

115TH CONGRESS
1ST SESSION

H. R. 4092

To create a nonimmigrant H–2C work visa program for agricultural workers,
and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

OCTOBER 23, 2017

Mr. GOODLATTE (for himself, Mr. MARSHALL, Mr. ARRINGTON, Mr. CRAMER, Mr. THOMPSON of Pennsylvania, Mr. DUFFY, Mr. ROUZER, Mr. BISHOP of Utah, Mr. GIBBS, Mr. GALLAGHER, and Mr. BARR) introduced the following bill; which was referred to the Committee on the Judiciary, and in addition to the Committees on Education and the Workforce, and Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To create a nonimmigrant H–2C work visa program for
agricultural workers, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as—

5 (1) the “Agricultural Guestworker Act”; or

6 (2) the “AG Act”.

1 **SEC. 2. H-2C TEMPORARY AGRICULTURAL WORK VISA PRO-**
2 **GRAM.**

3 (a) IN GENERAL.—Section 101(a)(15)(H) of the Im-
4 migration and Nationality Act (8 U.S.C. 1101(a)(15)(H))
5 is amended by striking “; or (iii)” and inserting “, or (c)
6 having a residence in a foreign country which he has no
7 intention of abandoning who is coming temporarily to the
8 United States to perform agricultural labor or services; or
9 (iii)”.

10 (b) DEFINITION.—Section 101(a) of such Act (8
11 U.S.C. 1101(a)) is amended by adding at the end the fol-
12 lowing:

13 “(53) The term ‘agricultural labor or services’ has
14 the meaning given such term by the Secretary of Agri-
15 culture in regulations and includes—

16 “(A) agricultural labor as defined in section
17 3121(g) of the Internal Revenue Code of 1986;

18 “(B) agriculture as defined in section 3(f) of
19 the Fair Labor Standards Act of 1938 (29 U.S.C.
20 203(f));

21 “(C) the handling, planting, drying, packing,
22 packaging, processing, freezing, or grading prior to
23 delivery for storage of any agricultural or horti-
24 cultural commodity in its unmanufactured state;

25 “(D) all activities required for the preparation,
26 processing or manufacturing of a product of agri-

1 culture (as such term is defined in such section 3(f))
 2 for further distribution;
 3 “(E) forestry-related activities;
 4 “(F) aquaculture activities; and
 5 “(G) the primary processing of fish or shell-
 6 fish.”.

7 **SEC. 3. ADMISSION OF TEMPORARY H-2C WORKERS.**

8 (a) PROCEDURE FOR ADMISSION.—Chapter 2 of title
 9 II of the Immigration and Nationality Act (8 U.S.C. 1181
 10 et seq.) is amended by inserting after section 218 the fol-
 11 lowing:

12 **“SEC. 218A. ADMISSION OF TEMPORARY H-2C WORKERS.**

13 “(a) DEFINITIONS.—In this section and section
 14 218B:

15 “(1) DISPLACE.—The term ‘displace’ means to
 16 lay off a United States worker from the job for
 17 which H-2C workers are sought.

18 “(2) JOB.—The term ‘job’ refers to all posi-
 19 tions with an employer that—

20 “(A) involve essentially the same respon-
 21 sibilities;

22 “(B) are held by workers with substan-
 23 tially equivalent qualifications and experience;
 24 and

1 “(C) are located in the same place or
2 places of employment.

3 “(3) EMPLOYER.—The term ‘employer’ includes
4 a single or joint employer, including an association
5 acting as a joint employer with its members, who
6 hires workers to perform agricultural labor or serv-
7 ices.

8 “(4) FORESTRY-RELATED ACTIVITIES.—The
9 term ‘forestry-related activities’ includes tree plant-
10 ing, timber harvesting, logging operations, brush
11 clearing, vegetation management, herbicide applica-
12 tion, the maintenance of rights-of-way (including for
13 roads, trails, and utilities), regardless of whether
14 such right-of-way is on forest land, and the har-
15 vesting of pine straw.

16 “(5) H-2C WORKER.—The term ‘H-2C worker’
17 means a nonimmigrant described in section
18 101(a)(15)(H)(ii)(c).

19 “(6) LAY OFF.—

20 “(A) IN GENERAL.—The term ‘lay off’—

21 “(i) means to cause a worker’s loss of
22 employment, other than through a dis-
23 charge for inadequate performance, viola-
24 tion of workplace rules, cause, voluntary
25 departure, voluntary retirement, or the ex-

1 piration of a grant or contract (other than
2 a temporary employment contract entered
3 into in order to evade a condition described
4 in paragraph (4) of subsection (b)); and

5 “(ii) does not include any situation in
6 which the worker is offered, as an alter-
7 native to such loss of employment, a simi-
8 lar position with the same employer at
9 equivalent or higher wages and benefits
10 than the position from which the employee
11 was discharged, regardless of whether or
12 not the employee accepts the offer.

