

March 14, 2017

U.S. House of Representatives/ U.S. Senate
Washington, D.C. 20515

To Members of the Georgia Congressional Delegation,

Our country and state have faced tremendous problems created by a broken immigration system. We appreciate the current administration's focus on these problems and as new directives are discussed there are specific issues you should be aware of as to how regulations and legislation may affect Georgia agriculture, our State's largest industry. We know there is no 'one size fits all' fix for these problems. We believe the administration and Congress should take a two-prong approach to correct problems with the current H-2A program (for agricultural guest workers) and address the issue of falsely documented ag workers. According to a U.S. Department of Labor (USDOL) study, over 50% of domestic ag workers self-identify as falsely documented, while other studies place that number as high as 70%.

There has been some concern expressed by the Administration, members of Congress and others that having foreign workers (both legal and illegal) has hurt U.S. citizens by reducing wage rates and increasing unemployment. While this may be true in some industries, it is not true in agriculture. In most cases, the American worker wants full-time, year-round employment. Many agricultural jobs are seasonal based on crop production and harvest cycles. In addition most U.S. citizens are unwilling to engage in the rigorous, hard and demanding work required on the farm. In Georgia we saw this happen in 2011 when our migrant harvest crews bypassed Georgia due to a new state law (H.B. 87) requiring use of e-verify, resulting in farmers losing over 75 million dollars of unharvested crops. Those Georgia residents that were willing to try to harvest our crops that year could not withstand the physical demands of bending, stooping, and lifting required for fruit and vegetable harvesting.

U.S. agriculture needs approximately 1.5 million workers annually. However, due to the burdensome and bureaucratic regulations of the H-2A program only 10%-12% of the total ag workforce is provided under that program. Obviously this low participation and usage highlights the greater issue that the H-2A program is too expensive, too rigid, too bureaucratic and too litigious for low margin agricultural operations.

We believe many of the issues with H-2A can be corrected with regulatory adjustments. President Trump has called on federal agencies to review their regulations and eliminate those that are not necessary. Outlined below are eight areas that would make the H-2A program more efficient and effective for Georgia growers. Despite the difficulty of using the program, the number of H-2A visas requested each year has grown by double digits over the last 3 to 4 years. If adopted, the regulatory changes outlined below will increase program efficiency and

effectiveness, the H-2A program would continue to grow and expand, decreasing agriculture's dependency on falsely documented workers.

Regulatory Reforms:

1. Streamline the application processes and improve operating efficiencies.

- Employer places Job Order with US DOL and copy to State Workforce Agency (SWA) 60 to 45 days before Date of Need(DON).
- USDOL only evaluates and approves the application, no SWA approval required.
- USDOL Certification of job order 30 days before DON, can be earlier.
- Requires USDOL to meet regulatory timelines, certification by default.
- Requires USDOL to notify USCIS who notifies State, no further duplicate review needed.
- To reduce burden on consulates, establish 'TSA style pre-check'- with multiyear (10 yrs.) bio-metric card allowing in-compliance returning workers to enter without annual interview.
- Allow multiple crossings per H-2A contract. To reduce administering agency time and staff resources, allow employers to file a master contract when all the job duties are the same. This would allow for workers to cross at different times of the season as the crops and harvest times progress.
- All communications with employer, and internally between USDOL, SWA and United State Customs and Immigration Service (USCIS), sent via electronic means unless employer specifies fax or US Mail.

2. Refine domestic recruitment requirement

- SWA begins recruitment when job order(JO) is filed
- Post job order on SWA or USDOL electronic job registry
- Abolish expensive and ineffective newspaper and 'labor supply state' recruitment
- Recruitment obligation ends on date H-2A workers depart for employer's place of work
- Employer required to hire any qualified US worker who applies until 30 days after the DON, rather than 50% of work contract time.
- Any qualified local applicant must be hired but not deducted from number of requested workers.

3. Improve housing availability

- Allow housing allowance, or vouchers for workers to find housing in area
- Allow employers to charge a minimum fee per day or take a credit against wages for employer provided housing to cover basic building maintenance needs.
- Allow H-2A workers to be able to occupy 514 housing for farm workers built with federal grants/loans.

4. Program eligibility and participation expansion

- In accordance with the Immigration and Nationality Act (INA), permit employment for less than a year (11 months, 28 days), rather than just the 10 months USDOL allows now.

- Broaden definition of eligibility to include year round agricultural operations such as dairy (similar rationale as sheepherders that are covered), sugar cane milling, reforestation, nursery and on-farm value added operations such as Christmas wreaths and fresh cut operations.
- Allow the definition of 'temporary or seasonal' to apply to the worker rather than the job.
- There is no cap on the number of H-2A visa's issued.

