



National Milk Producers Federation

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April 9, 2020

The Honorable Eugene Scalia
Secretary
U.S. Department of Labor
200 Constitution Avenue, NW
Washington, DC 20210

The Honorable Sonny Perdue
Secretary
U.S. Department of Agriculture
1400 Independence Avenue, SW
Washington, DC 20250

Dear Secretary Scalia and Secretary Perdue:

I am writing to you on behalf of the members of the National Milk Producers Federation (NMPF) regarding a long-argued issue, exacerbated now as the country deals with the impact of COVID-19. NMPF is the largest organization of U.S. dairy farmers, and we advocate on behalf of our nation's dairy cooperatives and the farmers who own them.

We applaud the Administration for its focus on agriculture as critical industry infrastructure. Preserving a vibrant dairy producer community in America is indeed essential for the health of rural and urban communities across the country and critical for continued access to wholesome, fresh, nutritious food. The availability of workers to help with the daily milking of our cows is crucial – it must be done. The COVID-19 pandemic has created an extraordinary challenge to maintaining a consistent workforce to perform this essential work.

Secretary Scalia, we therefore respectfully urge you to act as this crisis is unfolding by directing the Department's Office of Foreign Labor Certification to accept and approve H-2A applications from dairy farmers offering temporary employment up to 364 days in a 12-month period. We believe approving H-2A applications for dairy farmers on the same basis that your Department currently does for range sheep and goat herders requires no statutory or regulatory change. Please provide this modest relief to America's dairy farms so that we can continue to produce safe and healthy food for the American people.

Based on our analysis of the relevant law, we believe the Department's regulatory definition of "temporary or seasonal nature" establishes a finite time period for temporary work as being employment that lasts "no longer than one year" 20 C.F.R. § 655.103(d). The Department of Labor applies this definition of "temporary or seasonal nature" to other agriculture sectors, such as range sheep or

Agri-Mark, Inc.
Associated Milk Producers Inc.
Bongards' Creameries
California Dairies, Inc.
Cayuga Marketing
Cooperative Milk Producers Association
Dairy Farmers of America, Inc.
Ellsworth Cooperative Creamery
FarmFirst Dairy Cooperative
First District Association
Foremost Farms USA
Land O'Lakes, Inc.
Lone Star Milk Producers
Maryland & Virginia Milk Producers Cooperative Association
Michigan Milk Producers Association
Mid-West Dairy Farmers' Company
Mount Joy Farmers Cooperative Association
Northwest Dairy Association
Oneida-Madison Milk Producers Cooperative Association
Prairie Farms Dairy, Inc.
Premier Milk Inc.
Scioto Cooperative Milk Producers' Association
Select Milk Producers, Inc.
Southeast Milk, Inc.
Tillamook County Creamery Association
United Dairymen of Arizona
Upstate Niagara Cooperative, Inc.

goat herding, and routinely approves labor certifications for those employers offering employment for 364 days.

Accordingly, we believe employers in the dairy sector with a need for workers for no more than 364 days in a year clearly satisfies both the Department of Labor's and Department of Homeland Security's definition of "temporary" just the same as a sheep herder. Range sheep or goat herding is no more or less temporary than is dairying, and there is absolutely no statutory basis to treat dairy farmers differently from sheep herders.

As you know, the dairy sector, like the rest of American agriculture, is facing a labor crisis that has been ongoing for decades. The COVID-19 reality we are all trying to navigate has only exacerbated these challenges. The Department of Homeland Security has deemed food production as one of the critical infrastructure sectors of our economy, and we are continuing to work and produce food for the American people during this health crisis. Our ongoing labor shortages make this difficult in ordinary times, but now, as more and more Americans have to remain home to care for children who are out of school or care for other loved ones, there are even fewer workers available to work on our nation's farms. Our members – and all dairy employers – need increased access to the H-2A program to meet our workforce needs.

We hope that dairy farms can be a source of employment to American workers who are losing their jobs during the COVID-19 pandemic and aftermath, and we will continue our efforts to hire domestic employees before turning to the H-2A program. In fact, the H-2A program requires we prove we have exhausted any and all options for hiring U.S. workers before hiring an H-2A employee. However, the dairy industry was in the throes of a labor crisis before the coronavirus pandemic even hit, and as a critical industry vital to the health and stability of America during this challenging time, we must have access to a stable and reliable source of labor.

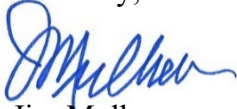
In these trying times, the U.S. government must do everything possible to protect our food supply and ensure that our nation's farms have access to a sufficient workforce. Without a farm workforce, we will be unable to produce the food our nation desperately needs, and we will lose more farms. Once this critical infrastructure is lost, it is extraordinarily difficult to get back. This would harm our country during and after this pandemic has ended.

Thank you for your careful consideration of this urgent request. It is our belief that you have the power to act in a decisive way to provide critical help to

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the dairy industry. We urge you with all sincerity to take action now and allow dairy farmers to participate in the H-2A program. Thank you for your careful consideration of this urgent request; our organization stands ready to answer any questions or needs you have.

Sincerely,



Jim Mulhern
President & CEO