



USCIS Update

February 13, 2008

USCIS PROPOSES STREAMLINING PROCEDURES FOR H-2A PROGRAM

WASHINGTON—U.S. Citizenship and Immigration Services (USCIS) announced today a series of proposed rule changes that will provide employers with more streamlined procedures for hiring workers under the H-2A program. The proposed rule is published in today's [Federal Register](#).

The H-2A nonimmigrant visa allows U.S. employers to bring foreign nationals to the United States for temporary or seasonal agricultural work. The series of proposed H-2A rule modifications, first announced by Homeland Security Secretary Michael Chertoff on Feb. 6, will encourage and facilitate the lawful employment of foreign agricultural workers while ensuring the integrity of the H-2A program.

The proposed rule is designed to remove unnecessary limitations on H-2A employers while preventing fraud and abuse, and protecting the rights of temporary workers. Some of the key modifications to the rule include:

- Extend from 10 to 30 days the time a temporary agricultural worker may remain in the United States following the expiration of the H-2A petition;
- Reduce from six months to three months the time an H-2A worker must wait outside the United States before they are eligible to re-obtain H-2A status;
- Allow H-2A workers who are changing from one H-2A employer to another to begin work with the new petitioning employer upon the filing of a new H-2A petition, provided the new employer participates in USCIS' [E-Verify](#) program;
- 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;
- Require an approved temporary labor certification in connection with all H-2A petitions;
- Prohibit the approval of H-2A petitions for nationals of countries determined to be consistently refusing or unreasonably delaying repatriation of their nationals; and
- Establish a land-border exit system pilot program, which ensures that foreign workers admitted through a port of entry participating in the H-2A program must depart through a similar port that also participates in the program.

USCIS will accept public comments until March 31. The [Department of Labor](#) also published a companion regulation in today's [Federal Register](#).