



Delay in reform irks area farmers

By [Diana Louise Carter](#), Staff Writer

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Farmers are none too happy about the Obama administration's attempts to undo a change in migrant-worker regulations that President Bush pushed through before he left office.

The federal Department of Labor is calling for a nine-month suspension of changes that Bush made in the H-2A program, which allows agriculture businesses to employ foreign workers for seasonal farm labor. The changes, aiming to streamline a program that many consider to be onerous, expensive and complicated, went into effect Jan. 17, just days before Barack Obama became president.

"As soon as we start to make an improvement, we end up backpedaling and then there are more problems," said Eric Brown, co-owner of Orchard Dale Fruit Farms and Brown's Berry Patch in Waterport, Orleans County.

Brown and his brother, Robert Brown II, hire about a dozen foreign workers through the federal program each summer to tend plants and harvest berries and stone fruits, then about 30 workers during the apple season in August through October.

While the rules are under review, the old rules would still apply.

"This is really going to cause a lot of havoc," said Peter Gregg, spokesman for New York Farm Bureau. "The biggest problem is they've already made the changes, and many of the farmers have already put in their applications based on those changes."

Public comment is being accepted only through Friday, the last day of an unusually brief 10-day comment period.

"You never have a 10-day comment period, it's always 90 days," said Alison DeMarree, a Cornell Cooperative Extension agent in Wayne County.

The Labor Department's Federal Register notice about the proposed postponement said the agency doesn't have enough staff to process the new applications in a timely fashion, the new administration wants to review the rules in light of a different policy strategy, and stalling the implementation would cause the least disruption.

While the H-2A program isn't perfect, Robert Brown said his family farm has used it since the 1980s.

"It is a legal way to bring non-resident people into this country to do work that the people of this country don't want to do," he said. "It works. It's not easy, but it works."

Employers pay about \$2 more an hour to H-2A workers, and they pay for their travel expenses and application fees.

"For the growers to agree to all this, they're desperate for help," DeMarree said.

New York's 30-million bushel apple season lasts six weeks, but each apple crop has about a one-week window during which it must be picked for maximum value.

H-2A expenses are small compared to the cost of losing an entire crop because the Border Patrol arrests a farm's entire work force.

Robert Brown estimated that half to three-quarters of the local farm labor force is now coming in through the H-2A program because farmers want to be sure they won't lose workers to the Border Patrol.

One of Bush's changes apparently made it easier to keep a foreign worker. Under the old program, farmers had to keep advertising for local workers until halfway through the contract period.

If someone local showed up, the foreign worker had to be dismissed and sent back home even after the farmer had spent money to recruit the foreign worker and pay his or her travel expenses. The farmer's investment would be lost, even if the local worker decided to quit after a day in the fields.

Bush's changes, DeMarree said, would mean the farmer could stop advertising when foreign recruits arrive.

Brown said he wastes time with local applicants sometimes because they really don't want farm work, but want to prove they're looking for a job.

"Most of these people see the price (\$9.50 an hour) and they might push a broom for that, but they certainly don't want to bend over and work," he said. Year after year, workers from Mexico and Jamaica have proven they want the jobs, take pride in how they do them and work hard, he said.

DeMarree added, "Most people think if you pay enough money you'll get the help you'd need. Who's going to travel or leave a current job for six weeks worth of work?"

Another Bush change would have allowed H-2A workers to move from farm to farm more easily once one crop is in.

But picking apart elements of the program won't solve the larger issues, sources said.

"The real problem is our immigration policy is broken," DeMarree said. "Agriculture has been asking for a workable guest worker program for well over 20 years."

Gregg said Farm Bureau will ask U.S. Rep. Eric Massa and Sen. Kirsten Gillibrand, both of whom sit on their respective house's agriculture committees, to block the postponement.

"Our ultimate goal would be for Congress to pass a new immigration policy that addresses the needs of agriculture," Gregg said.