5. Make the Wage Rate more transparent and predictable.

- Fair, transparent and predictable wage rate is needed. With a national minimum wage, having H-2A calculated as a component of minimum wage will allow full disclosure to employers and workers. Established federal minimum wage plus an additional percentage as the required H-2A wage. increase. We recommend the H2A wage be 115% of the federal minimum wage. As the U.S. minimum wage increases the H2A wage would be increased.

6. Provide for and encourage mediation and arbitration agreements

- Allow growers to include Mediation and Arbitration provisions to streamline conflict and grievance settlement through alternative dispute resolution systems.
- Allow growers to require participation as a pre-condition of employment
- Objective is to solve problems quickly and efficiently without litigation.

7. Transportation Adjustments

- Replace preamble language in 2010 H-2A rules and permit travel costs to be shared equally between employer and worker.
- Travel reimbursement due to worker at 50% point of contract
- Travel reimbursement due from the Consulate to the worksite.

8. Move H-2A Program to USDA

- Move the administration of the H2A program from USDOL to the U.S> Department of Agriculture (USDA). This agency better understands the challenges of production agriculture and mission is to assist farmers. Over the past 5 to 8 years, several immigration reform bills have included this change in the proposed legislation.

If U.S. agriculture has 1.5 million workers and 50% are falsely documented, then 750,000 agricultural workers in the U.S. are working without proper documentation. Even with an improved, more efficient H2A program, all of these workers cannot be replaced quickly. Most of these workers did not come here to become citizens. They came to work and send money to their families in their home country. While many ag industries are paying wages of \$10 to \$12/hour, the average ag worker in Mexico is making \$10-\$12 per day. This is work the U.S. worker does not want to do. However, foreign workers are pleased to do it because the pay is so much better than anything they could make in their home country. The late Senator Paul Coverdell once said, "Food production in the U.S is a national security issue. We must maintain our food production capabilities." We can import our workers or we can import our food!

In addition to the regulatory reforms that must be implemented in the near term, we believe legislative reform is needed to fix larger immigration issues. Outlined below are principles for a new agricultural guest worker program that addresses the issues of falsely documented workers without deporting millions of individuals.

Legislative Action Needed:

1. Establish a 'safe harbor' period during which falsely documented workers, currently employed in farming, ranching, nurseries or forestry can come forward, acknowledge illegal status, pay a fine, and register for a new agricultural guest worker program. The purpose of this program would be to allow the individual to 'legally' work and live in this country without a pathway to U.S. citizenship, and without returning to their home country to seek renewed status. As a part of the registration the requirements could include:
 - Mandatory attestation of employment by farmer sponsor
 - Mandatory forfeiture of any rights to federal assistance (EBT,SSI, etc.)
 - Mandatory bio-secure identification/work permit with annual renewal fee and individual's good behavior. Arrest and conviction of felony results in immediate revocation of work permit and deportation.
 - Future employer and employee contributions to SSI are waived. Withholding is dedicated to mandatory private market family coverage health insurance program.
 - Program would allow for a worker to travel within the U.S. to conduct farming, ranching or forestry labor.

2. After safe harbor period, employers are then required to enroll in E-verify. Any employer who knowingly hires an illegal worker after the safe harbor period shall be guilty of high level misdemeanor. Repeat violations shall result in a felony offense.

3. Provisions of the new Guest Worker program could include:
 - Administration by USDA.
 - Registered employer files annual contract for guest workers needed and post on Ag website or registry.
 - Guest Worker visa holders would be eligible to travel within the U.S., provided the visa holder has a contract with a registered employer or multiple registered employers. Once the initial contract is completed with the sponsoring employer, the guest worker shall have the right to work for any registered ag employer with an active work order.
 - Visa has a time limit but can be renewed multiple times if the visa holder has had good behavior.
 - Registered employers are required to pay state minimum wage, or 115% of federal minimum wages, whichever is higher.

4. There is no cap on the number of guest workers that can be accepted into the program during the 'safe harbor' period.

5. The program does not require mandatory housing or transportation for the employer.

The organizations below call on you to work with other members of Congress and the Administration to assure the H-2A regulatory reforms and new immigration control legislation move forward.

Thank you for your consideration.

Sincerely,

Georgia Blueberry Growers Association

Georgia Cattlemen's Association

Georgia Farm Bureau

Georgia Fruit and Vegetable Growers Association

Georgia Milk Producers

Georgia Peach Council

Georgia Watermelon Association

Vidalia Onion Business Council

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