

April 24, 2026

Submitted via <http://www.regulations.gov>

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:

Migration that Works respectfully 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").

Migration that Works is a coalition of labor, migration, civil rights, and anti-trafficking organizations and academics advancing a labor migration model that respects the human rights of workers, families, and communities, and reflects their voices and experiences. Founded in 2011 as the International Labor Recruitment Working Group, Migration that Works strategically addresses worker rights abuses across industries and visa categories.²

Migration that Works joins workers in supporting and advancing an ethical labor migration model through legal and regulatory frameworks in the United States.³ Our model for labor migration shifts control over the labor migration process from employers to workers, elevates labor standards for all workers, responds to established labor market needs, respects family unity, ensures equity and access to justice, and affords migrant workers an accessible pathway to citizenship. An ethical labor migration model would robustly protect all workers, while also ensuring that law-abiding employers are not undercut by low-road employers.

Migration that Works strongly opposes the proposed rule, which would force many people currently working with employment authorization to work without legal status. The proposed rule perpetuates the Trump Administration's agenda to de-document and deport immigrant workers en masse. The resulting artificial labor shortage will continue to be used as a justification to expand undesirable and unsustainable solutions such as expansion of the temporary work visa programs with little oversight and diminished worker protections.

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.

² For more information on Migration that Works, visit <https://migrationthatworks.org/>. To view Migration that Works' reports, visit <https://migrationthatworks.org/reports/>.

³ Exhibit A, See Migration that Works, Proposal for an Alternative Model for Labor Migration (2020), <https://migrationthatworks.org/wp-content/uploads/2025/10/alternative-model-for-labor-migration-updated-2025.pdf>

I. Background

Migration that Works coalition members are experts on the temporary work nonimmigrant visa programs (sometimes referred to as “guestworker” programs) in the United States, and many also work on issues related to people seeking asylum in the United States. Members have extensively analyzed regulations, enforcement frameworks, and publicly available data on the temporary visa programs. Several coalition members also have regular, direct contact with workers in temporary visa programs and people seeking asylum through legal representation, community outreach, and union membership. Migration that Works’ collective proximity to migrant workers and analysis of the temporary visa programs have led us to conclude that recruitment abuses are still far too common across the programs, and the current schema of regulations and lax enforcement do not adequately protect migrant workers from low-road employers looking to game the system and exploit their labor. Additionally, as the Trump administration continues to enact policies, such as the proposed rule, that de-document workers working legally in the United States, Migration that Works coalition members have seen intense employer demand for access to temporary work visas. At the same time, we have seen a distinct decline in immigrant workers’ willingness to enforce their workplace rights, for fear that doing so could lead to adverse immigration consequences for themselves and their family members.

Employers in high-wage and low-wage industries hire people abroad to work through temporary work visa programs. Temporary work visas include: A-3, B-1, F-1, G-5, H-1B, H-1C, H-2A, H-2B, J-1, L, O-1, P-3 and TN, each with its own rules and requirements. Unfortunately, these programs are rife with flaws that enable worker abuse. Common issues in these programs include recruitment fraud, rampant discrimination, wage theft, and labor trafficking. These patterns of abuse are common across visa categories.

Temporary work visa programs are not transparent. During recruitment, workers have limited access to information; they often do not know how to verify whether they are dealing with legitimate agents or recruiters of prospective employers, or swindlers looking to charge them recruitment fees for an illusory employment opportunity. Even when prospective workers communicate with legitimate employers, they often do not receive complete information about the terms and conditions of employment in the U.S. This information asymmetry hampers workers’ ability to make an informed decision about a job offer, and at worst, can lead to abusive workplaces and human trafficking.

Although the proposed rule does not directly change the temporary visa programs, it would increase the pressure from employers to expand the programs in order to address the resulting labor shortages.

