.dol.gov/jobs/H-300-21364-793587
43	H-300-22007-815980	3/11/2022	12/10/2022	274	38	Farmworkers and Laborers, Crop, Nursery and Greenhouse	3	https://seasonaljobs.dol.gov/jobs/H-300-22007-815980
44	H-300-22007-815970	3/11/2022	12/10/2022	274	35	Farm Equipment Operator	5	https://seasonaljobs.dol.gov/jobs/H-300-22007-815970
45	H-300-22007-815988	3/11/2022	12/10/2022	274	19	Farmworkers and Laborers, Crop, Nursery and Greenhouse	6	https://seasonaljobs.dol.gov/jobs/H-300-22007-815988
46	H-300-22007-815997	3/11/2022	12/10/2022	274	58	Farmworkers and Laborers, Crop, Nursery and Greenhouse	22	https://seasonaljobs.dol.gov/jobs/H-300-22007-815997
47	H-300-22007-815984	3/11/2022	12/10/2022	274	87	Farmworkers and Laborers, Crop, Nursery and Greenhouse	9	https://seasonaljobs.dol.gov/jobs/H-300-22007-815984
48	H-300-22007-815992	3/11/2022	11/12/2022	246	34	Farmworkers and Laborers, Crop, Nursery and Greenhouse	13	https://seasonaljobs.dol.gov/jobs/H-300-22007-815992
49	H-300-22007-816042	3/11/2022	11/12/2022	246	58	Farmworkers and Laborers, Crop, Nursery and Greenhouse	23	https://seasonaljobs.dol.gov/jobs/H-300-22007-816042
50	H-300-22014-831115	3/18/2022	12/10/2022	267	2	Farm Equipment Operator	3	https://seasonaljobs.dol.gov/jobs/H-300-22014-831115
51	H-300-22014-831087	3/18/2022	12/10/2022	267	4	Farmworkers and Laborers, Crop, Nursery and Greenhouse	2	https://seasonaljobs.dol.gov/jobs/H-300-22014-831087
52	H-300-22014-831117	3/18/2022	12/10/2022	267	6	Farmworkers and Laborers, Crop, Nursery and Greenhouse	3	https://seasonaljobs.dol.gov/jobs/H-300-22014-831117
53	H-300-22014-831104	3/18/2022	12/10/2022	267	44	Farmworkers and Laborers, Crop, Nursery and Greenhouse	5	https://seasonaljobs.dol.gov/jobs/H-300-22014-831104
54	H-300-22014-831078	3/18/2022	12/10/2022	267	144	Farmworkers and Laborers, Crop, Nursery and Greenhouse	32	https://seasonaljobs.dol.gov/jobs/H-300-22014-831078
55	H-300-22014-831086	3/18/2022	11/12/2022	239	19	Farmworkers and Laborers, Crop, Nursery and Greenhouse	6	https://seasonaljobs.dol.gov/jobs/H-300-22014-831086
56	H-300-22014-831072	3/18/2022	11/12/2022	239	104	Farmworkers and Laborers, Crop, Nursery and Greenhouse	35	https://seasonaljobs.dol.gov/jobs/H-300-22014-831072
57	H-300-22014-831097	3/18/2022	12/10/2022	267	44	Farmworkers and Laborers, Crop, Nursery and Greenhouse	5	https://seasonaljobs.dol.gov/jobs/H-300-22014-831097

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Joint Employer Association: North Carolina Growers Association
H-2A 2022 Job Orders Subject to Collective Bargaining Agreement