13 “(B) CONSTRUCTION.—Nothing in this
14 paragraph is intended to limit an employee’s
15 rights under a collective bargaining agreement
16 or other employment contract.

17 “(7) UNITED STATES WORKER.—The term
18 ‘United States worker’ means any worker who is—

19 “(A) a citizen or national of the United
20 States; or

21 “(B) an alien who is lawfully admitted for
22 permanent residence, is admitted as a refugee
23 under section 207, or is granted asylum under
24 section 208.

1 “(8) SPECIAL PROCEDURES INDUSTRY.—The
2 term ‘special procedures industry’ includes sheep-
3 herding, goat herding, and the range production of
4 livestock, itinerant commercial beekeeping and polli-
5 nation, itinerant animal shearing, and custom com-
6 bining and harvesting.

7 “(b) PETITION.—An employer that seeks to employ
8 aliens as H–2C workers under this section shall file with
9 the Secretary of Homeland Security a petition attesting
10 to the following:

11 “(1) OFFER OF EMPLOYMENT.—The employer
12 will offer employment to the aliens on a contractual
13 basis as H–2C workers under this section for a spe-
14 cific period of time during which the aliens may not
15 work on an at-will basis (as provided for in section
16 218B), and such contract shall only be required to
17 include a description of each place of employment,
18 period of employment, wages and other benefits to
19 be provided, and the duties of the positions.

20 “(2) TEMPORARY LABOR OR SERVICES.—

21 “(A) IN GENERAL.—The employer is seek-
22 ing to employ a specific number of H–2C work-
23 ers on a temporary basis and will provide com-
24 pensation to such workers at a wage rate no
25 less than that set forth in subsection (k)(2).

1 “(B) DEFINITION.—For purposes of this
2 paragraph, a worker is employed on a tem-
3 porary basis if the employer intends to employ
4 the worker for no longer than the time period
5 set forth in subsection (n)(1) (subject to the ex-
6 ceptions in subsection (n)(3)).

7 “(3) BENEFITS, WAGES, AND WORKING CONDI-
8 TIONS.—The employer will provide, at a minimum,
9 the benefits, wages, and working conditions required
10 by subsection (k) to all workers employed in the job
11 for which the H-2C workers are sought.

12 “(4) NONDISPLACEMENT OF UNITED STATES
13 WORKERS.—The employer did not displace and will
14 not displace United States workers employed by the
15 employer during the period of employment of the H-
16 2C workers and during the 30-day period imme-
17 diately preceding such period of employment in the
18 job for which the employer seeks approval to employ
19 H-2C workers.

20 “(5) RECRUITMENT.—

21 “(A) IN GENERAL.—The employer—

22 “(i) conducted adequate recruitment
23 before filing the petition; and

24 “(ii) was unsuccessful in locating suf-
25 ficient numbers of willing and qualified

1 United States workers for the job for
2 which the H-2C workers are sought.

3 “(B) OTHER REQUIREMENTS.—The re-
4 cruitment requirement under subparagraph (A)
5 is satisfied if the employer places a local job
6 order with the State workforce agency serving
7 each place of employment, except that nothing
8 in this subparagraph shall require the employer
9 to file an interstate job order under section 653
10 of title 20, Code of Federal Regulations. The
11 State workforce agency shall post the job order
12 on its official agency website for a minimum of
13 30 days and not later than 3 days after receipt
14 using the employment statistics system author-
15 ized under section 15 of the Wagner-Peyser Act
16 (29 U.S.C. 491–2). The Secretary of Labor
17 shall include links to the official Web sites of all
18 State workforce agencies on a single webpage of
19 the official Web site of the Department of
20 Labor.

21 “(C) END OF RECRUITMENT REQUIRE-
22 MENT.—The requirement to recruit United
23 States workers for a job shall terminate on the
24 first day that work begins for the H-2C work-
25 ers.

1 “(6) OFFERS TO UNITED STATES WORKERS.—

2 The employer has offered or will offer the job for
3 which the H-2C workers are sought to any eligible
4 United States workers who—

5 “(A) apply;

6 “(B) are qualified for the job; and

7 “(C) will be available at the time, at each
8 place, and for the duration, of need.

9 This requirement shall not apply to United States
10 workers who apply for the job on or after the first
11 day that work begins for the H-2C workers.

12 “(7) PROVISION OF INSURANCE.—If the job for
13 which the H-2C workers are sought is not covered
14 by State workers’ compensation law, the employer
15 will provide, at no cost to the workers unless State
16 law provides otherwise, insurance covering injury
17 and disease arising out of, and in the course of, the
18 workers’ employment, which will provide benefits at
19 least equal to those provided under the State work-
20 ers compensation law for comparable employment.

21 “(8) STRIKE OR LOCKOUT.—The job that is the
22 subject of the petition is not vacant because the
23 former workers in that job are on strike or locked
24 out in the course of a labor dispute.

