



# NATIONAL AFFAIRS

September 19, 2019

## ACTION REQUEST

### Proposed Rule- Temporary Agricultural Employment of H-2A Nonimmigrants in the United States

#### **Background**

Kentucky Farm Bureau (KFB) has aggressively advocated for a meaningful agricultural guest-worker program. Kentucky farmers have consistently experienced difficulty in finding and retaining workers who are willing and able to work on farms and in the fields. The current H-2A program is burdensome, costly, and limited to seasonal work, yet demand for temporary agriculture labor has grown significantly over the last several years.

#### ***KFB 2019 Priority Issue:***

*Support immigration reform that includes restructuring the H-2A program to streamline the process making it more reliable, economical and simple for farmers to participate.*

#### **Proposed New Rule**

In July 2019, the DOL [issued](#) a proposed rule to streamline and simplify the H-2A program. Key provisions of the rule that would make the program more user-friendly include the following:

- **Allowing for staggered entry:** *Any employer that receives a temporary agricultural labor certification would be allowed to bring nonimmigrant workers into the United States at any time up to 120 days after the first date of need identified on the certified Application for Temporary Employment Certification without filing another H-2A Petition.*
- **Shifting from the 50% rule to 30 days:** *The 30-day rule would require employers to provide employment to any qualified, eligible U.S. worker who applies for the job opportunity until 30 calendar days from the employer's first date of need on the certified Application for Temporary Employment Certification.*
- **Revising the transportation reimbursement provision:** *Employers would be required to provide or pay for inbound and return transportation from and to the "appropriate U.S. Consulate or Embassy."*
- **Streamlining the application process:** *The rule requires employers to file for the program electronically.*

\*American Farm Bureau Federation (AFBF) and KFB policy support these provisions.

In addition, the rule proposes to establish separate AEWRs by agricultural occupation while maintaining the current “highest applicable wage” rule. This proposal is concerning in that it could place additional burdens on farms in which workers are utilized for multiple duties. Any change in the AEWR should reflect current economic conditions.

The rule does **NOT** address year-round operations access to the program.

### **Submit Comments**

Kentucky Farm Bureau members are **STRONGLY** encouraged to submit comments on this rule. Comments can be submitted electronically [here](#) and members that wish to submit comments through the mail may send them to the following address:

Ms. Adele Gagliardi  
Administrator  
Office of Policy Development and Research  
Employment and Training Administration  
U.S. Department of Labor  
200 Constitution Avenue NW, Room N-5641  
Washington, DC 20210

*\*Please be sure to reference “RIN 1205-AB89” in your comments.*

A sample of comments along with detailed instructions on how to submit can be found [here](#). Members are encouraged to share personal stories demonstrating how the H-2A program is necessary and how the program can be improved. All comments must be submitted by **September 24, 2019**.

### **Additional Information**

Additional resources on the proposed rule can be viewed at [kyfb.com](http://kyfb.com). Please contact Emily Buckman, Director of National Affairs for Kentucky Farm Bureau, at [Emily.Buckman@kyfb.com](mailto:Emily.Buckman@kyfb.com) or 502-495-5137 if you have any questions.