#	Case Number	Employment Begin Date	Employment End Date	Days	Workers H-2A Certified	Job Title	Total Worksite Records*	Job Order Summary
58	H-300-22021-844677	3/25/2022	11/12/2022	232	12	Farmworkers and Laborers, Crop, Nursery and Greenhouse	4	https://seasonaljobs.dol.gov/jobs/H-300-22021-844677
59	H-300-22021-844678	3/25/2022	12/10/2022	260	31	Farmworkers and Laborers, Crop, Nursery and Greenhouse	5	https://seasonaljobs.dol.gov/jobs/H-300-22021-844678
60	H-300-22021-844681	3/25/2022	12/10/2022	260	24	Farmworkers and Laborers, Crop, Nursery and Greenhouse	7	https://seasonaljobs.dol.gov/jobs/H-300-22021-844681
61	H-300-22021-844690	3/25/2022	12/10/2022	260	5	Farm Equipment Operator	3	https://seasonaljobs.dol.gov/jobs/H-300-22021-844690
62	H-300-22021-844659	3/25/2022	11/12/2022	232	94	Farmworkers and Laborers, Crop, Nursery and Greenhouse	26	https://seasonaljobs.dol.gov/jobs/H-300-22021-844659
63	H-300-22021-844707	3/25/2022	12/10/2022	260	7	Farmworkers and Laborers, Crop, Nursery and Greenhouse	3	https://seasonaljobs.dol.gov/jobs/H-300-22021-844707
64	H-300-22021-844670	3/25/2022	12/10/2022	260	65	Farmworkers and Laborers, Crop, Nursery and Greenhouse	18	https://seasonaljobs.dol.gov/jobs/H-300-22021-844670
65	H-300-22028-862051	4/1/2022	12/18/2022	261	36	Farmworkers and Laborers, Crop, Nursery and Greenhouse	2	https://seasonaljobs.dol.gov/jobs/H-300-22028-862051
66	H-300-22028-862025	4/1/2022	12/31/2022	274	23	Farmworkers and Laborers, Crop, Nursery and Greenhouse	2	https://seasonaljobs.dol.gov/jobs/H-300-22028-862025
67	H-300-22028-862077	4/1/2022	12/10/2022	253	15	Farm Equipment Operator	6	https://seasonaljobs.dol.gov/jobs/H-300-22028-862077
68	H-300-22028-862012	4/1/2022	12/10/2022	253	133	Farmworkers and Laborers, Crop, Nursery and Greenhouse	28	https://seasonaljobs.dol.gov/jobs/H-300-22028-862012
69	H-300-22028-862032	4/1/2022	11/12/2022	225	40	Farmworkers and Laborers, Crop, Nursery and Greenhouse	12	https://seasonaljobs.dol.gov/jobs/H-300-22028-862032
70	H-300-22028-862005	4/1/2022	11/12/2022	225	231	Farmworkers and Laborers, Crop, Nursery and Greenhouse	50	https://seasonaljobs.dol.gov/jobs/H-300-22028-862005
71	H-300-22028-862048	4/1/2022	12/10/2022	253	27	Farmworkers and Laborers, Crop, Nursery and Greenhouse	8	https://seasonaljobs.dol.gov/jobs/H-300-22028-862048
72	H-300-22028-862073	4/1/2022	12/10/2022	253	37	Farmworkers and Laborers, Crop, Nursery and Greenhouse	6	https://seasonaljobs.dol.gov/jobs/H-300-22028-862073
73	H-300-22035-879507	4/8/2022	12/10/2022	246	41	Farm Equipment Operator	3	https://seasonaljobs.dol.gov/jobs/H-300-22035-879507
74	H-300-22035-879534	4/8/2022	11/12/2022	218	21	Farmworkers and Laborers, Crop, Nursery and Greenhouse	2	https://seasonaljobs.dol.gov/jobs/H-300-22035-879534
75	H-300-22035-879519	4/8/2022	11/12/2022	218	110	Farmworkers and Laborers, Crop, Nursery and Greenhouse	26	https://seasonaljobs.dol.gov/jobs/H-300-22035-879519
76	H-300-22035-879515	4/8/2022	12/10/2022	246	26	Farmworkers and Laborers, Crop, Nursery and Greenhouse	8	https://seasonaljobs.dol.gov/jobs/H-300-22035-879515

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Joint Employer Association: North Carolina Growers Association
H-2A 2022 Job Orders Subject to Collective Bargaining Agreement

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77	H-300-22035-879531	4/8/2022	12/10/2022	246	9	Farmworkers and Laborers, Crop, Nursery and Greenhouse	2	https://seasonaljobs.dol.gov/jobs/H-300-22035-879531
78	H-300-22035-879496	4/8/2022	12/10/2022	246	12	Farmworkers and Laborers, Crop, Nursery and Greenhouse	4	https://seasonaljobs.dol.gov/jobs/H-300-22035-879496
79	H-300-22036-880754	4/8/2022	12/10/2022	246	373	Farmworkers and Laborers, Crop, Nursery and Greenhouse	55	https://seasonaljobs.dol.gov/jobs/H-300-22036-880754
80	H-300-22036-880812	4/8/2022	11/12/2022	218	835	Farmworkers and Laborers, Crop, Nursery and Greenhouse	126	https://seasonaljobs.dol.gov/jobs/H-300-22036-880812
81	H-300-22042-896531	4/15/2022	11/23/2022	222	25	Farm Equipment Operator	2	https://seasonaljobs.dol.gov/jobs/H-300-22042-896531
82	H-300-22042-896524	4/15/2022	12/10/2022	239	6	Farmworkers and Laborers, Crop, Nursery and Greenhouse	3	https://seasonaljobs.dol.gov/jobs/H-300-22042-896524
83	H-300-22042-896538	4/15/2022	12/10/2022	239	5	Farmworkers and Laborers, Crop, Nursery and Greenhouse	2	https://seasonaljobs.dol.gov/jobs/H-300-22042-896538
84	H-300-22052-916841	4/22/2022	11/12/2022	204	2	Farm Worker, Camp Cook	2	https://seasonaljobs.dol.gov/jobs/H-300-22052-916841
85	H-300-22049-914714	4/22/2022	12/31/2022	253	26	Farmworkers and Laborers, Crop, Nursery and Greenhouse	3	https://seasonaljobs.dol.gov/jobs/H-300-22049-914714
86	H-300-22049-914729	4/22/2022	12/10/2022	232	26	Farmworkers and Laborers, Crop, Nursery and Greenhouse	4	https://seasonaljobs.dol.gov/jobs/H-300-22049-914729
87	H-300-22049-914738	4/22/2022	11/12/2022	204	58	Farmworkers and Laborers, Crop, Nursery and Greenhouse	13	https://seasonaljobs.dol.gov/jobs/H-300-22049-914738
88	H-300-22049-914701	4/22/2022	12/10/2022	232	53	Farmworkers and Laborers, Crop, Nursery and Greenhouse	4	https://seasonaljobs.dol.gov/jobs/H-300-22049-914701
89	H-300-22049-914744	4/22/2022	12/10/2022	232	8	Farmworkers and Laborers, Crop, Nursery and Greenhouse	2	https://seasonaljobs.dol.gov/jobs/H-300-22049-914744
90	H-300-22049-914721	4/22/2022	12/10/2022	232	6	Farm Equipment Operator	2	https://seasonaljobs.dol.gov/jobs/H-300-22049-914721
91	H-300-22050-916267	4/22/2022	12/10/2022	232	234	Farmworkers and Laborers, Crop, Nursery and Greenhouse	35	https://seasonaljobs.dol.gov/jobs/H-300-22050-916267
92	H-300-22050-916266	4/22/2022	11/12/2022	204	570	Farmworkers and Laborers, Crop, Nursery and Greenhouse	109	https://seasonaljobs.dol.gov/jobs/H-300-22050-916266
93	H-300-22056-932459	4/29/2022	12/10/2022	225	130	Farmworkers and Laborers, Crop, Nursery and Greenhouse	2	https://seasonaljobs.dol.gov/jobs/H-300-22056-932459
94	H-300-22056-932450	4/29/2022	12/10/2022	225	5	Farmworkers and Laborers, Crop, Nursery and Greenhouse	2	https://seasonaljobs.dol.gov/jobs/H-300-22056-932450
95	H-300-22056-932426	4/29/2022	12/10/2022	225	15	Farmworkers and Laborers, Crop, Nursery and Greenhouse	4	https://seasonaljobs.dol.gov/jobs/H-300-22056-932426

