

June 7<sup>th</sup>, 2021

Mr. Brian Pasternak, Administrator  
Office of Foreign Labor Certification  
Employment and Training Administration  
United States Department of Labor  
200 Constitution Avenue, NW, Room N-5311  
Washington, D.C. 20210

**RE: Regulatory Information Number 1205-AB99 – Adjudication of Temporary and Seasonal Need for Herding and Production of Livestock on the Range Applications under the H-2A Program**

Dear Administrator Pasternak,

The American Sheep Industry Association (ASI), the National Cattlemen's Beef Association (NCBA) and the Public Lands Council (PLC) appreciate the opportunity to comment on the proposed rule on the Adjudication of Temporary and Seasonal Need for Herding and Production of Livestock on the Range Applications under the H-2A Program (RIN 1205-AB99). Since 1865, ASI has been the national trade organization representing the interests of more than 100,000 sheep producers located throughout the country who produce America's lamb and wool. NCBA is the nation's largest and oldest trade association representing America's cattle producers, with over 250,000 producers represented directly and through its 46 state affiliate associations. The Public Lands Council represents 22,000 federal grazing permit holders across the western United States.

For well over fifty years, the livestock industry has relied on a legal guest workforce. In fact, the American Sheep Industry pioneered the first guest herder program, in what would only later become the current H-2A guest worker program. While the program has undergone a number of changes in that time, our industries' need for seasonal guest herders has not changed.

While ASI, NCBA and PLC understand the implication of the Court's holding in the Hispanic Affairs Project litigation, and the department's need for this rulemaking in light of the settlement reached in that matter, we believe the department has the latitude to ensure this program continues to work to serve the needs of the livestock industry and the interests of the American public.

Both the cost of and access to skilled and qualified labor remain one of the largest impediments to the growth of the United States' livestock inventory, our member's ability to produce high-quality meat and fiber, and our ability to compete globally. Since the litigation, our members have seen their costs in securing sufficient labor increase significantly. This is not only a financial burden that renders our producer members less competitive, but it has also added a tremendous recordkeeping and administrative burden that is being borne by our producers and those agencies that help them secure needed guest herders.

We believe that the proposed rule's "economic impact" section fails to assess the actual cost of this rule to livestock producers. As such, we urge the department to reevaluate that section in the final rule to consider the comments submitted by our members and affiliated organizations, specifically Mountain Plains Agriculture Service and Western Range Association.

Moreover, the department should consider in both future guidance and the "economic impact" of the current rule that the Range Management Plans (RMPs) on all federal lands and many on state and tribal lease lands require at least one herder. Grazing on federal lands is critical to our industries' infrastructure. Federal and state lands grazing not only provides food and fiber to a hungry nation, but also enhances range health that supports vibrant wildlife populations and reduces the risk of catastrophic wildfire. The skillset to perform this work is not available domestically, and without a viable guest herder program our members cannot fulfill that role, forcing them to reduce livestock numbers as access to alternative grazing lands remains tight.

The American Sheep Industry Association, the National Cattlemen's Beef Association and the Public Lands Council appreciate the opportunity to comment on this proposed rule and urge the department to expand on the "economic impact" section in the final rule and explore future guidance and regulatory alternatives available to ensure this program continues to work for the industries that rely on guest herders.

Sincerely,

American Sheep Industry Association  
National Cattlemen's Beef Association  
Public Lands Council