1 “(c) PUBLIC EXAMINATION.—Not later than 1 work-
2 ing day after the date on which a petition under this sec-
3 tion is filed, the employer shall make the petition available
4 for public examination, at the employer’s principal place
5 of employment.

6 “(d) LIST.—

7 “(1) IN GENERAL.—The Secretary of Homeland
8 Security shall maintain a list of the petitions filed
9 under this subsection, which shall—

10 “(A) be sorted by employer; and

11 “(B) include the number of H–2C workers
12 sought, the wage rate, the period of employ-
13 ment, each place of employment, and the date
14 of need for each alien.

15 “(2) AVAILABILITY.—The Secretary of Home-
16 land Security shall make the list available for public
17 examination.

18 “(e) PETITIONING FOR ADMISSION.—

19 “(1) CONSIDERATION OF PETITIONS.—For peti-
20 tions filed and considered under this subsection—

21 “(A) the Secretary of Homeland Security
22 may not require such petition to be filed more
23 than 28 days before the first date the employer
24 requires the labor or services of H–2C workers;

1 “(B) unless the Secretary of Homeland Se-
2 curity determines that the petition is incomplete
3 or obviously inaccurate, the Secretary, not later
4 than 10 business days after the date on which
5 such petition was filed, shall either approve or
6 reject the petition and provide the petitioner
7 with notice of such action by means ensuring
8 same or next day delivery; and

9 “(C) if the Secretary determines that the
10 petition is incomplete or obviously inaccurate,
11 the Secretary shall—

12 “(i) within 5 business days of receipt
13 of the petition, notify the petitioner of the
14 deficiencies to be corrected by means en-
15 suring same or next day delivery; and

16 “(ii) within 5 business days of receipt
17 of the corrected petition, approve or deny
18 the petition and provide the petitioner with
19 notice of such action by means ensuring
20 same or next day delivery.

21 “(2) ACCESS.—By filing an H-2C petition, the
22 petitioner and each employer (if the petitioner is an
23 association that is a joint employer of workers who
24 perform agricultural labor or services) consent to
25 allow access to each place of employment to the De-

1 partment of Agriculture and the Department of
2 Homeland Security for the purpose of investigations
3 and audits to determine compliance with the immi-
4 gration laws (as defined in section 101(a)(17)).

5 “(f) ROLES OF AGRICULTURAL ASSOCIATIONS.—

6 “(1) TREATMENT OF ASSOCIATIONS ACTING AS
7 EMPLOYERS.—If an association is a joint employer
8 of workers who perform agricultural labor or serv-
9 ices, H-2C workers may be transferred among its
10 members to perform the agricultural labor or serv-
11 ices on a temporary basis for which the petition was
12 approved.

13 “(2) TREATMENT OF VIOLATIONS.—

14 “(A) INDIVIDUAL MEMBER.—If an indi-
15 vidual member of an association that is a joint
16 employer commits a violation described in para-
17 graph (2) or (3) of subsection (i) or subsection
18 (j)(1), the Secretary of Agriculture shall invoke
19 penalties pursuant to subsections (i) and (j)
20 against only that member of the association un-
21 less the Secretary of Agriculture determines
22 that the association participated in, had knowl-
23 edge of, or had reason to know of the violation.

24 “(B) ASSOCIATION OF AGRICULTURAL EM-
25 PLOYERS.—If an association that is a joint em-

1 employer commits a violation described in sub-
2 sections (i)(2) and (3) or (j)(1), the Secretary
3 of Agriculture shall invoke penalties pursuant
4 to subsections (i) and (j) against only the asso-
5 ciation and not any individual members of the
6 association, unless the Secretary determines
7 that the member participated in the violation.

8 “(g) EXPEDITED ADMINISTRATIVE APPEALS.—The
9 Secretary of Homeland Security shall promulgate regula-
10 tions to provide for an expedited procedure for the review
11 of a denial of a petition under this section by the Sec-
12 retary. At the petitioner’s request, the review shall include
13 a de novo administrative hearing at which new evidence
14 may be introduced.

15 “(h) FEES.—The Secretary of Homeland Security
16 shall require, as a condition of approving the petition, the
17 payment of a fee to recover the reasonable cost of proc-
18 essing the petition.

19 “(i) ENFORCEMENT.—

20 “(1) INVESTIGATIONS AND AUDITS.—The Sec-
21 retary of Agriculture shall be responsible for con-
22 ducting investigations and audits, including random
23 audits, of employers to ensure compliance with the
24 requirements of the H-2C program. All monetary
25 fines levied against employers shall be paid to the

1 Department of Agriculture and used to enhance the
2 Department of Agriculture’s investigative and audit-
3 ing abilities to ensure compliance by employers with
4 their obligations under this section.