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Joint Employer Association: North Carolina Growers Association
H-2A 2022 Job Orders Subject to Collective Bargaining Agreement

#	Case Number	Employment Begin Date	Employment End Date	Days	Workers H-2A Certified	Job Title	Total Worksite Records*	Job Order Summary
96	H-300-22056-932439	4/29/2022	12/10/2022	225	2	Farmworkers and Laborers, Crop, Nursery and Greenhouse	3	https://seasonaljobs.dol.gov/jobs/H-300-22056-932439
97	H-300-22056-932434	4/29/2022	11/12/2022	197	108	Farmworkers and Laborers, Crop, Nursery and Greenhouse	8	https://seasonaljobs.dol.gov/jobs/H-300-22056-932434
98	H-300-22056-932412	4/29/2022	11/12/2022	197	107	Farmworkers and Laborers, Crop, Nursery and Greenhouse	23	https://seasonaljobs.dol.gov/jobs/H-300-22056-932412
99	H-300-22063-952896	5/6/2022	12/31/2022	239	50	Farmworkers and Laborers, Crop, Nursery and Greenhouse	2	https://seasonaljobs.dol.gov/jobs/H-300-22063-952896
100	H-300-22064-953959	5/6/2022	11/12/2022	190	115	Farmworkers and Laborers, Crop, Nursery and Greenhouse	13	https://seasonaljobs.dol.gov/jobs/H-300-22064-953959
101	H-300-22063-952918	5/6/2022	12/10/2022	218	36	Farmworkers and Laborers, Crop, Nursery and Greenhouse	5	https://seasonaljobs.dol.gov/jobs/H-300-22063-952918
102	H-300-22063-952858	5/6/2022	11/12/2022	190	5	Farmworkers and Laborers, Crop, Nursery and Greenhouse	2	https://seasonaljobs.dol.gov/jobs/H-300-22063-952858
103	H-300-22064-953955	5/6/2022	12/10/2022	218	64	Farmworkers and Laborers, Crop, Nursery and Greenhouse	6	https://seasonaljobs.dol.gov/jobs/H-300-22064-953955
104	H-300-22063-952892	5/6/2022	12/10/2022	218	10	Farmworkers and Laborers, Crop, Nursery and Greenhouse	5	https://seasonaljobs.dol.gov/jobs/H-300-22063-952892
105	H-300-22063-953012	5/6/2022	11/12/2022	190	27	Farmworkers and Laborers, Crop, Nursery and Greenhouse	7	https://seasonaljobs.dol.gov/jobs/H-300-22063-953012
106	H-300-22063-952868	5/6/2022	12/10/2022	218	3	Farmworkers and Laborers, Crop, Nursery and Greenhouse	2	https://seasonaljobs.dol.gov/jobs/H-300-22063-952868
107	H-300-22063-952872	5/6/2022	12/10/2022	218	190	Farm Equipment Operator	2	https://seasonaljobs.dol.gov/jobs/H-300-22063-952872
108	H-300-22070-971824	5/13/2022	12/31/2022	232	25	Farmworkers and Laborers, Crop, Nursery and Greenhouse	2	https://seasonaljobs.dol.gov/jobs/H-300-22070-971824
109	H-300-22070-971809	5/13/2022	11/12/2022	183	35	Farmworkers and Laborers, Crop, Nursery and Greenhouse	5	https://seasonaljobs.dol.gov/jobs/H-300-22070-971809
110	H-300-22070-971826	5/13/2022	12/10/2022	211	11	Farm Equipment Operator	2	https://seasonaljobs.dol.gov/jobs/H-300-22070-971826
111	H-300-22070-971798	5/13/2022	12/10/2022	211	79	Farmworkers and Laborers, Crop, Nursery and Greenhouse	9	https://seasonaljobs.dol.gov/jobs/H-300-22070-971798
112	H-300-22070-971792	5/13/2022	11/12/2022	183	265	Farmworkers and Laborers, Crop, Nursery and Greenhouse	25	https://seasonaljobs.dol.gov/jobs/H-300-22070-971792
113	H-300-22070-971831	5/13/2022	11/12/2022	183	3	Farmworkers and Laborers, Crop, Nursery and Greenhouse	2	https://seasonaljobs.dol.gov/jobs/H-300-22070-971831
114	H-300-22070-971811	5/13/2022	12/10/2022	211	28	Farmworkers and Laborers, Crop, Nursery and Greenhouse	2	https://seasonaljobs.dol.gov/jobs/H-300-22070-971811

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H-2A 2022 Job Orders Subject to Collective Bargaining Agreement

