



New York Farm Bureau • 159 Wolf Road P.O. Box 5330 • Albany, New York 12205 • (518) 436-8495 Fax: (518) 431-5656 • www.nyfb.org

March 27, 2019

The Honorable Kirstjen Nielson
Secretary of Homeland Security
U.S. Department of Homeland Security
3801 Nebraska Ave, NW
Washington, DC 20528

The Honorable Alexander Acosta
Secretary of Labor
U.S. Department of Labor
200 Constitution Ave, NW
Washington, DC 20210

RE: H-2B Visa for Temporary Non-Agricultural Workers Cap

Dear Secretary Nielsen and Secretary Acosta,

New York Farm Bureau (NYFB), the State's largest general agricultural advocacy organization, would like to express its concern regarding the H-2B Visa for Temporary Non-Agricultural Workers cap which has been reached and requests that the U.S. Department of Homeland Security and U.S. Department of Labor work expediently to increase the H-2B visa cap. NYFB represents the great diversity of New York agriculture from row crops, specialty crops, vintners, orchards, livestock, including equine operations. These producers have increasingly utilized the H-2B program to fill seasonal, non-agricultural jobs such as assisting in seasonal roadside markets, working in fruit and vegetable processing plants, and working as trainers and care takers for New York's vibrant horse racing industry.

Through statute, the H-2B visa program has an annual cap of 66,000, which is divided into two separate caps for each part of the fiscal year (33,000 visas each). According to the U.S. Citizenship and Immigration Services' Cap Count for H-2B Nonimmigrants website, on December 6, 2018, the cap for the first half of fiscal year 2019 was reached and on February 19, 2019, the cap on the second half of fiscal year 2019 was reached. Because the cap was reached so quickly, many New York employers who have utilized the program in the past, were unable to fill their requests for needed employees under the H-2B program.

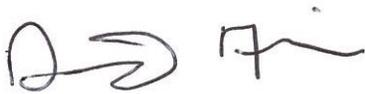
Earlier this year, Congress passed the Fiscal Year 2019 budget agreement, which included language that allows the DHS and DOL to increase the total number of foreign workers who may receive H-2B visas during the fiscal year. Specifically, the provisions provide that the limitation may be increased by no more than the highest number of H-2B nonimmigrants who participated in the H-2B returning worker program in any fiscal year in which returning workers were exempt from such numerical limitation. Under these provisions, your agencies are able to increase the number of H-2B visas to 135,320, the number available in FY 2007 when the Returning Worker Exemption was in force.

The H-2B visa program fills a gap that American workers are unable to supply by bringing in employees from eligible countries approved by the U.S. Citizenship and Immigration Services. Because these jobs are seasonal in nature, these positions aren't as attractive to domestic workers who are often looking for full-time, year round work. With the current unemployment rate of 3.8 percent, it has become even harder for seasonal employers to find domestic workers. The H-2B visa program also allows employers to re-employ workers from year to year and possess valuable skills and knowledge. In the case of the equine and horse racing industry, these employees feed, groom, and exercise horses, which requires a high level of professionalism and expertise than the average individual looking for a job.

For New York's fruit and vegetable farmers and vintners, they may only process products like apples, string beans, grapes, peaches, and various other crops at seasonal times of the year. This means they may only need seasonal help for several weeks or months, which is not desired by many domestic workers. The H-2B visa help fills the void needed to address these seasonal positions. The same is also true for many farmers in New York who have roadside markets that sell their own products as well as locally grown products through New York's vibrant agritourism industry. Employees accepted through the H-2B program help these small businesses remain a profitable part of New York's local economy.

NYFB requests that your agencies working quickly to increase the H-2B visa cap as many in the New York agriculture industry are about to start their seasons and critically need to fill these seasonal positions.

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

Cc: New York State Congressional Delegation