5 “(2) VIOLATIONS.—If the Secretary of Agri-
6 culture finds, after notice and opportunity for a
7 hearing, a failure to fulfill an attestation required by
8 this subsection, or a material misrepresentation of a
9 material fact in a petition under this subsection, the
10 Secretary—

11 “(A) may impose such administrative rem-
12 edies (including civil money penalties in an
13 amount not to exceed \$1,000 per violation) as
14 the Secretary determines to be appropriate; and

15 “(B) may disqualify the employer from the
16 employment of H-2C workers for a period of 1
17 year.

18 “(3) WILLFUL VIOLATIONS.—If the Secretary
19 of Agriculture finds, after notice and opportunity for
20 a hearing, a willful failure to fulfill an attestation re-
21 quired by this subsection, or a willful misrepresenta-
22 tion of a material fact in a petition under this sub-
23 section, the Secretary—

24 “(A) may impose such administrative rem-
25 edies (including civil money penalties in an

1 amount not to exceed \$5,000 per violation, or
2 not to exceed \$15,000 per violation if in the
3 course of such failure or misrepresentation the
4 employer displaced one or more United States
5 workers employed by the employer during the
6 period of employment of H-2C workers or dur-
7 ing the 30-day period immediately preceding
8 such period of employment) in the job the H-
9 2C workers are performing as the Secretary de-
10 termines to be appropriate;

11 “(B) may disqualify the employer from the
12 employment of H-2C workers for a period of 2
13 years;

14 “(C) may, for a subsequent failure to fulfill
15 an attestation required by this subsection, or a
16 misrepresentation of a material fact in a peti-
17 tion under this subsection, disqualify the em-
18 ployer from the employment of H-2C workers
19 for a period of 5 years; and

20 “(D) may, for a subsequent willful failure
21 to fulfill an attestation required by this sub-
22 section, or a willful misrepresentation of a ma-
23 terial fact in a petition under this subsection,
24 permanently disqualify the employer from the
25 employment of H-2C workers.

1 “(j) FAILURE TO PAY WAGES OR REQUIRED BENE-
2 FITS.—

3 “(1) IN GENERAL.—If the Secretary of Agri-
4 culture finds, after notice and opportunity for a
5 hearing, that the employer has failed to provide the
6 benefits, wages, and working conditions that the em-
7 ployer has attested that it would provide under this
8 subsection, the Secretary shall require payment of
9 back wages, or such other required benefits, due any
10 United States workers or H-2C workers employed
11 by the employer.

12 “(2) AMOUNT.—The back wages or other re-
13 quired benefits described in paragraph (1)—

14 “(A) shall be equal to the difference be-
15 tween the amount that should have been paid
16 and the amount that was paid to such workers;
17 and

18 “(B) shall be distributed to the workers to
19 whom such wages or benefits are due.

20 “(k) MINIMUM WAGES, BENEFITS, AND WORKING
21 CONDITIONS.—

22 “(1) PREFERENTIAL TREATMENT OF H-2C
23 WORKERS PROHIBITED.—

24 “(A) IN GENERAL.—Each employer seek-
25 ing to hire United States workers for the job

1 the H-2C workers will perform shall offer such
2 United States workers not less than the same
3 benefits, wages, and working conditions that the
4 employer will provide to the H-2C workers. No
5 job offer may impose on United States workers
6 any restrictions or obligations which will not be
7 imposed on H-2C workers.

8 “(B) INTERPRETATION.—Every interpreta-
9 tion and determination made under this section
10 or under any other law, regulation, or interpre-
11 tative provision regarding the nature, scope,
12 and timing of the provision of these and any
13 other benefits, wages, and other terms and con-
14 ditions of employment shall be made so that—

15 “(i) the services of workers to their
16 employers and the employment opportuni-
17 ties afforded to workers by the employers,
18 including those employment opportunities
19 that require United States workers or H-
20 2C workers to travel or relocate in order to
21 accept or perform employment—

22 “(I) mutually benefit such work-
23 ers, as well as their families, and em-
24 ployers; and

1 “(II) principally benefit neither
2 employer nor employee; and

3 “(ii) employment opportunities within
4 the United States benefit the United
5 States economy.

6 “(2) REQUIRED WAGES.—

7 “(A) IN GENERAL.—Each employer peti-
8 tioning for H-2C workers under this subsection
9 will offer the H-2C workers, during the period
10 of authorized employment as H-2C workers,
11 wages that are at least the greatest of—

12 “(i) the applicable State or local min-
13 imum wage;

14 “(ii) 115 percent of the Federal min-
15 imum wage, or 150 percent of the Federal
16 minimum wage in the case of H-2C work-
17 ers who perform agricultural labor or serv-
18 ices consisting of meat or poultry proc-
19 essing; or

20 “(iii) the actual wage level paid by the
21 employer to all other individuals in the job.