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115	H-300-22080-994317	5/20/2022	11/12/2022	176	21	Farmworkers and Laborers, Crop, Nursery and Greenhouse	2	https://seasonaljobs.dol.gov/jobs/H-300-22080-994317
116	H-300-22077-991431	5/20/2022	11/23/2022	187	15	Farmworkers and Laborers, Crop, Nursery and Greenhouse	2	https://seasonaljobs.dol.gov/jobs/H-300-22077-991431
117	H-300-22077-991442	5/20/2022	11/12/2022	176	40	Farmworkers and Laborers, Crop, Nursery and Greenhouse	7	https://seasonaljobs.dol.gov/jobs/H-300-22077-991442
118	H-300-22077-991659	5/20/2022	12/10/2022	204	123	Farmworkers and Laborers, Crop, Nursery and Greenhouse	8	https://seasonaljobs.dol.gov/jobs/H-300-22077-991659
119	H-300-22077-991445	5/20/2022	12/10/2022	204	10	Farmworkers and Laborers, Crop, Nursery and Greenhouse	6	https://seasonaljobs.dol.gov/jobs/H-300-22077-991445
120	H-300-22078-993057	5/20/2022	11/12/2022	176	108	Farmworkers and Laborers, Crop, Nursery and Greenhouse	19	https://seasonaljobs.dol.gov/jobs/H-300-22078-993057
121	H-300-22077-991449	5/20/2022	12/10/2022	204	100	Farmworkers and Laborers, Crop, Nursery and Greenhouse	2	https://seasonaljobs.dol.gov/jobs/H-300-22077-991449
122	H-300-22084-011078	5/27/2022	11/12/2022	169	297	Farmworkers and Laborers, Crop, Nursery and Greenhouse	28	https://seasonaljobs.dol.gov/jobs/H-300-22084-011078
123	H-300-22084-011086	5/27/2022	12/10/2022	197	24	Farmworkers and Laborers, Crop, Nursery and Greenhouse	6	https://seasonaljobs.dol.gov/jobs/H-300-22084-011086
124	H-300-22084-011099	5/27/2022	12/10/2022	197	226	Farmworkers and Laborers, Crop, Nursery and Greenhouse	4	https://seasonaljobs.dol.gov/jobs/H-300-22084-011099
125	H-300-22084-011089	5/27/2022	11/12/2022	169	25	Farmworkers and Laborers, Crop, Nursery and Greenhouse	5	https://seasonaljobs.dol.gov/jobs/H-300-22084-011089
126	H-300-22091-029517	6/3/2022	11/12/2022	162	56	Farmworkers and Laborers, Crop, Nursery and Greenhouse	2	https://seasonaljobs.dol.gov/jobs/H-300-22091-029517
127	H-300-22091-029537	6/3/2022	12/10/2022	190	5	Farmworkers and Laborers, Crop, Nursery and Greenhouse	3	https://seasonaljobs.dol.gov/jobs/H-300-22091-029537
128	H-300-22091-029540	6/3/2022	12/10/2022	190	19	Farmworkers and Laborers, Crop, Nursery and Greenhouse	3	https://seasonaljobs.dol.gov/jobs/H-300-22091-029540
129	H-300-22091-029527	6/3/2022	11/12/2022	162	39	Farmworkers and Laborers, Crop, Nursery and Greenhouse	5	https://seasonaljobs.dol.gov/jobs/H-300-22091-029527
130	H-300-22091-029513	6/3/2022	12/10/2022	190	148	Farmworkers and Laborers, Crop, Nursery and Greenhouse	13	https://seasonaljobs.dol.gov/jobs/H-300-22091-029513
131	H-300-22091-029494	6/3/2022	11/12/2022	162	320	Farmworkers and Laborers, Crop, Nursery and Greenhouse	41	https://seasonaljobs.dol.gov/jobs/H-300-22091-029494
132	H-300-22098-052280	6/10/2022	12/10/2022	183	6	Farm Equipment Operator	2	https://seasonaljobs.dol.gov/jobs/H-300-22098-052280
133	H-300-22098-052284	6/10/2022	12/10/2022	183	8	Farmworkers and Laborers, Crop, Nursery and Greenhouse	2	https://seasonaljobs.dol.gov/jobs/H-300-22098-052284

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H-2A 2022 Job Orders Subject to Collective Bargaining Agreement

