

United States Senate

WASHINGTON, DC 20510

March 4, 2021

The Honorable Alejandro Mayorkas
Secretary
U.S. Department of Homeland Security
Washington, DC 20528

Dear Secretary Mayorkas:

We are writing on behalf of Virginia and Maryland seafood processors who depend on H-2B temporary, seasonal workers to operate their businesses. In the rural and remote coastal regions in our states, even in a time of high unemployment, seafood processors have struggled to find domestic workers. Seafood processors are designated as part of the “essential, critical infrastructure” during the pandemic and yet many have been unable to operate at full capacity due to lack of workers. Disruptions to the food supply chain will harm American consumers, the seafood industry, and the U.S. economy. Withholding H-2B visas for seasonal seafood processors will only exacerbate this matter.

The Fiscal Year 2021 Consolidated Appropriations Act provides the Department of Homeland Security (DHS) with the authority to lift the existing statutory cap of 66,000 annual H-2B visas. We urge DHS to promptly make available the maximum number of additional Congressionally-authorized H-2B visas while balancing safety to meet the labor needs of seafood processors in our states.

On February 24, 2021, U.S. Citizenship and Immigration Services (USCIS) announced that it had received enough petitions to meet the H-2B cap for the second half of FY 2021. February 12, 2021 was the final receipt date for new cap-subject H-2B worker petitions requesting an employment start date before October 1, 2021.

Unfortunately, many small, family-owned businesses in our states were unable to obtain H-2B visas before the cap was met last week. Without these additional visas, our states’ treasured seafood industries, which are crucial to the economies of the Northern Neck and Eastern Shore, will be forced to scale back operations, default on contracts, lay off full-time American workers or, in some cases, close operations completely.

Despite good faith efforts to find local seasonal workers, our seafood industries rely on H-2B workers for tough jobs such as shucking oysters and processing crabs. Seafood processors have used the seasonal H-2B visa program to supplement their U.S. workforce for decades and have not grown significantly in the numerical requests for visas over time. The April 1 seasonal start date is just weeks away and the seafood processors in our will not be able to operate without their seasonal workforce.

Additionally, we have also received reports that USCIS has decided to use 'receipt by' instead of 'mailed by' dates to reject otherwise timely applications. A number of our constituents mailed their applications before the deadline but due to inclement weather on the East Coast their applications were delivered after the cap was met. For example, USCIS Forms I-129, Petition for Nonimmigrant Workers overnigheted on February 11, 2021 were not delivered until several days later due to winter storms. Among the employers affected are several seafood companies on Maryland's Eastern Shore and the Northern Neck of Virginia. Employers elsewhere in the country using the same shipping methods had their applications receipted before the cap simply due to their geographic location. We ask that you reconsider these decisions and allow these applications to proceed.

We thank you in advance for your prompt attention to this matter; the viability of many seasonal businesses in our states depend on the H-2B program.

Sincerely,



Mark R. Warner
United States Senator



Chris Van Hollen
United States Senator



Tim Kaine
United States Senator



Benjamin L. Cardin
United States Senator