



LOUISIANA DEPARTMENT OF AGRICULTURE & FORESTRY
MIKE STRAIN DVM
COMMISSIONER



Senate Committee on Small Business and Entrepreneurship to discuss the "Impact of Federal Labor and Safety Laws on the U.S. Seafood Industry"

May 6, 2015

Statement of Mike Strain, DVM
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A handwritten signature in blue ink, appearing to read "Mike Strain".

Good afternoon, Mr. Chairman. My name is Dr. Mike Strain and I am the Commissioner of the Louisiana Department of Agriculture and Forestry. I am testifying today on behalf the Louisiana Department of Agriculture and Forestry. State departments of agriculture are responsible for a wide range of programs including food safety, combating the introduction and spread of plant and animal diseases, and fostering the economic vitality of our rural communities. My Department also oversees all agricultural activities within the State, including the markets for products produced by our farmers. The activities of the crawfish industry also fall under my purview.

My statement is also consistent with the position of the National Association of State Departments of Agriculture (NASDA). NASDA represents the commissioners, secretaries, and directors of the state departments of agriculture in all fifty states and four territories in the development, implementation, and communication of sound public policy and programs which support and promote the American agricultural industry, while protecting consumers and the environment.

In order to feed our increased U.S. population, we must have a stable agricultural labor supply. The ability of seasonal businesses to keep their doors open and retain their full-time U.S. employees relies upon having successful peak seasons to offset the rest of the year when their business is slow. During their busy seasons, companies must supplement their permanent staff with temporary seasonal employees. Employers spend thousands of dollars and hundreds of hours in their efforts to fill these positions. Unfortunately, even in today's tough economic climate, there are not enough local workers available to fill all the temporary seasonal positions, and efforts to obtain U.S. workers to relocate for temporary and seasonal employment have not been successful. As a result, businesses often must utilize the H-2B guest worker program to find seasonal workers and workers for their peak workforce needs.

The H-2B program is vitally important for many industries including forestry, nursery, landscaping, outdoor amusement, restaurant and hospitality, tourism, livestock and horse training, sugar and many others. In Louisiana, the seafood industry, which includes crawfish, shrimp, crabs, oysters and catfish, is in a critical situation because seafood processors traditionally cannot fill their temporary or seasonal job

vacancies with U.S. workers. Many of these businesses are located in rural areas that simply do not have sufficient populations to supply their extra workforce needs. Additionally, many who are willing to work want full time, year round jobs. Indeed, many of the jobs in those locales that are year round and full time depend on the various food processors operations for their own jobs and business operations to be able to operate. In 2014, Louisiana hired 5,546 H-2B workers. For each H-2B worker it is estimated that 4.64 American jobs are created and sustained.

Over the last ten years, Louisiana has seen many natural challenges to the agricultural sector of our economy with Hurricanes Katrina and Rita, floods on the Mississippi River that required the release of water through the spillways into the Atchafalaya Basin, and a drought. The H-2B regulations, released on April 29, 2015, by the U.S. Department of Labor (DOL) and the U.S. Department of Homeland Security, could impact an already fragile industry's economic competitiveness.

The seasonal industries have had to weather several years of regulatory instability. The H-2B wage rule that the Department of Labor adopted on January 19, 2011 imposed a new untested wage determination methodology that would significantly increase costs for small and seasonal small businesses. After being blocked by Congress, in April 2013, the DOL issued an interim final rule that included the same methodology for setting wages, but recognized the importance of state wage surveys. Unfortunately, the new rule, released two weeks ago, is virtually identical to the rule that was blocked by Congress causing additional obstacles for employers in the program.

In December of 2014, the DOL announced that it would no longer allow Private Wage Rate (PWR) surveys that were developed by many state departments of agriculture, including the Louisiana Department of Agriculture and Forestry. My staff has spent countless hours gathering information to accurately depict the current wages that the industry is paying in our geographic locations. This action forced employers into accepting higher prevailing wages that are not representative of the wages that are being paid domestically.

To make matters worse, the H-2B worker caps have already been exceeded and many seafood processor applications have been delayed even with early submissions. Seafood processing already began in the early spring and with the worker caps reached, this will trickle down to other agriculture industries that utilize the program.

These actions will have a negative impact on the seafood industry and the related commerce sectors such as restaurants, etc. Two months ago, the LSU AgCenter conducted a rapid economic analysis of recent H-2B policy changes from the US DOL for the Louisiana seafood industry. The assessment was conducted in response to potential changes in the cost and availability of labor stemming from a mid-year cap on H-2B permits and the DOL announcement that it would no longer allow Private Wage Rate (PWR) surveys. Results indicate that for every one dollar of employee compensation created by the

seafood preparation and packaging industry in Louisiana, employee compensation increased by \$2.06 across all sectors of the Louisiana economy. This includes the original \$1 of employee compensation created by the seafood preparation and packaging industry plus an additional \$1.06 of induced multiplier effects across all sectors of the state economy. Total income generated by H-2B visa workers in Louisiana seafood industry is substantial and ranges from \$36 million to \$43 million in the State of Louisiana.

Based on the assumption of \$35 million in revenue, the loss of this revenue for any given number of firms would lead to total reduction in labor income across the Louisiana economy, eventually leading to companies closing. The economic impact of two processing facilities closing is \$5.3 million and with five firms shutting down, \$13.3 million. Louisiana has already faced a number of processing facilities closing due to hurricanes and oil spills, and the industry simply cannot sustain without a stable workforce. I am certain that not only is the seafood industry in Louisiana impacted, but the entire United States seafood industry will be affected by these latest actions of the DOL.

Our markets are subject to particularly fierce competition from abroad. For example, the Chinese have been extremely aggressive in trying to corner the U.S. crawfish market. This predatory behavior began in 1993 and has continued unabated. The Chinese presently control over 50% of the market and are poised to capture even more market shares if our producers are put at a further competitive price disadvantage, or are put out of business, as a result of the DOL H-2B rules.

Without temporary H-2B guest seasonal workers to process seafood, Louisiana's seafood processors would shut down, eliminating the primary market for our fishermen and farmers to sell their catch. As a result, cheaper foreign seafood would gain a stronger foothold in the U.S. market and our fishermen and farmers who produce and harvest crawfish, shrimp, crabs, oysters and catfish would be devastated and a key segment of the Louisiana economy would be crippled—lost to our economy. Once we lose the processors, we would not be able to depend on them coming back in future years. Therefore, losses because processors scale back or do not operate at all this season will have irreparable and bad repercussions now and in the future.

The short term consequence of an immediate expulsion of this vital segment of the workforce would cause a production crisis in a wide range of seafood processing, field and nursery crops, sugar processing, forestry, livestock and the restaurant industry, to name a few. This would leave the United States and our State of Louisiana no alternative but to import many food products from countries that have surplus farm labor. This is unacceptable and we must do everything in our power to grow and support America's jobs and economy.

We are asking for your help. We must streamline and expedite the H-B process. We need a working system without overly burdensome rules, unrealistic timetables, and outright roadblocks. Neglecting the labor needs of agriculture will raise the cost of production in a way that harms fisherman, farmers

and industries throughout America. Mr. Chairman and members of the committee, I appreciate your time and encourage you to work with us to find workable agriculture labor solutions that continue to support our fisherman, our farmers, our small businesses, our economy and provide valuable products to the nations consumers.