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134	H-300-22098-052293	6/10/2022	11/12/2022	155	12	Farmworkers and Laborers, Crop, Nursery and Greenhouse	4	https://seasonaljobs.dol.gov/jobs/H-300-22098-052293
135	H-300-22098-052273	6/10/2022	12/10/2022	183	2	Farmworkers and Laborers, Crop, Nursery and Greenhouse	2	https://seasonaljobs.dol.gov/jobs/H-300-22098-052273
136	H-300-22098-052296	6/10/2022	12/10/2022	183	39	Farmworkers and Laborers, Crop, Nursery and Greenhouse	10	https://seasonaljobs.dol.gov/jobs/H-300-22098-052296
137	H-300-22098-052357	6/10/2022	11/12/2022	155	256	Farmworkers and Laborers, Crop, Nursery and Greenhouse	40	https://seasonaljobs.dol.gov/jobs/H-300-22098-052357
138	H-300-22105-075382	6/17/2022	12/10/2022	176	6	Farmworkers and Laborers, Crop, Nursery and Greenhouse	2	https://seasonaljobs.dol.gov/jobs/H-300-22105-075382
139	H-300-22105-075377	6/17/2022	12/10/2022	176	2	Farm Equipment Operator	2	https://seasonaljobs.dol.gov/jobs/H-300-22105-075377
140	H-300-22105-075305	6/17/2022	11/12/2022	148	56	Farmworkers and Laborers, Crop, Nursery and Greenhouse	5	https://seasonaljobs.dol.gov/jobs/H-300-22105-075305
141	H-300-22105-075298	6/17/2022	12/10/2022	176	25	Farmworkers and Laborers, Crop, Nursery and Greenhouse	6	https://seasonaljobs.dol.gov/jobs/H-300-22105-075298
142	H-300-22106-076424	6/17/2022	11/12/2022	148	177	Farmworkers and Laborers, Crop, Nursery and Greenhouse	32	https://seasonaljobs.dol.gov/jobs/H-300-22106-076424
143	H-300-22112-098136	6/24/2022	12/10/2022	169	51	Farmworkers and Laborers, Crop, Nursery and Greenhouse	5	https://seasonaljobs.dol.gov/jobs/H-300-22112-098136
144	H-300-22112-098132	6/24/2022	12/10/2022	169	28	Farmworkers and Laborers, Crop, Nursery and Greenhouse	8	https://seasonaljobs.dol.gov/jobs/H-300-22112-098132
145	H-300-22112-098141	6/24/2022	12/10/2022	169	134	Farmworkers and Laborers, Crop, Nursery and Greenhouse	2	https://seasonaljobs.dol.gov/jobs/H-300-22112-098141
146	H-300-22112-098134	6/24/2022	11/12/2022	141	255	Farmworkers and Laborers, Crop, Nursery and Greenhouse	33	https://seasonaljobs.dol.gov/jobs/H-300-22112-098134
147	H-300-22119-121130	7/1/2022	11/12/2022	134	95	Farmworkers and Laborers, Crop, Nursery and Greenhouse	23	https://seasonaljobs.dol.gov/jobs/H-300-22119-121130
148	H-300-22119-121137	7/1/2022	12/10/2022	162	39	Farmworkers and Laborers, Crop, Nursery and Greenhouse	7	https://seasonaljobs.dol.gov/jobs/H-300-22119-121137
149	H-300-22119-121139	7/1/2022	12/10/2022	162	18	Farmworkers and Laborers, Crop, Nursery and Greenhouse	4	https://seasonaljobs.dol.gov/jobs/H-300-22119-121139
150	H-300-22133-170014	7/15/2022	11/12/2022	120	39	Farmworkers and Laborers, Crop, Nursery and Greenhouse	13	https://seasonaljobs.dol.gov/jobs/H-300-22133-170014
151	H-300-22133-170018	7/15/2022	12/10/2022	148	38	Farmworkers and Laborers, Crop, Nursery and Greenhouse	5	https://seasonaljobs.dol.gov/jobs/H-300-22133-170018
152	H-300-22140-194122	7/22/2022	12/10/2022	141	61	Farmworkers and Laborers, Crop, Nursery and Greenhouse	2	https://seasonaljobs.dol.gov/jobs/H-300-22140-194122

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H-2A 2022 Job Orders Subject to Collective Bargaining Agreement

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153	H-300-22140-194091	7/22/2022	11/12/2022	113	10	Farmworkers and Laborers, Crop, Nursery and Greenhouse	4	https://seasonaljobs.dol.gov/jobs/H-300-22140-194091
154	H-300-22140-194101	7/22/2022	11/12/2022	113	12	Farmworkers and Laborers, Crop, Nursery and Greenhouse	2	https://seasonaljobs.dol.gov/jobs/H-300-22140-194101
155	H-300-22140-194035	7/22/2022	12/10/2022	141	3	Farm Equipment Operator	2	https://seasonaljobs.dol.gov/jobs/H-300-22140-194035
156	H-300-22140-194110	7/22/2022	12/10/2022	141	2	Farmworkers and Laborers, Crop, Nursery and Greenhouse	2	https://seasonaljobs.dol.gov/jobs/H-300-22140-194110
157	H-300-22147-221200	7/28/2022	11/12/2022	107	8	Farmworkers and Laborers, Crop, Nursery and Greenhouse	4	https://seasonaljobs.dol.gov/jobs/H-300-22147-221200
158	H-300-22147-221216	7/28/2022	12/10/2022	135	86	Farmworkers and Laborers, Crop, Nursery and Greenhouse	4	https://seasonaljobs.dol.gov/jobs/H-300-22147-221216
159	H-300-22154-242351	8/5/2022	12/10/2022	127	12	Farmworkers and Laborers, Crop, Nursery and Greenhouse	2	https://seasonaljobs.dol.gov/jobs/H-300-22154-242351
160	H-300-22154-242313	8/5/2022	12/10/2022	127	7	Farmworkers and Laborers, Crop, Nursery and Greenhouse	4	https://seasonaljobs.dol.gov/jobs/H-300-22154-242313
161	H-300-22154-242321	8/5/2022	12/10/2022	127	9	Farmworkers and Laborers, Crop, Nursery and Greenhouse	2	https://seasonaljobs.dol.gov/jobs/H-300-22154-242321
162	H-300-22161-268422	8/12/2022	12/10/2022	120	35	Farmworkers and Laborers, Crop, Nursery and Greenhouse	3	https://seasonaljobs.dol.gov/jobs/H-300-22161-268422
163	H-300-22161-268415	8/12/2022	11/12/2022	92	51	Farmworkers and Laborers, Crop, Nursery and Greenhouse	5	https://seasonaljobs.dol.gov/jobs/H-300-22161-268415
164	H-300-22168-291676	8/19/2022	11/12/2022	85	1	Farmworkers and Laborers, Crop, Nursery and Greenhouse	2	https://seasonaljobs.dol.gov/jobs/H-300-22168-291676
165	H-300-22176-312416	9/1/2022	12/10/2022	100	114	Farmworkers and Laborers, Crop, Nursery and Greenhouse	2	https://seasonaljobs.dol.gov/jobs/H-300-22176-312416
166	H-300-22192-342199	9/16/2022	11/12/2022	57	24	Farmworkers and Laborers, Crop, Nursery and Greenhouse	2	https://seasonaljobs.dol.gov/jobs/H-300-22192-342199
167	H-300-22196-355208	9/21/2022	1/31/2023	132	40	Farm Equipment Operator	4	https://seasonaljobs.dol.gov/jobs/H-300-22196-355208
168	H-300-22210-385255	10/7/2022	12/10/2022	64	14	Farmworkers and Laborers, Crop, Nursery and Greenhouse	2	https://seasonaljobs.dol.gov/jobs/H-300-22210-385255
169	H-300-22214-391154	10/7/2022	12/21/2022	75	9	Farm Equipment Operator	2	https://seasonaljobs.dol.gov/jobs/H-300-22214-391154
170	H-300-22217-400520	10/7/2022	12/10/2022	64	21	Farmworkers and Laborers, Crop, Nursery and Greenhouse	2	https://seasonaljobs.dol.gov/jobs/H-300-22217-400520
171	H-300-22224-413926	10/12/2022	12/10/2022	59	8	Farm Equipment Operator	2	https://seasonaljobs.dol.gov/jobs/H-300-22224-413926

