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Division of Humanitarian Affairs
Office of Policy and Strategy
U.S. Citizenship and Immigration Services
Department of Homeland Security
5900 Capital Gateway Drive
Camp Springs, MD 20746

Re: DHS Docket No. USCIS-2025-0370,[1] *Employment Authorization Reform for Asylum Applicants*, Notice of Proposed Rulemaking (Feb. 23, 2026)

To whom it may concern:

Centro de los Derechos del Migrante, Inc. ("CDM") submits this comment **in opposition** to the Department of Homeland Security's ("DHS") Notice of Proposed Rulemaking titled *Employment Authorization Reform for Asylum Applicants*, published February 23, 2026 and assigned DHS Docket No. USCIS-2025-0370 ("NPRM" or "proposed rule").

For more than two decades, CDM has worked alongside migrant and immigrant families and communities to ensure that migrant workers' voices, experiences, and priorities shape labor migration policies. In short, CDM has worked to ensure that borders are not a barrier to justice. CDM has partnered with researchers to publish groundbreaking reports on structural flaws in U.S. work visa programs that endanger the safety of working people and undercut their wages–including *Ripe for Reform*, a groundbreaking report on structural flaws in the H-2A program that harm workers. CDM has also partnered with workers, advocates, unions, and anti-trafficking organizations to defend people's rights to fair wages, safe working conditions, and good jobs. CDM co-founded and chairs Migration that Works–a coalition of labor, migration, civil rights, and anti-trafficking organizations and academics advancing an alternative labor migration model that respects the human rights of workers, families, and communities. CDM also convenes the Comité de Defensa del Migrante (Migrant Defense Committee, or "Comité"), a group of current and former migrant workers in the H-2 and other temporary work visa programs and their family members. The Comité works to empower and organize migrant workers in the United States and in their home communities, creating a culture of informed migration by centering migrant workers' perspectives in policy conversations. Working in partnership with the Comité and other worker leaders, CDM conducts extensive outreach in H-2A workers' home communities and regions of employment each year, building relationships that guide CDM's policy priorities.

[1] The proposed rule includes multiple reference numbers, which are listed here out of an abundance of caution: No. 2799-25; DHS Docket No. USCIS-2025-0370; DHS Docket No. 2025-0370; and RIN 1615-AC97.

CDM has, over the course of the last 21 years, tirelessly represented migrant and immigrant workers in administrative advocacy and litigation against low-road employers that have violated their workplace rights. CDM's office frequently fields calls from workers on its intake line, consulting with workers about their workplace rights and abuses they have faced, and providing direct legal representation and referrals. In CDM's experience, workers with a valid work permit generally feel more empowered to come forward and speak out about workplace abuses. When a worker has no employment authorization, they are often more reluctant to complain about workplace rights violations because low-road employers weaponize their immigration status in an act of retaliation. These unscrupulous employers also retaliate against workers in the temporary work visa programs, an act facilitated by the structure of temporary work visa programs, which ties migrant workers' visas–and thereby their right to work in the U.S.–to their employer. When migrant workers face workplace violations with a particular employer, many workers are reluctant to file a complaint because they are afraid of losing their visa, and subsequently their employment authorization.

The proposed rule would force asylum applicants seeking safety and permanence in the United States to live here without being able to work or support themselves and their families. Among other changes, the proposed rule introduces extreme and potentially indefinite delays to obtaining a work permit, as it proposes to extend the waiting period to apply for work authorization from 150 days to 365 days, increase the mandatory processing timelines once an initial work permit application is received from 30 days to 180 days, and pause initial work permit processing completely when average affirmative asylum processing times exceed an average 180 days.[2] The proposed rule also imposes many new eligibility barriers for both initial and renewal work permits, and would make approval of both applications completely discretionary, meaning asylum seekers could be denied employment authorization for no reason at all.[3]

Employment authorization helps ensure that all workers can speak up about problems at work and protects high-road employers that abide by the rules from unfair competition by low-road employers. CDM opposes the proposed rule because it will force people seeking asylum to seek work in informal arrangements to survive. In response, employers that previously employed people seeking asylum and the administration will likely seek to further expand flawed guestworker programs.

CDM also endorses the comments submitted by Migration that Works.