22 “(B) SPECIAL RULE.—An employer can
23 utilize a piece rate or other alternative wage
24 payment system so long as the employer guar-
25 antees each worker a wage rate that equals or

1 exceeds the amount required under subpara-
2 graph (A) for the total hours worked in each
3 pay period. Compensation from a piece rate or
4 other alternative wage payment system shall in-
5 clude time spent during rest breaks, moving
6 from job to job, clean up, or any other non-
7 productive time, provided that such time does
8 not exceed 20 percent of the total hours in the
9 work day.

10 “(3) EMPLOYMENT GUARANTEE.—

11 “(A) IN GENERAL.—

12 “(i) REQUIREMENT.—Each employer
13 petitioning for workers under this sub-
14 section shall guarantee to offer the H-2C
15 workers and United States workers per-
16 forming the same job employment for the
17 hourly equivalent of not less than 50 per-
18 cent of the work hours set forth in the
19 work contract.

20 “(ii) FAILURE TO MEET GUAR-
21 ANTEE.—If an employer affords the
22 United States workers or the H-2C work-
23 ers less employment than that required
24 under this subparagraph, the employer
25 shall pay such workers the amount which

1 the workers would have earned if the work-
2 ers had worked for the guaranteed number
3 of hours.

4 “(B) CALCULATION OF HOURS.—Any
5 hours which workers fail to work, up to a max-
6 imum of the number of hours specified in the
7 work contract for a work day, when the workers
8 have been offered an opportunity to do so, and
9 all hours of work actually performed (including
10 voluntary work in excess of the number of
11 hours specified in the work contract in a work
12 day) may be counted by the employer in calcu-
13 lating whether the period of guaranteed employ-
14 ment has been met.

15 “(C) LIMITATION.—If the workers aban-
16 don employment before the end of the work
17 contract period, or are terminated for cause,
18 the workers are not entitled to the 50 percent
19 guarantee described in subparagraph (A).

20 “(D) TERMINATION OF EMPLOYMENT.—

21 “(i) IN GENERAL.—If, before the expi-
22 ration of the period of employment speci-
23 fied in the work contract, the services of
24 the workers are no longer required due to
25 any form of natural disaster, including

1 flood, hurricane, freeze, earthquake, fire,
2 drought, plant or animal disease, pest in-
3 festation, regulatory action, or any other
4 reason beyond the control of the employer
5 before the employment guarantee in sub-
6 paragraph (A) is fulfilled, the employer
7 may terminate the workers' employment.

8 “(ii) REQUIREMENTS.—If a worker's
9 employment is terminated under clause (i),
10 the employer shall—

11 “(I) fulfill the employment guar-
12 antee in subparagraph (A) for the
13 work days that have elapsed during
14 the period beginning on the first work
15 day and ending on the date on which
16 such employment is terminated;

17 “(II) make efforts to transfer the
18 worker to other comparable employ-
19 ment acceptable to the worker; and

20 “(III) not later than 72 hours
21 after termination, notify the Secretary
22 of Agriculture of such termination
23 and stating the nature of the contract
24 impossibility.

1 “(l) NONDELEGATION.—The Department of Agri-
2 culture and the Department of Homeland Security shall
3 not delegate their investigatory, enforcement, or adminis-
4 trative functions relating to this section or section 218B
5 to other agencies or departments of the Federal Govern-
6 ment.

7 “(m) COMPLIANCE WITH BIO-SECURITY PROTO-
8 COLS.—Except in the case of an imminent threat to health
9 or safety, any personnel from a Federal agency or Federal
10 grantee seeking to determine the compliance of an em-
11 ployer with the requirements of this section or section
12 218B shall, when visiting such employer’s place of employ-
13 ment, make their presence known to the employer and
14 sign-in in accordance with reasonable bio-security proto-
15 cols before proceeding to any other area of the place of
16 employment.

17 “(n) LIMITATION ON H-2C WORKERS’ STAY IN STA-
18 TUS.—

19 “(1) MAXIMUM PERIOD.—The maximum con-
20 tinuous period of authorized status as an H-2C
21 worker (including any extensions) is 18 months for
22 workers employed in a job that is of a temporary or
23 seasonal nature. For H-2C workers employed in a
24 job that is not of a temporary or seasonal nature,
25 the initial maximum continuous period of authorized

1 status is 36 months and subsequent maximum con-
2 tinuous periods of authorized status are 18 months.

3 “(2) REQUIREMENT TO REMAIN OUTSIDE THE
4 UNITED STATES.—In the case of H–2C workers who
5 were employed in a job of a temporary or seasonal
6 nature whose maximum continuous period of author-
7 ized status as H–2C workers (including any exten-
8 sions) have expired, the aliens may not again be eli-
9 gible to be H–2C workers until they remain outside
10 the United States for a continuous period equal to
11 at least $\frac{1}{12}$ of the duration of their previous period
12 of authorized status as H–2C workers. For H–2C
13 workers who were employed in a job not of a tem-
14 porary or seasonal nature whose maximum contin-
15 uous period of authorized status as H–2C workers
16 (including any extensions) have expired, the aliens
17 may not again be eligible to be H–2C workers until
18 they remain outside the United States for a contin-
19 uous period equal to at least the lesser of $\frac{1}{12}$ of the
20 duration of their previous period of authorized sta-
21 tus as H–2C workers or 45 days.