II. Summary of the Comment

The proposed rule would prevent asylum applicants seeking safety and permanence in the United States from being able to work and support themselves and their families. Among other changes, the proposed rule would impose extreme and potentially indefinite delays to obtain a work permit, extending the waiting period to apply for work authorization from 150 days to 365 days, increasing the mandatory processing timelines once an initial work permit application is received from 30 days to 180 days, and pausing initial work permit processing completely when average affirmative asylum processing times exceed an average 180 days.⁴ The proposed rule would also impose many new eligibility barriers for initial and renewal work permits and make application approvals completely discretionary, meaning people seeking asylum may be denied employment authorization for no reason at all.⁵

This proposed rule would harm all immigrant workers— asylum-seeking workers and other workers, such as temporary visa holders, who rely on their asylum-seeking coworkers to come to work each day and perform their jobs safely and effectively. From Migration that Works’ perspective, this NPRM raises at least four significant concerns that should be avoided by withdrawing the proposed rule in full.

First, the proposed rule would affect many workers already participating in the U.S. workforce, including people the NPRM classifies as “initial” asylum applicants who previously held lawful employment authorization through programs such as Temporary Protected Status (“TPS”), humanitarian parole, or deferred action. By focusing on deterring future migration while overlooking the rule’s effects on workers in the United States, the NPRM substantially understates the disruption the rule would cause and the reliance interests at stake.

Second, the NPRM rests on the flawed assumption that employers can easily replace asylum-seeking workers who lose employment authorization, ignoring the experience and job-specific skills many asylum applicants already possess. In reality, sudden workforce losses would disrupt operations across multiple industries, potentially forcing employers to impose mandatory overtime, heightening workplace safety risks, and creating significant operational instability that would affect not only asylum seekers but also their coworkers and the integrity of the U.S. workforce as a whole. Additionally, this workforce destabilization could serve as a pretext for harmful expansion of the temporary work visa programs without oversight or sufficient avenues for temporary visa holders to enforce their rights.

Third, by making it far more difficult for people seeking asylum to obtain or renew work authorization, the proposed rule would push many workers into underground employment, increasing the risk of wage theft, retaliation, and other forms of worker exploitation. This shift would also undermine labor law enforcement by making workers less likely to report violations or cooperate with investigators, weakening workplace protections and lowering labor standards for all workers. The NPRM fails to acknowledge the scope of these enforcement and labor-standards consequences for U.S. citizens, immigrant workers in general, and temporary visa holders in particular.

⁴ See *Employment Authorization Reform for Asylum Applicants*, 91 Fed. Reg. 8616, 8618–20 (Feb. 23, 2026).

⁵ See *id.* at 8618–19.

Fourth, the NPRM fails to consider the substantial reliance interests that workers have developed around a predictable system of asylum-based employment authorization, which the NPRM would upend.

Far from streamlining the regulation of asylum-related employment authorization, the proposed rule would harm workers across the board. For these reasons, DHS should withdraw the proposed rule.

III. The NPRM Underestimates the Harm to Workers Already in the U.S. Workforce

The NPRM rests heavily on the premise that restricting access to asylum-based work authorization will deter future asylum applicants by reducing the perceived “pull factor” of employment opportunities in the United States given the lengthy asylum backlog.⁶ However, this premise overlooks that many “initial” asylum employment authorization applicants are already working in the United States.

Since January 2025, the federal government has terminated or moved to dismantle legal immigration programs that provided work authorization to hundreds of thousands of people, 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”).⁷ Many workers whose work permits have been terminated or threatened by these changes—and who are also eligible for asylum—are filing asylum applications and seeking initial employment authorization based on their pending applications.

