



New York Farm Bureau • 159 Wolf Road, Suite 300 • Albany, New York 12205 • (518) 436-8495 • www.nyfb.org

February 28, 2022

U.S. Department of State
Harry S. Truman Federal Building
2201 C Street Northwest,
Washington, D.C. 20037

Re: DOS-2021-0019-0002; Schedule of Fees for Consular Services: Nonimmigrant and Special Visa Fees

To Whom It May Concern,

New York Farm Bureau (NYFB), the State's largest general agricultural advocacy organization, appreciates the opportunity to comment on the Department of State's proposed increases to the Schedule of Fees For Consular Services as it relates to Nonimmigrant and Special Visa Fees. NYFB represents the great diversity of New York agriculture from row crops, specialty crops, vintners, orchards, livestock, dairy and both conventional production and organic production and a wide range of operation sizes. These producers have increasingly utilized the H-2A agricultural guest visa program in response to the shortage of available workers in the agricultural sector; they will be directly affected by how the Department calculates the adverse effect wage rate (AEWR). New York's leading commodities include milk, apples, grapes, fresh vegetables, equine, and horticulture. New York's strong and diverse agricultural industry is very dependent on a reliable work force that the H-2A visa program can provide.

Across New York State, farmers continue to experience challenges in securing their workforce. Many farmers have turned to the H-2A guest worker program to help meet these labor demands, as evidenced through the continued growth in the H-2A program. Based on 2021 Fiscal Year data, New York was in the top ten states for the number of H-2A certified positions, with a total of 9,192 positions¹. Each year, farmers continually file more applications to fill needed positions on their farms. Although more farmers are using the H-2A program, this is not an indication that the program is workable or user-friendly, but instead that domestically sourced labor is becoming scarcer.

However, our members' ability to use the H-2A program and continue production of labor-intensive crops in New York is in jeopardy as the costs to use the program increase, while cash receipts for labor-intensive commodities decline. NYFB writes to offer our viewpoint on the State Department's proposal to increase fees for nonimmigrant visas including H-2A visas. The proposed changes seek to increase nonimmigrant visa fees from \$190 to \$310 per worker, a 63-

¹ https://www.dol.gov/sites/dolgov/files/ETA/oflc/pdfs/H-2A_Selected_Statistics_FY2021.pdf

percent increase. The proposed rule states that “the cost to bring over an agricultural worker is estimated to be \$10,177, or \$10,367 with the current visa fee of \$190. This information came from the U.S. Department of Agriculture. The proposed new fee raises the total cost from \$10,367 (\$10,177 + \$190) to \$10,487 (\$10,177 + \$310). This increases the total cost of bringing a worker over by just over one percent.” Considering the already extensive costs to bring a guestworker to the United States, NYFB strongly urges the Department to refrain from pursuing this fee change.

Over 75 NYFB members took the time to submit comments to the Department of State outlining their concerns over the increased fees and what it could mean for their farms. While the Department may see a \$120 increase in the visa fee as a nominal amount, it has real financial implications for New York farmers as those costs quickly add up with each additional visa application. For a farm with 10 workers, it would mean an additional \$1,200 in visa fees. Even for a farm that may only employ one H-2A worker, that extra fee money can be better utilized elsewhere on the farm operation.

The following is just a small sample of the examples submitted by New York farmers outlining what the fee increase would mean for their farms.

“Our farm consists of over 400 acres and we employ 11 year round workers as well as 38 H-2A seasonal workers. Our costs keep rising. From labor, chemicals, fuel, seed, supplies etc. The proposed huge increase of \$120 per Visa is mind blowing. That increase would be an additional \$4,560 to the cost of hiring H-2A workers for our farm. We farmers do our very best to provide healthy, quality produce for our customers. The agriculture industry also is up against weather conditions, which can destroy farms. We urge you to reconsider this increase. We are proud to be Americans and proud to provide consumers USA grown produce.”

“This huge, proposed rate increase in the H-2A visa fees will add another \$6,000 cost to labor for this small farm-extra money we do not have!”

“The increase would cause almost \$5,000.00 in additional fees. It would equal almost 700-800 bushels of apples which also equals 1 full acre, out of 175 acres on our farm.”

These examples show the real world implications that fee increases would have on farm businesses in New York.

Additionally, costs of production have continued to rise, further compounding the economic impact of this proposed fee increase. In the last year, each application for H-2A workers had on average 19 positions. Under this proposal, this farmer would experience over \$2,000 in increased costs. The State Department should take into consideration a farmer’s ability to absorb these costs given that USDA’s forecasted 2021 cash receipts for fruits and nuts are 19% lower than 2017, and USDA’s forecasted 2021 cash receipts for vegetables and melons are 16% lower than 2017. These decreased profits, coupled with significant increases in agricultural inputs and the Adverse Effect Wage Rate, mean a supposed 1% increase in the cost to bring an H-2A worker to the United States will erode already thin profit margins on farms.

The proposed rule does not outline why these increases are justified or how the State Department will use the additional funds to improve its services. Although we have seen growth in the use of the H-2A program in 2021, consular services have been minimized with COVID-19 precautions in place that do not require interviews for most returning H-2 workers. NYFB recommends that the State Department refrain from implementing these proposed changes in the Final Rule and asks that the current fee and form structure remain in place. NYFB urges the State Department to focus its efforts on streamlining the H-2A program to lower agency costs without imposing unjustified fee increases on farmers.

Thank you for your consideration of these comments.

Sincerely,

A handwritten signature in black ink, appearing to read 'David Fisher', with a stylized flourish at the end.

David Fisher
President, New York Farm Bureau