



American Lamb Council



American Sheep Industry Association, Inc.
www.sheepusa.org



American Wool Council

April 11, 2008

Mr. Thomas Dowd, 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

RE: Federal Register / Vol. 73, No. 30 / Wednesday, February 13, 2008
DEPARTMENT OF LABOR
Employment and Training Administration 20 CFR Part 655
Wage and Hour Division 29 CFR Parts 501, 780, and 788
RIN 1205-AB55
Temporary Agricultural Employment of H-2A Aliens in the United States;
Modernizing the Labor Certification

The American Sheep Industry Association (ASI), as the national trade organization of the more than 70,000 farms and ranch families in the United States producing lamb and wool, asks for consideration of our comments to the proposed rule. Over one-fourth of the nation's entire sheep production is contributed by the ranches that use sheepherders, therefore the H-2A program with the sheepherding provisions are critical to our industry.

The sheepherder provisions of the H-2A program, which date to the 1950's, has been very successful and our association requests the Department of Labor continue to support what is a well run and effective program for a unique labor need of American agriculture.

Unfortunately, several of the changes proposed negatively impact the H-2A sheepherder program and the ranch families that employ the herders to help care for the sheep.

ASI concurs with the analysis of the Western Range Association and Mountain Plains Agricultural Service, organizations dedicated to the sheep industry's use of the H-2A program for sheepherders and shearers, that a primary concern of the proposal involves the special procedures. The unique need for labor to care and protect livestock means that the special procedures are very important to the effective use of the H-2A program in our industry. The proposed change confers the authority from the Secretary to the OFLC Administrator to establish or to revise special procedures "... in the form of variances for processing certain H-2A applications..." ASI urges the Department to clarify that this language does not pose a question as to the continued use of the Sheepherder Special Procedures.

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The proposed increase in time required by employers to advertise a job is excessive and dramatically raises the expenses of the employer. Additional newspaper advertising is a very expensive alternative of recruiting workers in today's world and should not be the only method allowed.

The proposed change that increases the cost of the H-2A application is also excessive and not supported by our association.

The proposal of attesting to the facts that the agricultural employer has complied with the requirements of the labor certification process will help to streamline the application process. However as recommended in the proposed rule, the process appears confusing and duplicative. The attestation requirement should be consolidated into one rule that clearly states which facts are to be verified.

The proposed changes permit the Certifying Officer to revoke a labor certification and the revocation is immediate upon the final decision of the Certifying Officer. The immediate effect is the temporary worker must return to the worker's home country even though the employer has not yet exhausted the employer's appeal rights. Therefore, even if the labor certification revocation is overturned on appeal, the visa revocation based on the Certifying Officers original decision remains in effect and the agricultural employer has lost the worker. We believe the appeal process time is relatively short and requests that the Department propose the decisions of revocations of labor certificates to be stayed during the period of appeal.

We appreciate the Department's review of our concerns and recommendations regarding proposed changes to the H-2A program. Given the serious negative impact of the above described changes on our sheep operations using the H-2A program and the resulting impact on our national production, we urge these proposed changes not be included in any final rule.

Sincerely,

A handwritten signature in black ink that reads "Burdell Johnson". The signature is written in a cursive style with a large, prominent initial "B".

Burdell Johnson
President