⁶ This rationale—the validity of which is beyond the scope of this comment—is repeated throughout the NPRM. See, e.g., *Employment Authorization Reform for Asylum Applicants*, Notice of Proposed Rulemaking, 91 Fed. Reg. 8616, 8620 (Feb. 23, 2026) (“[T]he affirmative asylum application backlog serves as a magnet pulling aliens into the U.S. illegally.”); *id.* at 8664 (same); *id.* at 8629 (“filing fraudulent, frivolous, or otherwise meritless asylum cases primarily to access employment authorization” is a “pull factor for illegal immigration,” such that the NPRM “should decrease the number of illegal border crossers”); *id.* at 8659 (proposing new eligibility bar on asylum-based work permits to “curb the pull-factor of employment authorization for those who have been present in the United States for more than 1 year”); *id.* at 8660 (“This rule will prioritize the safety and security of the American people by disincentivizing illegal migration and criminal conduct for [sic] aliens who would like to obtain employment authorization.”); *id.* at 8669 (“tethering (c)(8) EAD application acceptance to asylum processing times . . . will permanently eliminate the possibility that asylum backlogs may serve as a magnet attracting illegal immigration”).

⁷ 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/>.

The NPRM acknowledges this trend in passing,⁸ but largely sidesteps its implications—namely, that the NPRM’s sweeping restrictions on employment authorization for “initial asylum applicants” will largely harm people who have work authorization. These workers are not hypothetical future entrants; they are experienced employees currently working in hospitals, manufacturing and food processing facilities, construction sites, hotels, schools, and public services. The NPRM therefore risks removing from the workforce hundreds of thousands of workers who have already been performing essential roles in the U.S. economy.

By focusing on speculative deterrence effects for future migrants while overlooking the proposed rule’s immediate impact on workers already in the U.S. economy, the NPRM fails to accurately assess the scope of the disruption the proposed rule would cause. This flawed premise permeates the NPRM’s analysis and projected impacts and, on its own, warrants withdrawal of the proposed rule.

IV. The NPRM Incorrectly Assumes That Asylum Seekers Who Lose Employment Authorization Can Easily Be Replaced and Ignores the Resulting Labor Disruption

The NPRM suggests that asylum-seeking workers who lose employment authorization may be replaced and that the resulting shifts may lead to increased hours or compensation for currently employed workers.⁹ Although the NPRM acknowledges that restrictions on asylum-based employment authorization may lead employers to rely more heavily on currently employed workers through increased hours or overtime, it largely treats these effects as a potential transfer of compensation rather than as a source of workforce disruption.¹⁰ These assumptions simply do not reflect the realities in the industries in which many asylum applicants work.

A. The NPRM Would Increase Mandatory Overtime and Workload Pressures on Remaining Workers

Across industries, abrupt workforce losses rarely produce the seamless labor substitution envisioned in the NPRM. Instead, employers often struggle to recruit qualified replacements, leaving operations understaffed for extended periods. In some cases, employers may scale back operations, or lay off additional workers when they can no longer meet production or service demands due to the loss of experienced personnel.¹¹

These dynamics are particularly severe in rural areas and specialized industries where the available labor pool is already limited and recruiting new workers can take months or even years. Oftentimes, employers in these situations turn to the temporary work visa programs to fill these labor shortages. Migration that Works members regularly communicate with and represent migrant workers who are employed in specialized industries such as forestry and agriculture in rural areas in the U.S. Migration that Works is concerned that the abrupt workforce losses which

⁸ See 91 Fed. Reg. at 8652-53, 8658 (acknowledging former TPS, parole, and DACA holders often apply for asylum).

⁹ 91 Fed. Reg. at 8620–21, 8664-65.

¹⁰ See *id.* (noting that lost compensation may be transferred to currently employed workers through additional hours or overtime).

¹¹ See, e.g., Brief of Amici Curiae AFL-CIO and Affiliated Labor Unions, *Svitlana Doe et al. v. Noem et al.*, No. 25-1384 (1st Cir. July 7, 2025) (“AFL-CIO and Affiliated Labor Unions Parole Brief”), at 13.

will result if the NPRM is enacted will be used as a justification for the continued expansion of the flawed temporary visa programs as a source of replacement hiring.

