

Press Release

February 6, 2008

Contact: Press Office, (202) 282-8010

DHS PROPOSES CHANGES TO IMPROVE H-2A TEMPORARY AGRICULTURAL WORKER PROGRAM

*Proposed Rule Will Assist Employers by Streamlining Processing of H-2A Worker
Petitions*

WASHINGTON – The U.S. Department of Homeland Security announced today a series of proposed rule modifications to provide employers with a streamlined hiring process for temporary and seasonal agricultural workers under the H-2A program.

“These proposed changes are designed to provide an efficient and secure program for farmers to legally fulfill their need for agricultural workers within the law rather than outside the law,” said Homeland Security Secretary Michael Chertoff. “This common-sense simplification of H-2A will provide farm employers with a more orderly and timely flow of legal workers, while continuing to protect the rights of laborers and promoting legal and secure methods for determining who is coming into the country.”

The proposed modifications to the rule reduce current limitations and certain delays faced by U.S. employers and relax the current limitations on their ability to petition for multiple, unnamed agricultural workers. It extends from 10 to 30 days the time a temporary agricultural worker may remain in the U.S. after the end of employment. The rule also reduces from six to three months the time a temporary agricultural worker must wait outside the U.S. before he or she is eligible reenter the country under H-2A status. Additionally, under the proposed rule H-2A workers who are changing from one H-2A employer to another may begin work with the new petitioning employer before the

change is approved by USCIS, provided the new employer participates in USCIS' [E-Verify program](#).

To better ensure the integrity of the H-2A program, and encourage the lawful employment of foreign temporary and seasonal agricultural workers, the proposed rule would:

- Require an employer attestation regarding the scope of the H-2A employment and the use of recruiters to locate H-2A workers;
- Crack down on employers and recruiters who impose fees on prospective H-2A workers;
- Eliminate the ability of employers to file an H-2A petition without an approved temporary labor certification; and
- Prohibit the approval of H-2A petitions for nationals of countries determined to be consistently refusing or unreasonably delaying repatriation of their nationals.

The rule also proposes the establishment of a land-border exit system pilot program. Under the program, H-2A visa holders admitted through a port of entry participating in the program would also depart through a port of entry participating in the program and present upon departure designated biographical information, possibly including biometric identifiers.

The proposed rule is available at www.dhs.gov for public comment and will soon appear at www.regulations.gov under docket number "USCIS-2007-0055," until 60 days after publication in the *Federal Register*. More information regarding the proposed rule, plus instructions on submitting comments, is available through an accompanying Fact Sheet available at the USCIS website: www.uscis.gov.

###