*North Carolina Growers Association is a joint employer with members and each job order places workers at multiple worksites.

Joint Employer Association: North Carolina Growers Association
H-2A 2022 Job Orders Subject to Collective Bargaining Agreement

#	Case Number	Employment Begin Date	Employment End Date	Days	Workers H-2A Certified	Job Title	Total Worksite Records*	Job Order Summary
172	H-300-22224-413921	10/12/2022	11/12/2022	31	1	Farmworkers and Laborers, Crop, Nursery and Greenhouse	2	https://seasonaljobs.dol.gov/jobs/H-300-22224-413921
173	H-300-22217-398930	10/12/2022	1/6/2023	86	13	Farm Equipment Operator	2	https://seasonaljobs.dol.gov/jobs/H-300-22217-398930
174	H-300-22231-426504	10/21/2022	12/10/2022	50	60	Farmworkers and Laborers, Crop, Nursery and Greenhouse	4	https://seasonaljobs.dol.gov/jobs/H-300-22231-426504
175	H-300-22231-426501	10/21/2022	12/10/2022	50	495	Farmworkers and Laborers, Crop, Nursery and Greenhouse	22	https://seasonaljobs.dol.gov/jobs/H-300-22231-426501
176	H-300-22238-441502	10/28/2022	12/10/2022	43	50	Farmworkers and Laborers, Crop, Nursery and Greenhouse	5	https://seasonaljobs.dol.gov/jobs/H-300-22238-441502
177	H-300-22245-453739	11/4/2022	8/15/2023	284	6	Farmworkers and Laborers, Crop, Nursery and Greenhouse	2	https://seasonaljobs.dol.gov/jobs/H-300-22245-453739
178	H-300-22273-503959	11/4/2022	12/10/2022	36	132	Farmworkers and Laborers, Crop, Nursery and Greenhouse	2	https://seasonaljobs.dol.gov/jobs/H-300-22273-503959
179	H-300-22293-541652	12/19/2022	7/1/2023	194	60	Graders and Sorters Agricultural Products	2	https://seasonaljobs.dol.gov/jobs/H-300-22293-541652
180	H-300-22299-551767	12/26/2022	7/31/2023	217	5	Farmworkers and Laborers, Crop, Nursery and Greenhouse	2	https://seasonaljobs.dol.gov/jobs/H-300-22299-551767
	Total				11,084			

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Exhibit D

Nonagricultural Temporary Foreign Worker H-2B Job Orders
Wage Rates Set by Collective Bargaining Agreements