As outlined above, use of temporary visa holders as a source of replacement workers without expanded worker protections, enforcement, and oversight of the aforementioned programs will lead to less safe workplaces and the continued exploitation of temporary visa holders. Migrant workers are a particularly vulnerable labor sector because the structural flaws in the temporary visa programs lead to economic coercion during recruitment and enable other workplace abuses. In addition, migrant workers face challenges to vindicating their rights at work, such as language barriers, and difficulties accessing effective cross-border justice. Many migrant workers who travel to the U.S. for temporary work come from economically disadvantaged, rural communities in Mexico, often at great personal expense. Ineffective enforcement of the few legal protections that temporary visa holders possess, results in a “race to the bottom” in the workplace, marked by reduced wages, weakened benefits, unsafe working conditions, and degradation of working standards for all workers. For these reasons, it is in the best interest of all workers working in the United States to allow asylum seekers continued access to work authorization.

B. The NPRM Would Increase Workplace Safety Risks by Disrupting Experienced Workforces

Staffing shortages and excessive overtime can also create significant safety risks. In many safety-sensitive workplaces, such as construction sites, manufacturing facilities, warehouses, and healthcare settings, the sudden loss of experienced workers can create immediate hazards for the remaining workforce. Short-staffing often forces employees to perform additional tasks or work at faster production speeds, increasing the likelihood of fatigue-related injuries and other workplace incidents. Efforts to rapidly replace experienced workers with new or inexperienced hires can further heighten safety risks for the entire workforce.

Unionized workplaces have reported increased injury rates, higher stress levels, and exacerbated turnover and burnout following sudden staffing reductions tied to immigration policy changes.¹²

* * *

By treating workforce losses primarily as a shift in compensation rather than a source of operational disruption, the NPRM fails to meaningfully analyze the safety, staffing, and economic consequences to U.S. citizens and other immigrant workers that such losses would create.

V. The NPRM Would Push Workers into the Underground Economy and Weaken Labor Standards Enforcement

The proposed rule would significantly restrict asylum seekers’ ability to work legally while their asylum claims — often pending for years — are adjudicated, effectively forcing many asylum

¹² See, e.g., AFL-CIO and Affiliated Labor Unions Haiti TPS Brief at 36 (noting that “[a]s a direct result of DHS’s actions [in terminating TPS for Haiti], nurses and other healthcare workers will feel pressure to work longer hours to attend to more patients, exacerbating the turnover and burnout that is endemic to the industry”).

seekers to support themselves and their families for extended periods of time without lawful employment.

The NPRM does not meaningfully analyze how people in this situation are expected to sustain themselves during those years, nor how effectively eliminating their access to employment authorization will affect labor standards and labor law enforcement. In practice, many people turn to informal or off-the-books employment arrangements to support themselves and their families.

Workers in these circumstances are significantly more vulnerable to exploitation. Employers may take advantage of workers' immigration status to suppress wages, deny overtime pay, ignore workplace safety standards, or retaliate against workers who attempt to assert their rights. Indeed, member organizations of Migration that Works have seen a pattern where workers who are forced to work without work authorization are reluctant to enforce their rights at work for fear that doing so could lead to adverse immigration consequences.

When workers are pushed into informal employment, the resulting labor violations extend beyond those workers themselves. Employers who exploit vulnerable workers not only depress wages and benefits for all workers in the same workplace, but they also gain a competitive advantage over law-abiding employers that comply with labor laws and collective bargaining agreements.¹³ In this way, the NPRM's restriction of lawful employment authorization would distort workplace competition by rewarding employers that exploit vulnerable workers while disadvantaging those that comply with labor laws and collective bargaining agreements.

These consequences would reverberate across workplaces and industries. When employment moves into the informal economy and workers are afraid to exercise their rights at work, 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 substantially understates its impact on labor standards and the broader labor market.