The proposed rule would force people seeking asylum into informal employment arrangements that will lower wages and working conditions for all workers.

By making it far harder for people seeking asylum to obtain or renew work authorization, the proposed rule would force them into informal or "off-the-books" employment, increasing the risk of wage theft, retaliation, and other forms of worker exploitation. Immigrant and migrant workers are intimately aware of the vulnerability that their immigration and employment authorization status, or lack thereof, can create in the workplace.[4] Oftentimes, the fear of

[2] *See Employment Authorization Reform for Asylum Applicants*, 91 Fed. Reg. 8616, 8618–20 (Feb. 23, 2026).
[3] *See id.* at 8618–19.
[4] *See, e.g.,* Exhibit A, Leticia M. Saucedo, *The Employer Preference for the Subservient Worker and the Making of the Brown Collar Workplace*, 67 Ohio St. L.J. 961 (2006); Exhibit B, Kati L. Griffith, *Undocumented Workers: Crossing the Borders of Immigration and Workplace Law*, 21 Cornell J.L. & Pub. Pol'y 611 (2012).

retaliation based on their status is a barrier to workers' willingness to blow the whistle on workplace abuses. Immigrant or migrant workers without employment authorization are less likely to report violations or cooperate with investigators for fear of being targeted for immigration enforcement. Employers capitalize on workers' reluctance to speak up about workplace concerns by suppressing wages, denying overtime pay, ignoring workplace safety standards, or retaliating against workers who attempt to assert their rights, all in the name of cutting costs and maximizing their bottom line. The proposed rule would render people seeking asylum more vulnerable to employment exploitation and would result in substandard wages and working conditions for all workers.

These consequences would reverberate across workplaces and industries. When workers move into the informal economy, labor violations become harder to detect and enforce, enabling exploitative employers to undercut law-abiding competitors and driving down wages and working conditions for other workers. The NPRM does not meaningfully analyze these foreseeable effects. By failing to account for the predictable expansion of informal employment created by the proposed rule, the NPRM fails to acknowledge the scope of these enforcement and labor-standards consequences for workers writ large.

The proposed rule would depress wages and working conditions for other workers.

Since January 2025, the federal government has terminated or moved to dismantle legal immigration programs that provided work authorization to hundreds of thousands of individuals, including several countries' TPS designations, the CBP One parole program, the parole program for Cubans, Haitians, Nicaraguans, and Venezuelans ("CHNV"), multiple family reunification parole programs, and Deferred Action for Childhood Arrivals ("DACA").[5]

The NPRM assumes that employers can easily replace asylum-seeking workers who lose employment authorization, ignoring the disruptions caused by mass layoffs and the loss of workers with job-specific skills many people seeking asylum already have. In reality, sudden workforce losses would disrupt operations across multiple industries. Past practices show that employers may pursue detrimental short-term solutions such as increased mandatory overtime, heightening workplace safety risks and creating significant operational instability that would affect all workers in the industries where people seeking asylum are employed.

In addition, the Trump administration has sought to expand the flawed temporary visa programs as a solution to labor force disruptions caused by restricting employment authorization, stripping legal status from immigrant communities, and ramping up

[5] *See Temporary Protected Status (TPS): Fact Sheet*, Forum (Feb. 4, 2026), https://forumtogether.org/article/temporary-protected-status-fact-sheet/ (listing recent TPS termination announcements, including TPS protections for Venezuela, Haiti, Nepal, Honduras, Nicaragua, Syria, Afghanistan, Cameroon, South Sudan, Burma, Ethiopia, Somalia, and Yemen); Dep't of Homeland Sec., *DHS Issues Notices of Termination for the CHNV Parole Program, Encourages Parolees to Self-Deport Immediately* (June 12, 2025), https://www.dhs.gov/news/2025/06/12/dhs-issues-notices-termination-chnv-parole-program-encourages-parolees-self-deport; U.S. Citizenship & Immigr. Servs., *Termination of Family Reunification Parole Processes for Colombians, Cubans, Ecuadorians, Guatemalans, Haitians, Hondurans, and Salvadorans*, 90 Fed. Reg. 58032 (Dec. 15, 2025); Gregory Royal Pratt & Laura Rodríguez Presa, *DACA delays lead to lost jobs, less stability and anxiety over potential deportation under Donald Trump*, Chicago Tribune (Mar. 15, 2026), https://www.chicagotribune.com/2026/03/15/daca-delays-trump-immigration/.

immigration enforcement.[6] For example, the Administration has further shifted power to employers in the H-2A program by cutting regulations and farmworker wages.[7] At the same time, employers have pressured the Administration to increase the number of visas available in the H-2B program, and several legislators have advanced proposals to do so.[8] The Administration has not, however, improved worker protections.

