

## **DHS extends H-2A temporary agricultural worker flexibilities**

Due to the continuing disruptions and uncertainty to the U.S. food agriculture sector during the summer and upcoming fall agricultural season caused by the COVID-19 pandemic, the Department of Homeland Security DHS has decided to temporarily extend the amendments to certain regulations on temporary and seasonal agricultural workers, and their U.S. employers, within the H-2A nonimmigrant classification. Through a temporary final rule scheduled for publication in the *Federal Register* August 20, 2020, DHS is partially extending some of the provisions in its earlier, April 20, 2020, temporary final rule.

### **Extension of stay petitions**

Namely, DHS will continue to allow H-2A employees whose extension of stay H-2A petitions are supported by valid temporary labor certifications issued by the Department of Labor to begin work with a new employer *immediately after* the extension of stay petition is received by U.S. Citizens and Immigration Services (USCIS).

DHS will apply this temporary final rule to H-2A petitions requesting an extension of stay, *provided they were received on or after August 19, 2020, but no later than December 17, 2020.* According to DHS, the temporary extension of these flexibilities will "ensure that agricultural employers have access to the orderly and timely flow of legal foreign workers, thereby protecting the integrity of the nation's food supply chain and decreasing possible reliance on unauthorized aliens, while at the same time encouraging agricultural employers' use of the H-2A program, which protects the rights of U.S. and foreign workers."

### **Effective dates**

The final rule is effective from August 19, 2020, through August 19, 2023. Employers may seek flexibilities under this rule by filing an H-2A petition on or after August 19, 2020 and through December 17, 2020.