Congress of the United States
Washington, DC 20510

July 30, 2026

The Honorable Keith Sonderling
Acting Secretary of Labor
U.S. Department of Labor
200 Constitution Avenue NW
Washington, D.C. 20210

The Honorable Marco Rubio
Secretary of State
U.S. Department of State
2201 C. Street NW
Washington, D.C. 20520

The Honorable Markwayne Mullin
Secretary of Homeland Security
U.S. Department of Homeland Security
Washington, D.C. 20528

Dear Acting Secretary Sonderling, Secretary Rubio, and Secretary Mullin:

We write to raise serious concerns regarding the H-2A agricultural guest worker program and to urge the Department of Labor, Department of State, and Department of Homeland Security to take administrative action to address growing processing delays, regulatory imbalances, and structural barriers that are threatening the program's effectiveness for agricultural producers across the United States. Ensuring our nation's farmers and small businesses have dependable access to a stable workforce is crucial to the economic wellbeing of our Nation.

We have received many reports from our constituents regarding significant challenges and delays in H-2A workforce visa processing at multiple stages — including the Department of Labor's Office of Foreign Labor Certification, U.S. Citizenship and Immigration Services, and U.S. consulates abroad. Visa processing instability and delays harm our country's agriculture sector and broader economy, and we encourage the Departments to act swiftly to resolve current challenges and prevent further interruptions to ensure an adequate workforce is in place for the agricultural season. Beyond processing timelines, we also write to raise several regulatory and process concerns that we believe warrant the Department's attention and, where appropriate, administrative action to better align current H-2A regulations with the statute's text and the practical realities of modern agricultural labor needs.

Current H-2A visa regulations are focused on allowing seasonal agricultural employment, but do not sufficiently or appropriately allow for ranching (livestock) and dairy industry workers to perform the year-round labor these industries require. The practical consequence is that operations requiring continuous, year-round labor — daily milking and animal husbandry on dairy farms, year-round herd health management and calving on cattle operations, and uninterrupted daily care on poultry and swine facilities — cannot access the same workforce program available to seasonal row crop producers, even though all of these activities constitute agricultural labor under 8 U.S.C. § 1101(a)(15)(H)(ii)(a). Read together, the statute's broad definition of agricultural labor — which encompasses livestock production — and its temporary or seasonal limitation have been interpreted by the Department of Labor in a manner that creates a structural barrier for industries whose labor needs are continuous rather than cyclical; as a result, year-round positions such as full-time dairy herdsmen, permanent ranch hands responsible for daily feeding and herd health, and continuous-duty swine and poultry caretakers are effectively excluded from the program regardless of whether the underlying work qualifies as agricultural labor under the statute's own definition. We urge the Departments to consider whether the temporary or seasonal requirement is more appropriately understood as describing the nature of the worker's authorized stay in the United States, rather than a limitation on the type of agricultural industry eligible to participate in the program.[1]

In turn, 26 U.S.C. § 3121(g) and 29 U.S.C. § 203(f) define "agricultural labor" and "agriculture," respectively, to explicitly include livestock-related work and broader farming practices.[2] We strongly encourage the Department to revise the regulations to clearly and properly incorporate the use of temporary labor that is not seasonal in nature as contemplated by the Immigration and Nationality Act through its citation of other statutory definitions of "agricultural labor" and "agriculture."

In addition, current H-2A visa regulations prioritize worker protections for housing, transportation, and wage guarantees without reciprocal employer safeguards.[3] This leaves employers vulnerable, subject to substantial upfront costs with no guarantees that workers will complete contracts. Employers are then unable to recover transportation and housing costs. We also urge the Department to address these vulnerabilities by implementing regulations which would require workers to complete a guaranteed portion of their contract and allow payroll deductions for housing and transportation costs if a worker fails to finish their contract. These regulations would create balanced accountability without reducing worker protections.

Further, current H-2A processing timelines do not provide employers with sufficient lead time to secure workers before critical planting and harvest deadlines – a concern of particular urgency for specialty crop producers, whose perishable commodities leave little margin for delayed labor arrival. We are receiving complaints of processing delays at multiple stages, including the U.S. Department of Labor, U.S. Citizenship and Immigration Services, and U.S. consulates. Because the H-2A process is sequential — the Department of Labor must complete its review before USCIS can adjudicate a petition, and USCIS must complete its adjudication before consular posts can schedule interviews and the Department of Homeland Security can screen arriving workers — lengthening any single agency's timeline in isolation does not shorten the overall process. To help address these issues, we recommend extending H-2A filing eligibility to 120 days prior to workers' start date, expanding on the current 60-75 day filing window under 20 C.F.R. § 655.121(b). However, this change can only reduce overall delays if the Department of State and the Department of Homeland Security make corresponding adjustments to begin and complete their respective stages earlier as well; absent synchronized timelines across all three agencies, an extended filing window will simply shift the point at which delays occur rather than

