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By ESEC at 12:30 pm, Aug 26, 2020

Congress of the United States
Washington, DC 20515

August 26, 2020

The Honorable Chad F. Wolf
Acting Secretary
U.S. Department of Homeland Security
3801 Nebraska Avenue, NW
Washington, DC 20528

Dear Acting Secretary Wolf:

Thank you for the extraordinary efforts the Department of Homeland Security has undertaken this year to address labor disruptions impacting agricultural employers and threats to the domestic food supply as a result of COVID-19. Many measures have been implemented to address pandemic-related issues concerning the hiring, travel and employment of seasonal, nonimmigrant agricultural employees who supplement the domestic workforce.

We wish to highlight and seek your ongoing assistance in addressing problems that have arisen because of the temporary rule issued on April 20, 2020, entitled "Temporary Changes to Requirements Affecting H-2A Nonimmigrants Due to the COVID-19 National Emergency," which was extended on August 19, 2020. This temporary provision has and will continue to provide significant relief to agricultural employers. However, we request the Department consider additional evidence and accommodation to the three-year maximum stay requirements given circumstances outside employers' control due ongoing pandemic restrictions.

Despite aggressive, ongoing efforts to recruit employees from the domestic workforce, the sheep industry in Idaho and other western states continues to rely on H-2A nonimmigrant workers, primarily from Peru, to help run their operations. As the COVID-19 pandemic swept the globe this spring, Peru was among the countries to implement severe travel restrictions, which ultimately resulted in fewer eligible workers being able to travel to the United States and report for duty.

The initial April 2020 temporary rule allowed H-2A visa workers to stay past their three-year maximum and helped alleviate the shortage of workers that resulted

from pandemic travel restrictions. As the pandemic persists and international travel restrictions remain, agricultural employers would benefit from continued accommodations to the three-year maximum stay requirements, especially those in the sheep industry.

International travel to and from Peru is prohibited through September and it is not yet known when travel to and from the country can be expected to normalize. During this timeframe, eligible H-2A workers in the United States will reach their three-year maximums, but may not be able to travel home to Peru.

Consequently, new workers currently in Peru may not be able to travel to the U.S. Additionally, temporarily limiting international travel may also be beneficial for public health reasons, with less potential for exposure abroad and a reduced need for COVID screening upon reentry into the United States. Unfortunately, the temporary rule extension issued on August 19, 2020, does not alleviate the unworkable scenario many western sheep operators currently find themselves.

Agricultural employers in Idaho and across the country have been severely harmed by the COVID-19 pandemic. Having a reliable and secure legal workforce through the H-2A nonimmigrant visa program would be one less concern for farmers and ranchers as they continue to run their businesses and feed the world. Please consider an extension to maximum length of stay requirements or other accommodations to assist these employers as they continue to navigate the uncertainties caused by COVID-19 and international travel restrictions.

Sincerely,



Mike Crapo
United States Senator



James E. Risch
United States Senator



Michael K. Simpson
Member, House of Representatives

CC:

The Honorable Sonny Perdue
Secretary of Agriculture
U.S. Department of Agriculture
1400 Independence Avenue, SW
Washington, D.C. 20250



U.S. Citizenship
and Immigration
Services

September 29, 2020

The Honorable Mike Crapo
United States Senate
Washington, DC 20510

Dear Senator Crapo:

Thank you for your August 26, 2020 letter. Acting Secretary Wolf asked that I respond on his behalf.

In your letter you note that employers in the sheep industry in Idaho and other western states rely on H-2A workers to help run their operations. You further note that most of the H-2A workers employed by the sheep industry are from Peru that some of those workers will soon reach the three-year limitation on their stay, and that many of them who reach the limitation may be unable to return home since international travel to and from Peru is prohibited through September. You asked the Department of Homeland Security (DHS or the Department) to consider extending the exception to the 3-year limitation of stay or other accommodations to assist employers in the sheep industry alleviate the shortage of workers.

The Department carefully considered whether it should extend the flexibilities for H-2A workers to remain in the United States beyond the three-year limitation, without first requiring them to remain outside of the United States for an uninterrupted period of three months. As explained in the August 20, 2020 temporary final rule, the Department determined it must strike a balance between providing stability to the U.S. food supply chain, addressing the urgent needs of U.S. agricultural producers, and ensuring that those aliens admitted into the United States as temporary H-2A workers remain in the United States on only a temporary basis, as required by law.

We recognize that some nonimmigrants may unexpectedly be compelled to remain in the United States beyond their authorized period of stay and other disruptions. These aliens may be eligible to apply for a change of status to certain other categories before their authorized period of admission expires. We also note that H-2A workers have a 30-day period following the expiration of their H-2A petition to prepare for departure from the United States. DHS will continue to monitor the situation and will determine whether continued flexibilities may be needed.

The Honorable Mike Crapo
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Thank you again for your letter. The cosigners of your letter will receive a separate, identical response. Should you require any additional assistance, please have your staff contact the USCIS Office of Legislative Affairs at (202) 272-1940.

Respectfully,

A handwritten signature in blue ink, consisting of a stylized 'J' followed by a long horizontal stroke that curves upwards at the end.

Joseph Edlow
Deputy Director for Policy