22 “(3) EXCEPTIONS.—

23 “(A) The Secretary of Homeland Security
24 shall deduct absences from the United States
25 that take place during an H–2C worker’s period

1 of authorized status from the period that the
2 alien is required to remain outside the United
3 States under paragraph (2), if the alien or the
4 alien's employer requests such a deduction, and
5 provides clear and convincing proof that the
6 alien qualifies for such a deduction. Such proof
7 shall consist of evidence such as arrival and de-
8 parture records, copies of tax returns, and
9 records of employment abroad.

10 “(B) There is no maximum continuous pe-
11 riod of authorized status as set forth in para-
12 graph (1) or a requirement to remain outside
13 the United States as set forth in paragraph (2)
14 for H-2C workers employed as a shepherd, a
15 goatherder, in the range production of livestock,
16 or who return to the workers' permanent resi-
17 dence outside the United States each day.

18 “(o) PERIOD OF ADMISSION.—

19 “(1) IN GENERAL.—In addition to the max-
20 imum continuous period of authorized status, work-
21 ers' authorized period of admission shall include—

22 “(A) a period of not more than 7 days
23 prior to the beginning of authorized employ-
24 ment as H-2C workers for the purpose of travel
25 to the place of employment; and

1 “(B) a period of not more than 14 days
2 after the conclusion of their authorized employ-
3 ment for the purpose of departure from the
4 United States or a period of not more than 30
5 days following the employment for the purpose
6 of seeking a subsequent offer of employment by
7 an employer pursuant to a petition under this
8 section (or pursuant to at-will employment
9 under section 218B during such times as that
10 section is in effect) if they have not reached
11 their maximum continuous period of authorized
12 employment under subsection (n) (subject to
13 the exceptions in subsection (n)(3)) unless they
14 accept subsequent offers of employment as H–
15 2C workers or are otherwise lawfully present.

16 “(2) FAILURE TO DEPART.—H–2C workers
17 who do not depart the United States within the peri-
18 ods referred to in paragraph (1) will be considered
19 to have failed to maintain nonimmigrant status as
20 H–2C workers and shall be subject to removal under
21 section 237(a)(1)(C)(i). Such aliens shall be consid-
22 ered to be inadmissible pursuant to section
23 212(a)(9)(B)(i) for having been unlawfully present,
24 with the aliens considered to have been unlawfully
25 present for 181 days as of the 15th day following

1 their period of employment for the purpose of depar-
2 ture or as of the 31st day following their period of
3 employment for the purpose of seeking subsequent
4 offers of employment.

5 “(p) ABANDONMENT OF EMPLOYMENT.—

6 “(1) REPORT BY EMPLOYER.—Not later than
7 72 hours after an employer learns of the abandon-
8 ment of employment by H–2C workers before the
9 conclusion of their work contracts, the employer
10 shall notify the Secretary of Agriculture and the
11 Secretary of Homeland Security of such abandon-
12 ment.

13 “(2) REPLACEMENT OF ALIENS.—An employer
14 may designate eligible aliens to replace H–2C work-
15 ers who abandon employment notwithstanding the
16 numerical limitation found in section 214(g)(1)(C).

17 “(q) CHANGE TO H–2C STATUS.—

18 “(1) IN GENERAL.—An alien described in para-
19 graph (4) is eligible for status as an H–2C worker
20 despite their unlawful presence.

21 “(2) WAIVER.—In the case of an alien de-
22 scribed in paragraph (4), the Secretary of Homeland
23 Security shall waive the grounds of inadmissibility
24 under paragraphs (5), (6), (7), and (9)(B) of section
25 212(a), and the grounds of deportability under sub-

1 paragraphs (A) through (D) of paragraph (1), and
2 paragraph (3), of section 237(a), with respect to
3 conduct that occurred prior to the alien first seeking
4 status as an H-2C worker, solely in order to provide
5 the alien with such status.

6 “(3) REQUIREMENT TO REMAIN OUTSIDE THE
7 UNITED STATES.—An alien granted status as an H-
8 2C worker under this subsection shall, after first
9 being granted such status, depart the United States
10 for a period by not later than 180 days after being
11 issued a visa or otherwise being provided with status
12 as an H-2C worker. Failure to comply with the re-
13 quirement of the previous sentence shall be consid-
14 ered failure to maintain nonimmigrant status, and
15 beginning on the date that is 180 days after the
16 date on which the alien was granted such status, the
17 alien shall be subject to removal under section
18 237(a)(1)(C)(i).

