

NHLA Sues DOL & DHS Over H-2B Policies



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MIAMI, Fla. – The [National Hispanic Landscape Alliance \(NHLA\)](#) joined Bayou Lawn and Landscape Services, the [National Association of Landscape Professionals](#), [Superior Forestry Inc.](#) and the [Small and Seasonal Business Legal Center](#) in filing a lawsuit against the [U.S. Department of Labor \(DOL\)](#) and the [Department of Homeland Security \(DHS\)](#) in the U.S. District Court for the Northern District of Florida. The lawsuit asks the court to order recently enacted H-2B rules illegal.

The [H-2B visa program](#), which is of great importance to the landscape industry and to many NHLA members, as well as many other key industries, has been burdened by rules jointly issued by DHS and DOL on April 29, 2015. The rules are not only crippling these industries, but they are also illegal because, contrary to the requirements of the Administrative Procedure Act, the agencies did not give the public a chance to comment on them and there was no basis for making the rules immediately effective.

The H-2B program benefits American laborers who work with, supervise and otherwise support H-2B workers. Reputable U.S. employers that need supplemental labor rely on the program and abide by laws that enable them to hire an efficient workforce. The plaintiffs believe that it is imperative that the DOL and DHS stop burdening a program that benefits American companies and workers, and the nation's economy, with rules that make the process unnecessarily costly, arduous and risky for businesses that would otherwise be thriving and adding jobs.

Thousands of businesses face closure due to new H-2B rules

In general, the landscape industry feels that the new wage rule is flawed in that it requires companies to pay H-2B workers more than what half the U.S. workers performing the same jobs earn. For example, one NHLA member company CFO, when modeling the impact of the new wage rule including adjustments to those employed in like positions and those providing leadership to those

roles, found that the prior seven years of profits at that company would have been wiped out by the losses of a single season under the new program rules.

In order to participate, H-2B employers must prove that they cannot adequately fill their vacancies with domestic workers. A few years ago, another NHLA member company was denied the ability to bring in 58 H-2B workers due to a paperwork error. That company hired more than 1,300 individuals over a nine-month period in an effort to keep the 58 slots filled. Some hires never showed up for work, many others resigned after just one day or less than a week on the job. The quality of this company's work suffered so much that they lost 10 percent of their customer base for the following year.

A third member company, frustrated by constantly changing rules, elected to shrink and shed more than 200 jobs rather than deal with the uncertainty and burdensome regulations associated with the H-2B program. The once full-service landscape company now only installs retaining walls.

The NHLA believes that the lack of foresight in the actions taken by the DOL and DHS, if left unchecked, will cause the loss of thousands of jobs at reputable companies, not only the seasonal jobs filled by foreign workers, but year-round jobs held by U.S. workers as well. The NHLA had no choice but to seek relief for its members through the courts.

"We'd much prefer to work with the administration than sue it. It would certainly be our preference to initiate a dialogue with the DOL and DHS to establish a program that recognizes H-2B employer best practices. We believe that such an approach would do much more to benefit all involved with the H-2B program than the course of action the DOL and DHS have pursued," remarked Ralph Egües, executive director of the NHLA.

[#saveH2B Tweets](#)

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