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[1] 8 U.S.C. § 1101(a)(15)(H)(ii)(a) "…having a residence in a foreign country which he has no intention of abandoning who is coming temporarily to the United States to perform agricultural labor or services, as defined by the Secretary of Labor in regulations and including agricultural labor defined in section 3121(g) of title 26, agriculture as defined in section 203(f) of title 29, and the pressing of apples for cider on a farm, of a temporary or seasonal nature…"

[2] 26 U.S.C. § 3121(g): "…including the raising, shearing, feeding, caring for, training, and management of livestock, bees, poultry, and fur-bearing animals and wildlife."
29 U.S.C. § 203(f): "…farming in all its branches and among other things includes… the raising of livestock, bees, fur-bearing animals, or poultry, and any practices… performed by a farmer or on a farm as an incident to or in conjunction with such farming operations, including preparation for market, delivery to storage or to market or to carriers for transportation to market."
[3] 20 C.F.R. §§ 655.122(d), 655.122(h), and 655.122(l).

eliminate them, and could result in workers arriving even later in the season. The H-2A program has rapidly expanded since the conception of these filing timelines, yet these regulations have not been updated to reflect this demand and have ultimately caused significant delays in processing resulting in workers arriving after the contract start date. We expect the Departments to coordinate on addressing this compounding issue.

We further encourage the Department of State to consider establishing an expedited processing track for employers and workers with a demonstrated record of reliability — including timely arrival, compliance with approved job orders, and consistent return in subsequent seasons. We understand the Department has cited job order changes, worker no-shows, and similar unpredictability as obstacles to accelerating consular processing more broadly. A trusted-filer or recurring-worker fast lane would allow the Department to direct its limited interview and screening capacity toward higher-risk or first-time cases, while ensuring that reliable, repeat employer-worker pairings are not delayed behind less predictable applications. This kind of targeted efficiency, paired with administrative action at the Department of Labor, would meaningfully shorten the program's true end-to-end timeline rather than shifting the same bottlenecks later in the process.

We respectfully request that the Department of Labor provide clear guidance regarding the methodology it will apply when determining wage rates applicable to workers performing harvest operations in light of the current Adverse Effect Wage Rate (AEWR) methodology DOL issued in the October 10, 2025, interim final rule (IFR) to amend its regulations governing the certification of agricultural labor or services to be performed by temporary foreign workers in H-2A nonimmigrant status (H-2A workers). As presently implemented, the AEWR rule does not explicitly address or incorporate the outcome of *Teche Vermilion Sugar Cane Growers Association v. Su (subsequently Chavez DeRemer)*, for instance for those workers who perform duties such as short-haul truck drives that facilitate harvest from the field to the first point of delivery or sale. This has created uncertainty for employers seeking to remain compliant while ensuring fair compensation. Absent such guidance, agricultural employers face heightened compliance risk and administrative ambiguity during critical harvest periods. We therefore urge the agency to issue timely, practical guidance that aligns regulatory requirements with the court's findings and reflects the operational realities of agricultural production.

A more recent issue that has come to our attention from constituents pertains to English Language Proficiency (ELP) criteria and testing occurring at U.S. consulates for those workers who would be, or have formerly been, H-2A workers operating commercial motor vehicles in the United States. We respectfully request that the Department of State provide detailed information regarding any guidance issued to U.S. consulates concerning the assessment of ELP for visa applicants. In particular, clarification is needed on whether consulates have been directed to apply consistent standards when evaluating language ability, including the potential use of standardized testing or other uniform criteria across posts. We are also interested in understanding how any such requirements are being communicated to employers who rely on these visa programs, as inconsistent or undisclosed expectations may create uncertainty in recruitment and workforce planning. Greater transparency and consistency in this area would help ensure fair adjudication processes and allow employers to better prepare applicants for consular review.

Lastly, H-2A employers face regulatory restrictions under 20 C.F.R. § 655.175(a) that provide limited opportunities to make changes to Applications for Temporary Employment Certification following approval.[4] These restrictions prevent employers' ability to amend or add new worksites to certified job orders. They cause producers to decline new business or risk noncompliance, negatively affecting agriculture and small businesses across the Nation. The Department must take action to alleviate these constraints and prevent further economic harm.

The H-2A program is indispensable to agriculture across the United States, from specialty crop operations to livestock and dairy producers. However, H-2A regulations have failed to adapt to the continually growing demand for these visas. Processing delays, regulatory imbalances, and broader immigration challenges threaten this program's effectiveness throughout the country – all at a time when our nation's agricultural producers are facing significant economic hardship. We cannot stress enough how important it is for the relevant federal agencies to consider changes to the H-2A program to better support our nation's agricultural industry – the men and women who feed and clothe us.

Sincerely,

Cindy Hyde-Smith
United States Senator

Dan Newhouse
Member of Congress

Mike Crapo
United States Senator

Glenn "GT" Thompson
Member of Congress

John Cornyn
United States Senator

Austin Scott
Member of Congress

[4] 20 C.F.R. § 655.175(a).

Bill Cassidy, M.D.
United States Senator

Clay Higgins
Member of Congress

Thom Tillis
United States Senator

Jefferson Van Drew
Member of Congress

Roger F. Wicker
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