

H-2A

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face serious hurdles in getting visas," Duvall said.

Paperwork delays have created a backlog of 30 days or more in processing H-2A guestworker visa applications at the U.S. Department of Labor and U.S. Citizenship and Immigration Services, he said.

DOL and USCIS both are sending documents to farmers by regular mail instead of email which is "unacceptable in 2016," he said.

Duvall, state agriculture directors in Georgia and Michigan and farmers in Georgia, Michigan and California recently jointly expressed their alarm to media.

DOL too often fails to comply with rules requiring it to respond to farmers' requests 30 days before crews are needed, Duvall said.

Farmers are missing harvest windows and losing revenue and Congress needs to reform immigration laws to give farmers a legal and stable workforce, he said.

Washington state was the fourth-largest recipient of H-2A workers in 2015, receiving 11,844, according to DOL. Most of them worked in tree fruit. Of that number, the farm labor association WAFLA, in Olympia, provided 7,895 to growers by contracts. Zirkle Fruit Co., Selah, hired 2,889 directly from Mexico.

Since early February, WAFLA has been running one to six weeks late in getting workers to growers because of governmental delays.

"We feel terrible about it. We're working as hard as we can to solve it, but it's not easy," said Dan Fazio, WAFLA executive director and CEO.

Initially, DOL was a problem, then it was state agency



Dan Wheat/Capital Press

H-2A-visa foreign guestworkers from Mexico head to their crew bus for a 9 a.m. break at Zirkle Fruit Co.'s CRO Orchard south of Rock Island, Wash., April 26. About 120 H-2A and 200 domestic workers are employed at the orchard right now.

housing inspections and now it's USCIS, Fazio said.

"DOL has been responsive just short-handed. USCIS has not been responsive. We're seeking a meeting with them," he said. "We are working with six governmental entities, none of whom are responsible for the outcome."

Mark Zirkle, president of Zirkle Fruit Co., said his company is two weeks late getting H-2A workers and that the holdup seems to be the Department of Homeland Security. USCIS is in that department.

Gebbers Farms, in Brewster, hires about 1,600 H-2A annually through WAFLA and hasn't had any delays, said Jon Wyss, company government affairs director.

WAFLA has brought up 2,500 workers from Mexico since Jan. 1 and plans to bring 5,000 in May, its heaviest

month, Fazio said.

"Growers need workers because there's dramatic shortage of domestic workers. We have a solid plan in place for contingencies if emergencies happen," he said.

WAFLA expects to account for 10,000 H-2A workers this year out of 15,000 total for the state, Fazio said.

In the last two years there have been H-2A visa delays at the U.S.-Mexican borders not only for WAFLA but H-2A users in North Carolina and other states.

Last season, 433 workers lost a combined 2,593 days of work due to visa printing problems at the border that began in May and peaked in June, according to WAFLA's 2015 annual report.

The Obama administration has been "very hostile" to the H-2A program, Craig Regel-

brugge, senior vice president of AmericanHort in Washington, D.C., said at the Washington Growers League annual meeting in Yakima, Jan. 26.

Dale Moore, American Farm Bureau Federation public policy director, said it seems odd DOL and USCIS request hard copy documents and operate by regular mail when most government programs require things electronically.

It's very frustrating USCIS doesn't have an online system, Fazio said.

"They have to have original signatures on things. We FedEx to them and they snail mail back to us," he said.

Much of the problem was caused by DOL shortening the time period for H-2B applications this year which resulted in it receiving three-fourths of them on Jan. 2, said Kerry

Scott, program manager of masLabor, Lovingson, Va., the leading supplier of H-2A and H-2B-visa foreign guestworkers in the nation.

"There was no way to keep up and they didn't want to. They wanted to make it as difficult as possible, knew it would cause chaos and it did," Scott said, adding he thinks the situation may be resolved now.

