



The Wyoming Department of Agriculture is dedicated to the promotion and enhancement of Wyoming's agriculture, natural resources and quality of life.

September 24, 2019

Adele Gagliardi
Administer
Office of Policy Development and Research
Employment and Training Administration
US Department of Labor
200 Constitution Ave NW, RM N-5641
Washington, DC 20210

Dear Ms. Gagliardi,

Following are the Wyoming Department of Agriculture (WDA) comments regarding the Department of Labor (DOL) proposed rulemaking for temporary agricultural employment of H-2A nonimmigrants in the United States.

Our comments are specific to our mission: dedication to the promotion and enhancement of Wyoming's agriculture, natural resources and quality of life. As the proposed rule could affect our industry, citizens, and natural resources it is important that you continue to inform us of proposed actions and decisions and continue to provide the opportunity to communicate pertinent issues and concerns.

The WDA appreciates the opportunity to submit comments on the proposed changes to the H-2A program. Agriculture is one of Wyoming's leading industries, much of which is related to cattle and sheep production. We urge the DOL work closely with representatives in the agriculture industry prior to finalizing and implementing the H-2A proposed changes to ensure clarity and that once implemented do not cause significant impacts to employers of sheep and cattle herders, sheep shearers, and other agricultural workers.

We believe there are several changes for the H-2A program we generally can support as proposed:

- The implementation of mandatory E-filing to reduce costs and burdens for most employers and for the DOL.
- The ability for local, state, or federal agencies to conduct inspections of employer-provided housing, and the inspections are certified for up to 24 months.
- The utilization of the U.S. Consulate or Embassy issuing the visa and from which location the worker departs from for the calculation travel expenses to ensure consistency with the 2008 Final Rule and provide cost savings to the employer.
- The addition to Sec. 655.130, which allows an employer to stagger the entry date for workers during a 120 day period to accommodate changing weather and production conditions or for other reasons.
- The addition of Sec. 655.175 allowing the employer to amend the places of employment following an approved certification to accommodate changed circumstances, including but not limited to weather, vegetative growing conditions, wildfire, etc.

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The following changes for the H-2A program as proposed are a concern for the WDA:

- The use of the Adverse Effect Wage Rate (AEWR) for a particular agricultural occupation at an annual average hourly gross wage is not inclusive of or in consideration of service agricultural positions, including sheep shearers or wool graders who are currently paid on a per piece basis. The Bureau of Labor should work closely with the sheep shearing industry before completing the Occupational Employment Statistics (OES) survey with careful consideration of how an hourly gross wage would negatively impact an industry paying workers on a per piece basis.
- The increase in surety bond amounts for each foreign labor certification exceeds the wage liability. We recommend working closely with wool growers associations and others who contract with sheep shearers and wool graders to develop a more practical manner to ensure the bonding requirements are appropriate for the different agriculture industries.

We appreciate the opportunity to provide comments on the proposed rules changes. If you have questions, please contact Justin Williams, Senior Policy Analyst at 307-777-7067.

Sincerely,



Doug Miyamoto
Director

DM/jw

CC: Governor's Policy Office
Wyoming Board of Agriculture
Wyoming Stock Growers Association
Wyoming Wool Growers Association
Wyoming Farm Bureau Federation
Wyoming State Grazing Board
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