19 “(4) ALIEN DESCRIBED.—An alien described in
20 this paragraph is an alien who—

21 “(A) was unlawfully present in the United
22 States on October 23, 2017; and

23 “(B) performed agricultural labor or serv-
24 ices in the United States for at least 5.75 hours
25 during each of at least 180 days during the 2-

1 year period ending on the date of the enactment
2 of the AG Act.

3 “(r) TRUST FUND TO ASSURE WORKER RETURN.—

4 “(1) ESTABLISHMENT.—There is established in
5 the Treasury of the United States a trust fund (in
6 this section referred to as the ‘Trust Fund’) for the
7 purpose of providing a monetary incentive for H–2C
8 workers to return to their country of origin upon ex-
9 piration of their visas.

10 “(2) WITHHOLDING OF WAGES; PAYMENT INTO
11 THE TRUST FUND.—

12 “(A) IN GENERAL.—Notwithstanding the
13 Fair Labor Standards Act of 1938 (29 U.S.C.
14 201 et seq.) and State and local wage laws, all
15 employers of H–2C workers shall withhold from
16 the wages of all H–2C workers other than those
17 employed as sheepherders, goatherders, in the
18 range production of livestock, or who return to
19 the their permanent residence outside the
20 United States each day, an amount equivalent
21 to 10 percent of the gross wages of each worker
22 in each pay period and, on behalf of each work-
23 er, transfer such withheld amount to the Trust
24 Fund.

1 “(B) JOBS THAT ARE NOT OF A TEM-
2 PORARY OR SEASONAL NATURE.—Employers of
3 H-2C workers employed in jobs that are not of
4 a temporary or seasonal nature, other than
5 those employed as a sheepherder, goatherder, or
6 in the range production of livestock, shall also
7 pay into the Trust Fund an amount equivalent
8 to the Federal tax on the wages paid to H-2C
9 workers that the employer would be obligated to
10 pay under chapters 21 and 23 of the Internal
11 Revenue Code of 1986 had the H-2C workers
12 been subject to such chapters.

13 “(3) DISTRIBUTION OF FUNDS.—Amounts paid
14 into the Trust Fund on behalf of an H-2C worker,
15 and held pursuant to paragraph (2)(A) and interest
16 earned thereon, shall be transferred from the Trust
17 Fund to the Secretary of Homeland Security, who
18 shall distribute them to the worker if the worker—

19 “(A) applies to the Secretary of Homeland
20 Security (or the designee of the Secretary) for
21 payment within 120 days of the expiration of
22 the alien’s last authorized stay in the United
23 States as an H-2C worker, for which they seek
24 amounts from the Trust Fund;

1 “(B) establishes to the satisfaction of the
2 Secretary of Homeland Security that they have
3 complied with the terms and conditions of the
4 H-2C program;

5 “(C) once approved by the Secretary of
6 Homeland Security for payment, physically ap-
7 pears at a United States embassy or consulate
8 in the worker’s home country; and

9 “(D) establishes their identity to the satis-
10 faction of the Secretary of Homeland Security.

11 “(4) ADMINISTRATIVE EXPENSES.—The
12 amounts paid into the Trust Fund and held pursu-
13 ant to paragraph (2)(B), and interest earned there-
14 on, shall be distributed annually to the Secretary of
15 Agriculture and the Secretary of Homeland Security
16 in amounts proportionate to the expenses incurred
17 by such officials in the administration and enforce-
18 ment of the terms of the H-2C program.

19 “(5) LAW ENFORCEMENT.—Notwithstanding
20 any other provision of law, amounts paid into the
21 Trust Fund under paragraph (2), and interest
22 earned thereon, that are not needed to carry out
23 paragraphs (3) and (4) shall, to the extent provided
24 in advance in appropriations Acts, be made available
25 until expended without fiscal year limitation to the

1 Secretary of Homeland Security to apprehend, de-
2 tain, and remove aliens inadmissible to or deportable
3 from the United States.

4 “(6) INVESTMENT OF TRUST FUND.—

5 “(A) IN GENERAL.—It shall be the duty of
6 the Secretary of the Treasury to invest such
7 portion of the Trust Fund as is not, in the Sec-
8 retary’s judgment, required to meet current
9 withdrawals. Such investments may be made
10 only in interest-bearing obligations of the
11 United States or in obligations guaranteed as to
12 both principal and interest by the United
13 States.

14 “(B) CREDITS TO TRUST FUND.—The in-
15 terest on, and the proceeds from the sale or re-
16 demption of, any obligations held in the Trust
17 Fund shall be credited to and form a part of
18 the Trust Fund.

19 “(C) REPORT TO CONGRESS.—It shall be
20 the duty of the Secretary of the Treasury to
21 hold the Trust Fund, and (after consultation
22 with the Secretary of Homeland Security) to re-
23 port to the Congress each year on the financial
24 condition and the results of the operations of
25 the Trust Fund during the preceding fiscal year

1 and on its expected condition and operations
2 during the next fiscal year. Such report shall be
3 printed as both a House and a Senate docu-
4 ment of the session of the Congress in which
5 the report is made.

