

THE NEW YORK TIMES

February 12, 2010

New Guest-Worker Rules Seek to Increase Wages

By [JULIA PRESTON](#)

Labor Secretary [Hilda Solis](#) announced new rules on Thursday for the temporary immigrant farm workers program, saying they would raise wages and strengthen labor protections for foreign and American workers.

Under the new rules, growers will no longer be able to attest that they tried to find American workers to fill jobs given to migrants, but will have to prove they conducted job searches. The Labor Department will establish a national electronic registry of farm jobs to assist the effort.

American farm worker organizations hailed the changes, but growers' groups said they would be costly and could be prohibitively cumbersome for many farmers, particularly smaller producers.

Growers "are just beside themselves that these rules keep changing; it just makes it impossible," said Craig Regelbrugge, a spokesman for the American Nursery and Landscape Association.

Many of the new measures restore previous procedures for the program, known as H-2A for the type of visa that foreign workers receive, after the rules were changed in the last days of the Bush administration. Farm worker organizations strongly objected to those changes, arguing they had rapidly lowered wages for American agricultural laborers.

Labor officials said Thursday that the method of calculating wages for temporary foreign workers introduced by the Bush administration had reduced farm workers' wages by an average of a dollar an hour in the year they were in effect. The new rules, which take effect on March 15, revert to the prior method for setting wages.

"The major change is that we are asking employers to prioritize those American workers that might be available," Ms. Solis said. "And we are trying to make it realistic in terms of wages that can be earned by the farm workers that are currently out in the fields."

The rules restore the role of state workforce agencies in carrying out inspections of farms seeking temporary foreign workers, including mandatory inspection of the housing that employers are required to provide.

“We are very grateful to Secretary Solis for her willingness to spend the time and resources to ensure that the most vulnerable workers are protected,” said Bruce Goldstein, executive director of Farm worker Justice, an advocacy group in Washington.

In California, growers said that new restrictions on the jobs guest workers in the program could perform were too inflexible for the rapidly changing conditions of agriculture. “I am not optimistic that any significant numbers of growers are going to be able to use this program,” said Bryan Little, Director of Labor Affairs for the California Farm Bureau Federation.

The new rules require growers to provide contracts to foreign guest workers before they leave their home countries, to protect against abuse by recruiters.

While the [Department of Homeland Security](#) runs the program, the Labor Department approves growers’ requests for foreign workers. In 2009, labor officials said, the department approved 94 percent of the applications growers submitted for H-2A workers, bringing 86,014 foreign migrants to the United States.

The program supplies only a fraction of the about one million farm workers in the United States. At least half of those workers are illegal immigrants, labor officials have estimated, with many farm employers hiring those immigrants instead of dealing with the slow-moving guest worker process.

While sharply divided over the new rules, growers and farm workers agreed that the Obama administration should press Congress to pass legislation overhauling the [immigration](#) system. Most versions of that legislation include a bill that creates a new guest worker program that all sides in agriculture have long supported.