#	NAICS Group	H-2B Case Number	Employer Legal Business Name	ST	NAICS Title	SOC Code	SOC Title	Days Offered	Wage Source*	H-2B Workers	DOL Job Summary Link
1	Agriculture	H-400-20197-716013	Duckwall-Pooley Fruit Co.	OR	Postharvest Crop Activities (except Cotton Ginning)	43-5071	Shipping, Receiving, and Traffic Clerks	91	CBA	3	https://seasonaljobs.dol.gov/jobs/H-400-20197-716013
2	Mining	H-400-23002-674258	Swenson Granite Company LLC	NH	Dimension Stone Mining and Quarrying	47-5051	Rock Splitters, Quarry	243	CBA	9	https://seasonaljobs.dol.gov/jobs/H-400-23002-674258
3	Mining	H-400-23002-674266	Swenson Granite Company LLC	VT	Dimension Stone Mining and Quarrying	47-5051	Rock Splitters, Quarry	214	CBA	5	https://seasonaljobs.dol.gov/jobs/H-400-23002-674266
4	Utilities	H-400-20002-227037	Wellsville Construction Company, LLC	OH	Electric Power Generation	47-2152	Pipe Fitters and Steamfitters	364	CBA	100	https://seasonaljobs.dol.gov/jobs/H-400-20002-227037
5	Construction	H-400-21001-991014	ABC ROOFING, A TECTA AMERICA CO., LLC	OR	Roofing Contractors	47-3016	Helpers--Roofers	244	CBA	6	https://seasonaljobs.dol.gov/jobs/H-400-21001-991014
6	Construction	H-400-23001-671622	B&L SHEET METAL AND ROOFING, A TECTA AMERICA COMPA	IN	Roofing Contractors	47-3016	Helpers--Roofers	244	CBA	8	https://seasonaljobs.dol.gov/jobs/H-400-23001-671622
7	Construction	H-400-22017-832989	BEP/Lyman LLC	MN	Roofing Contractors	51-9121	Coating, Painting, and Spraying Machine Setters, O	274	CBA	20	https://seasonaljobs.dol.gov/jobs/H-400-22017-832989
8	Construction	H-400-23001-671644	BLACKMORE AND BUCKNER ROOFING A TECTA AMERICA COMP	IN	Roofing Contractors	47-3016	Helpers--Roofers	244	CBA	8	https://seasonaljobs.dol.gov/jobs/H-400-23001-671644
9	Construction	H-400-21184-443815	Great Arrow Builders, LLC	PA	Oil and Gas Pipeline and Related Structures Construction	47-2111	Electricians	181	CBA	230	https://seasonaljobs.dol.gov/jobs/H-400-21184-443815
10	Construction	H-400-21002-991658	Great Arrow Builders, LLC	PA	Oil and Gas Pipeline and Related Structures Construction	47-2152	Pipe Fitters and Steamfitters	274	CBA	250	https://seasonaljobs.dol.gov/jobs/H-400-21002-991658
11	Construction	H-400-22001-796714	Hard Surface Solutions, Inc.	IL	Highway, Street, and Bridge Construction	47-2061	Construction Laborers	226	CBA	10	https://seasonaljobs.dol.gov/jobs/H-400-22001-796714
12	Construction	H-400-20002-223973	Kalkreuth Roofing & Sheet Metal Inc.	OH	Roofing Contractors	47-2181	Roofers	243	CBA	12	https://seasonaljobs.dol.gov/jobs/H-400-20002-223973
13	Construction	H-400-22001-796665	KEHRER BROTHERS WEST ROOFING INC	IL	Roofing Contractors	47-2181	Roofers	274	CBA	20	https://seasonaljobs.dol.gov/jobs/H-400-22001-796665
14	Construction	H-400-22001-795888	KEHRER BROTHERS WEST ROOFING INC	IL	Roofing Contractors	47-3016	Helpers--Roofers	274	CBA	20	https://seasonaljobs.dol.gov/jobs/H-400-22001-795888
15	Manufacturing	H-400-22184-329520	KEYSTONE FOODS, LLC	KY	Animal Slaughtering and Processing	53-7064	Packers and Packagers, Hand	303	CBA	50	https://seasonaljobs.dol.gov/jobs/H-400-22184-329520

*DOL H-2B Public Disclosure Data for Prevailing Wage Rate Determinations that wage rates were determined by collective bargaining agreements.

Nonagricultural Temporary Foreign Worker H-2B Job Orders
Wage Rates Set by Collective Bargaining Agreements

#	NAICS Group	H-2B Case Number	Employer Legal Business Name	ST	NAICS Title	SOC Code	SOC Title	Days Offered	Wage Source*	H-2B Workers	DOL Job Summary Link
16	Manufacturing	H-400-22292-539986	Minn-Dak Farmers Cooperative	ND	Nonchocolate Confectionery Manufacturing	51-9111	Packaging and Filling Machine Operators and Tender	149	CBA	5	https://seasonaljobs.dol.gov/jobs/H-400-22292-539986
17	Manufacturing	H-400-22230-425743	Seaboard Foods LLC	OK	Animal (except Poultry) Slaughtering	51-3023	Slaughterers and Meat Packers	150	CBA	150	https://seasonaljobs.dol.gov/jobs/H-400-22230-425743
18	Manufacturing	H-400-22187-333417	Sidney Sugars Incorporated	MT	Sugar Manufacturing	53-7062	Laborers and Freight, Stock, and Material Movers,	101	CBA	70	https://seasonaljobs.dol.gov/jobs/H-400-22187-333417
19	Manufacturing	H-400-22017-832982	BCPE Ullyses Buyer Co., Inc. BEP/Lyman LLC	MN	Truss Manufacturing	47-2031	Carpenters	274	CBA	10	https://seasonaljobs.dol.gov/jobs/H-400-22017-832982
20	Manufacturing	H-400-23001-670387	BCPE Ullyses Buyer Co., Inc. BEP/Lyman LLC	MN	Truss Manufacturing	51-7042	Woodworking Machine Setters, Operators, and Tender	274	CBA	8	https://seasonaljobs.dol.gov/jobs/H-400-23001-670387
21	Manufacturing	H-400-23001-670453	BCPE Ullyses Buyer Co., Inc. BEP/Lyman LLC	MN	Truss Manufacturing	51-7099	Woodworkers, All Other	274	CBA	8	https://seasonaljobs.dol.gov/jobs/H-400-23001-670453
22	Wholesale Trade	H-400-22004-805575	LBM Acquisition LLC	MN	Lumber, Plywood, Millwork, and Wood Panel Merchant Wholesalers	53-7051	Industrial Truck and Tractor Operators	274	CBA	8	https://seasonaljobs.dol.gov/jobs/H-400-22004-805575
23	Wholesale Trade	H-400-23001-668180	Bachman's, Inc.	MN	Nursery, Garden Center, and Farm Supply Stores	37-1012	First-Line Supervisors of Landscaping, Lawn Servic	231	CBA	8	https://seasonaljobs.dol.gov/jobs/H-400-23001-668180
24	Services to Buildings and Dwellings	H-400-23001-668952	Acres Maintenance, Inc.	IL	Landscaping Services	37-1012	First-Line Supervisors of Landscaping, Lawn Servic	230	CBA	65	https://seasonaljobs.dol.gov/jobs/H-400-23001-668952
25	Services to Buildings and Dwellings	H-400-23001-669266	Acres Maintenance, Inc.	IL	Landscaping Services	37-3011	Landscaping and Groundskeeping Workers	230	CBA	215	https://seasonaljobs.dol.gov/jobs/H-400-23001-669266
26	Services to Buildings and Dwellings	H-400-22184-329517	Asplundh Tree Expert, LLC - IL	IL	Landscaping Services	37-3013	Tree Trimmers and Pruners	91	CBA	30	https://seasonaljobs.dol.gov/jobs/H-400-22184-329517
27	Services to Buildings and Dwellings	H-400-22001-795340	Balanced Environments, Inc.	IL	Landscaping Services	37-3011	Landscaping and Groundskeeping Workers	226	CBA	70	https://seasonaljobs.dol.gov/jobs/H-400-22001-795340
28	Services to Buildings and Dwellings	H-400-22001-795355	Baxter Farms and Nurseries, LLC	MO	Landscaping Services	37-3011	Landscaping and Groundskeeping Workers	259	CBA	8	https://seasonaljobs.dol.gov/jobs/H-400-22001-795355

