

Congress of the United States
Washington, DC 20515

RECEIVED
By ESEC at 9:25 am, Apr 24, 2023

April 21, 2023

The Honorable Julie Su
Acting Secretary
U.S. Department of Labor
200 Constitution Avenue NW
Washington, DC 20210

The Honorable Alejandro Mayorkas
Secretary
U.S. Department of Homeland Security
245 Murray Lane, SW
Washington, DC 20210

Dear Acting Secretary Su and Secretary Mayorkas:

We write this letter with great concern over the delay in processing H-2B visas by the Department of Labor (DOL). We ask that the Department of Homeland Security (DHS) issue a 30-day grace period in order to allow H-2B visa holders to remain in the country until DOL can certify their employers' applications and the employers can obtain their receipts from the United States Citizenship and Immigration Services (USCIS).

Owners of commercial landscaping businesses, construction companies, resorts and others applied for H-2B workers with DOL on January 1-3 for an April 1, 2023 date of need. Even though April 1 has passed, DOL has yet to take a first action on many of their applications. As of April 15, DOL had certified approximately two-thirds of the over 15,000 workers requested in Group E. Zero workers from Groups F and G have been certified. Applicants must obtain a labor certification to move on to the next step in the process.

These vital businesses transfer workers from employers who have FY23 first half dates of need. But the slow DOL processing is jeopardizing their ability to transfer these workers, many of whom have visas that will expire before our constituents' petitions are processed by USCIS. These workers will then be considered out of status and will have to return to their home countries. This will cause businesses in our districts to be without workers during their peak busy season, which will lead to irreparable harm to these businesses and the local economy.

Due to this unique circumstance, we request that DHS issue a 30-day grace period, as is allowed for H-2A workers, for H-2B workers to remain in the country after their visas expire to give DOL time to certify H-2B applications and to give our constituents time to obtain their receipts from USCIS. We ask for a written response regarding this matter no later than April 28, 2023.

Sincerely,



Chuck Edwards
Member of Congress



Deborah K. Ross
Member of Congress



U.S. Citizenship
and Immigration
Services

June 9, 2023

The Honorable Chuck Edwards
U.S. House of Representatives
Washington, DC 20515

Dear Representative Edwards:

Thank you for your April 21, 2023 letter to the Department of Homeland Security (DHS) regarding the importance of the H-2B program to employers in your district and to North Carolina's economy. I am responding on behalf of the Department.

DHS welcomes your valuable suggestions regarding program improvements, including a 30-day grace period akin to the H-2A grace period. Because the 10-day H-2B grace period was established by regulation, DHS would have to issue a regulation in compliance with the Administrative Procedure Act in order to change the length of time allowed.

As stated in the Fall 2022 [Unified Agenda of Regulatory and Deregulatory Actions](#), DHS plans to issue a notice of proposed rulemaking on "[Modernization and Reform of the H-2 Programs](#)."¹ DHS intends to propose policies that produce program efficiencies and address current aspects of the program that may unintentionally result in exploitation or other abuse of persons seeking H-2A and H-2B visas. DHS also intends to propose policies that build upon existing protections against prohibited payments or other assessment of fees and/or salary deductions by H-2A and H-2B workers in connection with recruitment and/or employment, and otherwise add protections for workers. DHS will carefully consider all comments and suggestions and is committed to continuing its efforts to modernize and reform the H-2A and H-2B programs.

Thank you again for your letter and interest in this important issue. The cosigner of your letter, will receive a separate, identical response. Should you require additional assistance, please have your staff contact the USCIS Office of Legislative Affairs at (240) 721-3801.

Respectfully,

A handwritten signature in black ink that reads "Ur M. Jaddou" followed by a long horizontal flourish.

Ur M. Jaddou
Director

¹ Modernization and Reform of the H-2 Programs available at:
<https://www.reginfo.gov/public/do/eAgendaViewRule?pubId=202210&RIN=1615-AC76>