



NATIONAL COUNCIL OF AGRICULTURAL EMPLOYERS

May 28, 2009

On May 28, 2009 the U.S. Department of Labor (DOL) announced the suspension of the H-2A Final Rule published on December 18, 2008 and in effect as of January 17, 2009. The Department is republishing and reinstating the regulations in place on January 16, 2009 for a period of 9 months. After January 16, 2010 the Department will have engaged in further rulemaking or may lift the suspension. Notice of this suspension is published in the Federal Register (FR Doc 12436 5/29/2009.)

In addition to the suspension, 2009 Adverse Effect Wage Rates (AEWR) were published in the Federal Register.

Despite being costly and difficult to use, the H2A Agricultural Guest Worker Program will remain an important component of labor supply for Agricultural Employers.

Due to long lead times to process workers into the system and the extensive preparation, record-keeping, and costs already incurred by employers, substantial numbers of applications and contracts for 2009 have already been completed based on the new rule. Suspension of the new rules; at this late stage will be confusing and could damage or disrupt family farms depending on H2A workers. Additionally, the 2009 AEWR rates are not realistic in the current economy and the change at this late date will be confusing, difficult, and costly to administer.

Growers and other food supply chain participants have already signed supply contracts for the season based on the suspended rule. Production costs will now go up due to mid-season federal action. Growers and ultimately consumers may suffer.

While NCAE will continue to advocate for passage of long-term solutions to the need for properly documented temporary agricultural guest workers through AgJOBS, in the interim, NCAE expects to participate actively with DOL in all upcoming stakeholder efforts toward further rulemaking.

Representing over 250 individual members and associations NCAE is the only national association focusing exclusively on farm labor issues from the farm management viewpoint. NCAE represents Agricultural Employer interests before Congress on critical farm labor issues and works closely with the Immigration and Naturalization Service, the Departments of Labor and Agriculture, the Occupational Safety and Health Administration and the Environmental Protection Agency. Incorporated as a 501 C-6 Trade Association, NCAE has offices in Washington, DC.