

Employment and Training Administration
Office of Foreign Labor Certification
H-2A Frequently Asked Questions

Notice of Proposed Suspension

Question: The Department has published a Notice of Proposed Suspension of the H-2A regulations which were initially published in a final rule on December 18, 2008 and became effective on January 17, 2009. I have an application pending that was filed after January 17. What will happen to my application?

Answer: The Department's publication of the Notice of Proposed Suspension has no immediate effect on the regulated community as it outlines a proposed action on which the Department is currently soliciting public comment. The Notice opens a 10-day public comment period, and the Department must take into consideration all comments before taking final action. Therefore, all applications pending as of the date of publication of the Notice of Proposed Suspension will continue to be adjudicated under the regulations currently in place. The Notice of Proposed Suspension does not make any changes to the regulations currently in force.

Question: The Department published a Notice of Proposed Suspension of the H-2A regulations which were initially published in a final rule on December 18, 2008 and became effective on January 17, 2009. I am just beginning my recruitment for the harvest season and may need to use H-2A workers. What do I do?

Answer: The Department's publication of the Notice of Proposed Suspension has no immediate effect on employers seeking to hire H-2A workers, since it simply outlines a proposed action on which the Department is currently soliciting public comment. The Notice opens a 10 -day period for public comments. Until the Department takes further action, all employers are expected to comply with the regulations currently in place and effective as of January 17, 2009. The Department will publish in the Federal Register any final actions taken in response to the Notice of Proposed Suspension.