

**Congress of the United States**  
**Washington, DC 20515**

Tuesday, July 12, 2011

The Honorable Hilda Solis  
Secretary of Labor  
United States Department of Labor  
200 Constitution Ave., NW  
Washington, DC 20210

Dear Madam Secretary,

As members of New York's Congressional Delegation, representing both family farms and consumers of locally produced foods, we write to request your assistance in ensuring that H2A applications from the State of New York are processed in an efficient and timely fashion.

As the demographics in New York State have changed, the population of the rural areas in our state has been shrinking and our growers are increasingly turning to the H2A program as the only reliable mechanism for workers to plant and harvest agricultural crops in New York. However, delays and misunderstandings over the past several years resulting from the Jamaican Central Labor Organization (JCLO) dispute, and a more recent miscommunication between the certification of our state's prevailing practices survey, have created extremely costly delays and unnecessary stress for farmers and their anticipated employees. This troubling administrative setback comes in the middle of a growing season already made difficult by weather delays.

Delays in processing H2A applications (or orders) have extreme consequences to our farm families, due to the financial losses and the negative impacts on the quality of the crop being harvested. For example, the delays caused by last year's slow down over the JCLO situation caused growers in New York State to incur significant losses, particularly in the apple crop. Late arriving workers forced growers to leave a considerable amount of fruit on the trees. Fruit that was picked past its maturity led to higher than normal cold storage quality losses, resulting in less apple availability and more waste in the crop.

This year, it is our understanding that New York's State Workforce Agency (SWA) had some difficulties in clearing H2A orders due to growers requesting experienced workers. In New York, it is a normal practice for growers to request one month of experience, particularly when harvesting a perishable crop for a wholesale and retail food system that is increasingly concerned with quality and food safety.

It is concerning to learn that New York's prevailing practices survey, while approved by the United States Department of Labor, is still not certified. The lack of certification and coordination between agencies has caused delays in the processing of H2A orders. An ongoing dispute between the New York State Department of Labor and the U.S. Department of Labor regarding the prevailing practices survey has resulted in the issuance of deficiency notices to some growers in the state. We understand that this notice has just been corrected, and we appreciate the clarification and communication between the state and federal Departments of Labor to fix this situation.

However, delays of this type, even when eventually corrected, can have serious consequences for our farmers and their crops. Within the next two weeks, the remainder of New York's H2A orders will be coming through the United States Department of Labor for approval.

Within all relevant rules and regulations, we respectfully urge your office to continue to coordinate with the New York State Department of Labor to allow grower H2A orders to be processed in an expeditious fashion. The success of New York's harvest season hinges on your Department's actions to process and approve H2A orders from New York, and we encourage your continued attention to identify, anticipate, and correct these kind of problems quickly and efficiently so growers experience minimal impact during the coming harvest season.

Sincerely,



Chris Gibson



Tom Reed



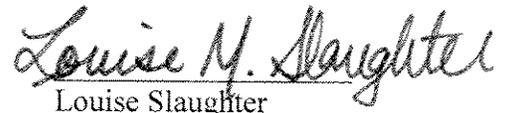
Kirsten Gillibrand



Charles Schumer



Ann Marie Buerkle



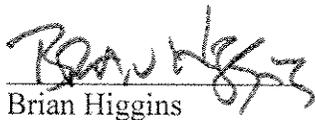
Louise Slaughter



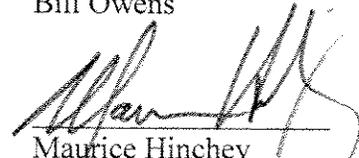
Richard Hanna



Bill Owens



Brian Higgins



Maurice Hinchey



Kathleen Hochul



Paul Tonko