

United States Senate

WASHINGTON, DC 20510-0908

November 8, 2023

The Honorable Alejandro Mayorkas
Secretary
U.S. Department of Homeland Security
3801 Nebraska Avenue NW
Washington, D.C. 20016

RECEIVED

By ESEC at 4:01 pm, Nov 08, 2023

Dear Secretary Mayorkas:

We write to request a sixty-day extension of the comment period for the proposed rulemaking, Modernizing H-2 Program Requirements, Oversight, and Worker Protections, 88 FR 65040 (September 20, 2023). Relevant stakeholders who may be affected by this proposed rulemaking are simultaneously reviewing related rulemakings and require additional time to fully consider them.

Farmers, ranchers, and other stakeholders expect this proposed rulemaking regarding temporary agricultural and nonagricultural nonimmigrant workers, and their employers, to have notable implications on their businesses. Those who intend to employ guest workers may be ineligible if they fail to adhere to the proposed rulemaking, and may face other penalties. Stakeholders deserve adequate time to review and comment on proposed rulemakings that may be as impactful as the rule you have proposed. An extended comment period is necessary to ensure relevant stakeholders are not burdened by simultaneous rulemaking deadlines, and have the opportunity to provide feedback in the form of public comments that may aid you in fine tuning your proposal.

Thank you for your attention to this important matter.

Sincerely,



Marco Rubio
U.S. Senator



Rick Scott
U.S. Senator



**U.S. Citizenship
and Immigration
Services**

January 19, 2024

The Honorable Marco Rubio
United States Senate
Washington, DC 20510

Dear Senator Rubio:

Thank you for your November 8, 2023 letter to the Department of Homeland Security (DHS) requesting an additional 60-day public comment period for the Notice of Proposed Rulemaking (NPRM) entitled “Modernizing H-2 Program Requirements, Oversight, and Worker Protections” published in the Federal Register on September 20, 2023. I am responding on behalf of the Department.

We take seriously our requirements under the Administrative Procedure Act to provide an opportunity for members of the public to participate in the rulemaking process. We believe the 60-day comment period for the 2023 H-2 NPRM provided sufficient time and a reasonable opportunity for the public to comment. Additionally, United States Citizenship and Immigration Services (USCIS) has engaged stakeholder groups over the past several years and has incorporated comments and suggestions from these engagements into the 2023 H-2 NPRM.

We respectfully note that a 60-day comment period is generally considered sufficient for the public to provide input in response to proposed rulemaking actions. DHS has provided 60 days for public comment for other comprehensive rulemakings in the past, and that duration has routinely been sufficient as evidenced by the volume of public comments received. This is why we did not extend the comment period beyond 60 days, i.e. past November 20, 2023.

DHS will address the specific issues raised in the public comments requesting an extension of the comment period in any final rule that may result from the 2023 NPRM. Please see DHS’s November 3, 2023, letter posted on [regulations.gov](https://www.regulations.gov).

The Honorable Marco Rubio
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Thank you again for your letter and interest in this important issue. The cosigner of your letter will receive a separate, identical response. Should you require any additional assistance, please have your staff contact the USCIS Office of Legislative Affairs at (240) 721-3801.

Respectfully,

A handwritten signature in black ink, appearing to read "Ur M. Jaddou", followed by a long horizontal flourish.

Ur M. Jaddou
Director