

# United States Senate

WASHINGTON, DC 20510

November 1, 2023

The Honorable Alejandro Mayorkas  
Secretary of Homeland Security  
Washington, D.C. 20528

**RECEIVED**

**By ESEC at 3:37 pm, Nov 01, 2023**

Charles L. Nimick  
Chief  
Business and Foreign Workers Division  
Office of Policy and Strategy  
U.S. Citizenship and Immigration Services  
Department of Homeland Security  
5900 Capital Gateway Drive  
Camp Springs, MD 20746

Dear Secretary Mayorkas and Mr. Nimick:

We are writing on behalf of farmers, ranchers, and other agricultural stakeholders in our states to request an extension of the comment period of your recently published proposed rulemaking Modernizing H-2 Program Requirements, Oversight, and Worker Protections, 88 FR 65040 (September 20, 2023). The comment period is currently scheduled to close on November 20, 2023. Sixty days is an insufficient amount of time for all producers, who would be most affected, to develop thorough and meaningful feedback on this proposed rule. Additionally, four other regulatory actions of interest to these stakeholders have comment periods ending during the comment period of this regulation.<sup>1</sup>

The United States takes pride in producing the world's safest, most abundant, and most affordable food supply. Our nation's ability to do so is entirely contingent on the strength of our agricultural workforce. The H-2A program provides a critical labor pool without which many producers in our states would struggle or be entirely unable to operate.

Any proposed regulatory changes to the H-2A program have potential ramifications for the entire American agricultural supply chain and food security. Therefore, it is of the utmost importance that our constituents be provided adequate time to thoroughly analyze this proposed rule and its effects on their operations. Moreover, this comment period is occurring while many producers in our states will be occupied with fall harvest and unable to dedicate time to developing meaningful comments.

---

<sup>1</sup> Worker Walkaround Representative Designation Process, 88 FR 59825 (August 30, 2023) (Comment period closes on October 30, 2023); comment period on heat injury and illness prevention in outdoor and indoor work settings on OSHA's Small Business Advocacy Review ("SBAR") Panel materials (Comment period closes on December 23, 2023); Improving Protections for Workers in Temporary Agricultural Employment in the United States, 88 FR 63750 (September 15, 2023) (Comment period closes on November 14, 2023); Defining and Delimiting the Exemptions for Executive, Administrative, Professional, Outside Sales, and Computer Employees, 88 FR 62152 (September 8, 2023) (Comment period closes on November 7, 2023).

We respectfully request an additional 60 days for our constituents to develop and submit comments on this proposed regulation, given the timing of this comment period and those of the other four regulations. Thank you for your consideration.

Sincerely,



CINDY HYDE-SMITH  
United States Senator



SUSAN M. COLLINS  
United States Senator



MIKE CRAPO  
United States Senator



JOHN THUNE  
United States Senator



ROGER F. WICKER  
United States Senator



JEANNE SHAHEEN  
United States Senator



JAMES E. RISCH  
United States Senator



JOHN BOOZMAN  
United States Senator



JOHN HOEVEN  
United States Senator



TIM SCOTT  
United States Senator



ANGUS S. KING, JR.  
United States Senator



TED CRUZ  
United States Senator

DEB FISCHER  
United States Senator

JAMES LANKFORD  
United States Senator

THOM TILLIS  
United States Senator

JOHN KENNEDY  
United States Senator

MIKE BRAUN  
United States Senator

CYNTHIA M. LUMMIS  
United States Senator

TOMMY TUBERVILLE  
United States Senator

KATIE BOYD BRITT  
United States Senator

BILL CASSIDY, M.D.  
United States Senator

M. MICHAEL ROUNDS  
United States Senator

JONI K. ERNST  
United States Senator

KEVIN CRAMER  
United States Senator

RICK SCOTT  
United States Senator

ROGER MARSHALL, M.D.  
United States Senator

TED BUDD  
United States Senator

PETE RICKETTS  
United States Senator



**U.S. Citizenship  
and Immigration  
Services**

December 20, 2023

The Honorable Cindy Hyde-Smith  
United States Senate  
Washington, DC 20510

Dear Senator Hyde-Smith:

Thank you for your November 1, 2023 letter to the Department of Homeland Security (DHS) requesting an additional 60-day public comment period for the Notice of Proposed Rulemaking (NPRM) entitled “Modernizing H-2 Program Requirements, Oversight, and Worker Protections” published in the Federal Register on September 20, 2023. I am responding on behalf of the Department.

We take seriously our requirements under the Administrative Procedure Act to provide an opportunity for members of the public to participate in the rulemaking process. We believe the 60-day comment period for the 2023 H-2 NPRM provided sufficient time and a reasonable opportunity for the public to comment. Additionally, United States Citizenship and Immigration Services (USCIS) has engaged stakeholder groups over the past several years and has incorporated comments and suggestions from these engagements into the 2023 H-2 NPRM.

We respectfully note that a 60-day comment period is generally considered sufficient for the public to provide input in response to proposed rulemaking actions. DHS has provided 60 days for public comment for other comprehensive rulemakings in the past, and that duration has routinely been sufficient as evidenced by the volume of public comments received. Therefore, we did not extend the comment period beyond 60 days, i.e., past November 20, 2023.

DHS will address the specific issues raised in the public comments requesting an extension of the comment period in any final rule that may result from the 2023 NPRM. Please see DHS’s November 3, 2023, letter posted on [regulations.gov](https://www.regulations.gov).<sup>1</sup>

---

<sup>1</sup> See <https://www.regulations.gov/document/USCIS-2023-0012-0035>.

The Honorable Cindy Hyde-Smith  
Page 2

Thank you again for your letter and interest in this important issue. 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 (240) 721-3801.

Respectfully,

A handwritten signature in black ink, appearing to read "Ur M. Jaddou", followed by a long horizontal line extending to the right.

Ur M. Jaddou  
Director