VI. The NPRM Disregards the Significant Reliance Interests Created by the Existing System of Asylum-Based Employment Authorization

Under the Administrative Procedure Act ("APA"), agencies must consider the reliance interests that regulated parties have developed under existing policies before adopting regulatory changes that would disrupt those settled expectations.¹⁴ The NPRM fails to meaningfully account for the

¹³ See, e.g., AFL-CIO and Affiliated Labor Unions Parole Brief at 15–16 (when the hotel industry is faced with labor shortages, employers often use temporary labor agencies to supply workers, which not only "undermin[e] the wages and working conditions" for U.S. citizen workers employed by the hotel "by paying substandard wages and benefits," but also "often violate immigration law by hiring undocumented workers").

¹⁴ See *FCC v. Fox Television Studios, Inc.*, 556 U.S. 502, 515–16 (2009) (noting that an agency must sufficiently explain its decision when it departs from a previous position, which requires a "reasoned explanation" as to why it is "disregarding" any "factual findings . . . which underlay its prior policy" and "contradict" the factual findings underlying its new policy).

reliance interests that workers and unions have developed around the current system of asylum-based employment authorization.

For years, people seeking asylum and labor organizations have relied on a predictable regulatory framework under which people who meet the criteria for employment authorization can obtain a work permit within a defined timeframe. Workers make critical life decisions—including housing, transportation, and family support—based on the expectation that, if they satisfy the applicable requirements, they will be able to work lawfully while their asylum claims are pending. By introducing sweeping delays, additional eligibility barriers, and broad discretionary authority to deny applications, the proposed rule would upend these settled expectations and inject profound uncertainty into a system on which workers have long depended.

These reliance interests are particularly significant because many individuals the NPRM characterizes as “initial” asylum employment authorization applicants are not new entrants to the labor market. As described above, many have already been working through TPS, humanitarian parole, deferred action, or other programs that allow for employment authorization. When those programs are terminated or curtailed, many workers eligible for asylum turn to the asylum system. For these people, asylum-based work authorization is not a new opportunity to enter the workforce—it is the only remaining pathway to continue working lawfully in jobs they already hold. Their coworkers, employers, and entire workplaces depend on their continued participation in the labor force.

The NPRM also fails to consider the reliance interests of current asylum-based work permit holders who depend on the ability to renew their work permits in a timely and predictable manner. By imposing new eligibility barriers and expanding the circumstances under which renewal applications may be denied, the proposed rule would significantly slow the renewal process and increase the likelihood that workers will lose lawful employment authorization while their applications remain pending. Given the scale of the existing asylum backlog, these changes threaten to create widespread gaps in work authorization for workers who have already been lawfully employed for years.

The NPRM would bring the asylum-based employment authorization system to a functional standstill. Workers who have relied on timely adjudication of work authorization applications would face prolonged periods without lawful employment authorization, while co-workers who depend on those workers would face sudden and unpredictable staffing disruptions. The NPRM does not meaningfully engage with these reliance interests or the systemic consequences of destabilizing an employment authorization framework on which hundreds of thousands of workers and employers have come to depend.

Because the proposed rule disregards these substantial reliance interests and fails to evaluate the disruptive consequences of overturning longstanding expectations about the availability and timing of employment authorization, the NPRM fails to consider an important aspect of the problem before the agency.

VII. Conclusion

The NPRM rests on flawed assumptions that do not reflect the realities of the modern U.S. labor market. It mischaracterizes who will be affected by the proposed rule, failing to recognize that many “initial” asylum applicants who would face the harshest aspects of the proposed rule are already embedded in the workforce. It disregards the substantial reliance interests that workers and employers have developed around a predictable system of asylum-based employment authorization. It ignores the predictable expansion of informal employment that will result from leaving asylum seekers without lawful means of supporting themselves for years. And it assumes—without evidence—that employers will be able to easily replace workers who lose employment authorization.

In practice, the proposed rule would not streamline the administration of asylum-based employment authorization. Instead, it would destabilize workplaces, disrupt established workforces, weaken labor standards enforcement, and impose significant costs on workers, employers, and the broader labor market.

For these reasons, Migration that Works respectfully urges DHS to withdraw the proposed rule.

Respectfully submitted,

Rachel Micah-Jones
Chair
Migration that Works