*DOL H-2B Public Disclosure Data for Prevailing Wage Rate Determinations that wage rates were determined by collective bargaining agreements.

Nonagricultural Temporary Foreign Worker H-2B Job Orders
Wage Rates Set by Collective Bargaining Agreements

#	NAICS Group	H-2B Case Number	Employer Legal Business Name	ST	NAICS Title	SOC Code	SOC Title	Days Offered	Wage Source*	H-2B Workers	DOL Job Summary Link
29	Services to Buildings and Dwellings	H-400-22354-651417	Chalet Landscape Company	IL	Landscaping Services	37-3011	Landscaping and Groundskeeping Workers	256	CBA	34	https://seasonaljobs.dol.gov/jobs/H-400-22354-651417
30	Services to Buildings and Dwellings	H-400-22001-795977	K & W Nursery Co., Inc.	MO	Landscaping Services	37-3011	Landscaping and Groundskeeping Workers	274	CBA	20	https://seasonaljobs.dol.gov/jobs/H-400-22001-795977
31	Accommodation and Food Services	H-400-22365-667951	Cache Creek Casino Resort	CA	Casino Hotels	35-2014	Cooks, Restaurant	218	CBA	1	https://seasonaljobs.dol.gov/jobs/H-400-22365-667951
32	Accommodation and Food Services	H-400-22365-667952	Cache Creek Casino Resort	CA	Casino Hotels	35-3011	Bartenders	218	CBA	2	https://seasonaljobs.dol.gov/jobs/H-400-22365-667952
33	Accommodation and Food Services	H-400-22365-667968	Cache Creek Casino Resort	CA	Casino Hotels	35-3031	Waiters and Waitresses	218	CBA	10	https://seasonaljobs.dol.gov/jobs/H-400-22365-667968
34	Accommodation and Food Services	H-400-22365-667954	Cache Creek Casino Resort	CA	Casino Hotels	35-9031	Hosts and Hostesses, Restaurant, Lounge, and Coffe	218	CBA	6	https://seasonaljobs.dol.gov/jobs/H-400-22365-667954
35	Accommodation and Food Services	H-400-22365-667962	Cache Creek Casino Resort	CA	Casino Hotels	37-2011	Janitors and Cleaners, Except Maids and Housekeepi	218	CBA	3	https://seasonaljobs.dol.gov/jobs/H-400-22365-667962
36	Accommodation and Food Services	H-400-22365-667957	Cache Creek Casino Resort	CA	Casino Hotels	37-2012	Maids and Housekeeping Cleaners	218	CBA	15	https://seasonaljobs.dol.gov/jobs/H-400-22365-667957
37	Accommodation and Food Services	H-400-22184-329521	FHR (ML) Operating Company, LLC	HI	Hotels (except Casino Hotels) and Motels	35-2014	Cooks, Restaurant	272	CBA	15	https://seasonaljobs.dol.gov/jobs/H-400-22184-329521
38	Accommodation and Food Services	H-400-22184-329537	FHR (ML) Operating Company, LLC	HI	Hotels (except Casino Hotels) and Motels	35-9021	Dishwashers	272	CBA	15	https://seasonaljobs.dol.gov/jobs/H-400-22184-329537
39	Accommodation and Food Services	H-400-22184-329527	FHR (ML) Operating Company, LLC	HI	Hotels (except Casino Hotels) and Motels	37-2012	Maids and Housekeeping Cleaners	272	CBA	15	https://seasonaljobs.dol.gov/jobs/H-400-22184-329527
40	Accommodation and Food Services	H-400-22067-959290	Omni La Costa, LLC	CA	Hotels (except Casino Hotels) and Motels	37-2012	Maids and Housekeeping Cleaners	132	CBA	10	https://seasonaljobs.dol.gov/jobs/H-400-22067-959290
							Min Days:	91	**Total Workers:**	1,542	

*DOL H-2B Public Disclosure Data for Prevailing Wage Rate Determinations that wage rates were determined by collective bargaining agreements.