Lee Wicker, deputy director of North Carolina Growers Association, said there have been slight delays but that 4,500 H-2A workers arriving in the state since February mostly did so on time.

Delays across multiple agencies confirm the need for improvements so farmers can have confidence they can get workers on time, Wicker said.

AFBF received a few complaints and then took a survey and discovered H-2A-visa ap-

plication delays in 20 states, Moore said.

Farmers are requesting 13 percent more H-2A workers this year and the concern is delays could become a major problem in the next month, he said.

It's already resulted in Litzenburger Landscape in Harbor Springs, Mich., shutting down after 31 years in business. Owner Gow Litzenburger announced March 14 he was closing because he couldn't get non-agricultural H-2B-visa workers he needed on time.

The company did landscape work at resort homes in Northern Michigan in April and May. It normally hired 65 workers, about half of them H-2B.

"Our little town has just over 1,000 people and in summer explodes to 15,000. It's impossible to find enough workers," said a lead employee who asked to remain anonymous.

"The Grand Hotel on Mackinac Island usually takes about 300 H-2B and it's having trouble too," she said.

Three California strawberry farms and a labor contractor sued federal agencies March 21 for failing to process H-2A applications on time. That resulted in applications being expedited, the U.S. Justice Department said.

Nationwide, growers requested 145,874 H-2A workers and DOL approved 139,832 in 2015, according to DOL. Generally, about 10 percent of farm jobs are estimated to be filled by H-2A workers.

The top state was Florida at 17,942, followed by North Carolina at 17,696, Georgia at 14,393, Washington at 11,844 and California at 8,591. Louisiana, Kentucky, New York, Arizona and South Carolina rounded out the top 10.

Grazing

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willows off the range or prevent the bull trout from recovering."

There's no proof that "exceedances" of stream temperature standards were caused by grazing, as high temperatures occur even in areas where grazing isn't permitted, Horngren said.

Impacts from grazing don't rise to the level of causing unlawful harm to the bull trout's critical habitat, he said. "Just because you cut a tree or graze a blade of grass does not mean there's an adverse effect."

More than 90 percent of the sites evaluated by federal regulators were in "proper functioning condition or showing an upward trend," the ranchers say.

Before bull trout can re-occupy the allotments, the streams would have to be cleared of non-native fish and culverts that act as barriers for the species, the government argues.

Federal regulators examined every pasture in each of the allotments and found grazing to have insignificant effects, said Sean Martin, an attorney for the government.

While the environmentalists may disagree that grazing doesn't adversely affect the fish, that doesn't justify overturning the federal agencies' conclusion, the government claims.

The environmental groups incorrectly argue that any federally sanctioned activity occurring in the bull trout's critical habitat must improve the species' chances of recovery, Martin said.

"That's absolutely unworkable," he said.

Grazing is generally a neutral activity that's been ongoing in the forest since the 1860s and its effects are now regularly monitored by regulators, Martin said. "The Forest Service is doing what it said it would do."

Deer, elk and beaver also eat streamside vegetation, such as willows, but such "browse" hasn't been found to materially increase stream temperatures, he said. "To blame it

on grazing goes too far."

It's true that temperatures in some streams are

too high, which is bad for bull trout, but "what's speculative is which of the

contributing causes is the culprit," he said.

Natural conditions in the region can cause "exceedances" of water temperature standards, he said.

For more than a decade,

the Forest Service has partnered with Oregon's Department of Environmental Quality to restore eroded streambanks, replace culverts and otherwise enhance water quality to en-

sure compliance with the Clean Water Act, Martin said.

"This is really for Oregon DEQ to administer, not for a group with an agenda," he said.



Mateusz Perkowski/Capital Press

Ranchers, environmentalists and federal agencies recently engaged in oral arguments at the James A. Redden U.S. Courthouse in Medford, Ore., as part of a lawsuit over grazing's effects on bull trout habitat in Oregon's Fremont-Winema National Forest.

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