Due to the temporary visa programs' design, migrant workers often face a myriad of coercive practices and workplace violations. Before they arrive in the U.S., many face recruitment fraud, discrimination, and economic coercion in the form of exorbitant and illegal recruitment fees.[9] Once they arrive, workers are tied to a single employer, which enables low-road employers to exert control over workers and violate their rights. Some employers have exploited the programs' flaws to commit labor trafficking. CDM has documented H-2A program abuses in a groundbreaking report, *Ripe for Reform*. Forty-three percent of migrant workers surveyed reported that they did not receive the pay they were promised, and another 34% experienced restrictions on their mobility—often a red flag for labor trafficking.[10]

Many H-2 employers hire workers on temporary visas to work alongside U.S. workers. In low-road workplaces, both U.S. and migrant workers face abuses, including wage theft and substandard working conditions. Moreover, employers participating in these programs often choose to hire guestworkers over U.S. workers, despite the legal framework prohibiting the employers from "adversely affect[ing] the wages and working conditions of workers in the United States similarly employed."[11] It is nonsensical to restrict employment authorization for people seeking asylum and other immigrant workers who are already part of the U.S. workforce and contributing to their communities, while at the same time working to expand the flawed temporary visa programs to fill labor gaps they manufactured themselves.

The proposed rule would harm workers and depress wages and working conditions across the board. For these reasons, DHS should withdraw the proposed rule.

Conclusion

The NPRM rests on a chain of flawed assumptions that do not reflect the realities of the modern U.S. labor market. It ignores the predictable expansion of informal employment that will result from leaving people seeking asylum without lawful means of supporting themselves for years. And it assumes—without evidence—that employers will be able to

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[6] Exhibit C, Austin Fisher, "US Labor Secretary tells Western governors she wants to streamline temporary farmworker visas," North Dakota Monitor (June 25, 2025), https://northdakotamonitor.com/2025/06/25/us-labor-secretary-tells-western-governors-she-wants-to-streamline-temporary-farmworker-visas/

[7] Exhibit D, Patricia Kime, "USDA secretary outlines Trump's farmer first agenda," USA Today (March 23, 2026), https://www.usatoday.com/story/studiog/news/agriculture/2026/03/23/sec-rollins/88419252007/

[8] Jennifer Scholtes, "The Trump Ally cracking down on immigration in Washington –and bringing in foreign workers back home," Politico (April 12, 2026), https://www.politico.com/news/2026/04/10/andy-harris-immigration-foreign-workers-00867621

[9] Exhibit E, CDM, *Ripe for Reform: Abuse of Agricultural Workers in the H-2A Visa Program* (2020), https://cdmigrante.org/wp-content/uploads/2020/04/Ripe-for-Reform.pdf

[10] *Id.*

[11] 8 U.S.C. § 1188(a)(1)(B) (H-2A program); *see also* 8 C.F.R. § 214.2(h)(6)(iii)(A) ("The [H-2B] labor certification shall be advice to the director on whether or not United States workers capable of performing the temporary services or labor are available and whether or not the alien's employment will adversely affect the wages and working conditions of similarly employed United States workers.")

easily replace workers who lose employment authorization, and leave the door open for the Trump Administration and lawmakers to pursue the expansion of the flawed guestworker programs to try to fill the manufactured labor gap.

In practice, the proposed rule would not streamline the administration of asylum-based employment authorization. Instead, it would destabilize workers and their workplaces, weaken labor standards enforcement, and depress wages and working conditions for all workers in those industries where people seeking asylum are currently employed.

For these reasons, CDM respectfully urges DHS to withdraw the proposed rule.

Respectfully submitted,

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