6 “(s) PROCEDURES FOR SPECIAL PROCEDURES IN-
7 DUSTRIES.—

8 “(1) WORK LOCATIONS.—The Secretary of
9 Homeland Security shall permit an employer in a
10 Special Procedures Industry that does not operate at
11 a single fixed place of employment to provide, as
12 part of its petition, a list of places of employment,
13 which—

14 “(A) may include an itinerary; and

15 “(B) may be subsequently amended at any
16 time by the employer, after notice to the Sec-
17 retary.

18 “(2) WAGES.—Notwithstanding subsection
19 (k)(2), the Secretary of Agriculture may establish
20 monthly, weekly, or biweekly wage rates for occupa-
21 tions in a Special Procedures Industry for a State
22 or other geographic area. For an employer in a Spe-
23 cial Procedures Industry that typically pays a
24 monthly wage, the Secretary shall require that H-
25 2C workers be paid not less frequently than monthly

1 and at a rate no less than the legally required
 2 monthly cash wage in an amount as re-determined
 3 annually by the Secretary.

4 “(3) ALLERGY LIMITATION.—An employer en-
 5 gaged in the commercial beekeeping or pollination
 6 services industry may require that job applicants be
 7 free from bee-related allergies, including allergies to
 8 pollen and bee venom.”.

9 (b) AT-WILL EMPLOYMENT.—Chapter 2 of title II of
 10 the Immigration and Nationality Act (8 U.S.C. 1181 et
 11 seq.) is amended by inserting after section 218A (as in-
 12 serted by subsection (a)) the following:

13 **“SEC. 218B. AT-WILL EMPLOYMENT OF TEMPORARY H-2C**
 14 **WORKERS.**

15 “(a) IN GENERAL.—An employer that is designated
 16 as a ‘registered agricultural employer’ pursuant to sub-
 17 section (d) may employ aliens as H-2C workers. However,
 18 an H-2C worker may only perform labor or services pur-
 19 suant to this section if the worker is already lawfully
 20 present in the United States as an H-2C worker, having
 21 been admitted or otherwise provided nonimmigrant status
 22 pursuant to section 218A, and has completed the period
 23 of employment specified in the job offer the worker accept-
 24 ed pursuant to section 218A or the employer has termi-
 25 nated the worker’s employment pursuant to section

1 218A(k)(3)(D)(i). An H–2C worker who abandons the em-
2 ployment which was the basis for admission or status pur-
3 suant to section 218A may not perform labor or services
4 pursuant to this section until the worker has returned to
5 their home country, been readmitted as an H–2C worker
6 pursuant to section 218A and has completed the period
7 of employment specified in the job offer the worker accept-
8 ed pursuant to section 218A or the employer has termi-
9 nated the worker’s employment pursuant to section
10 218A(k)(3)(D)(i).

11 “(b) PERIOD OF STAY.—H–2C workers performing
12 at-will labor or services for a registered agricultural em-
13 ployer are subject to the period of admission, limitation
14 of stay in status, and requirement to remain outside the
15 United States contained in subsections (o) and (n) of sec-
16 tion 218A, except that subsection (n)(3)(A) does not
17 apply.

18 “(c) REGISTERED AGRICULTURAL EMPLOYERS.—
19 The Secretary of Agriculture shall establish a process to
20 accept and adjudicate applications by employers to be des-
21 ignated as registered agricultural employers. The Sec-
22 retary shall require, as a condition of approving the appli-
23 cation, the payment of a fee to recover the reasonable cost
24 of processing the application. The Secretary shall des-

1 designate an employer as a registered agricultural employer
2 if the Secretary determines that the employer—

3 “(1) employs (or plans to employ) individuals
4 who perform agricultural labor or services;

5 “(2) has not been subject to debarment from
6 receiving temporary agricultural labor certifications
7 pursuant to section 101(a)(15)(H)(ii)(a) within the
8 last three years;

9 “(3) has not been subject to disqualification
10 from the employment of H–2C workers within the
11 last five years;

12 “(4) agrees to, if employing H–2C workers pur-
13 suant to this section, fulfill the attestations con-
14 tained in section 218A(b) as if it had submitted a
15 petition making those attestations (excluding sub-
16 section (k)(3) of such section) and not to employ H–
17 2C workers who have reached their maximum con-
18 tinuous period of authorized status under section
19 218A(n) (subject to the exceptions contained in sec-
20 tion 218A(n)(3)) or if the workers have complied
21 with the terms of section 218A(n)(2); and

22 “(5) agrees to notify the Secretary of Agri-
23 culture and the Secretary of Homeland Security
24 each time it employs H–2C workers pursuant to this
25 section within 72 hours of the commencement of em-

1 ployment and within 72 hours of the cessation of
2 employment.

3 “(d) LENGTH OF DESIGNATION.—An employer’s des-
4 ignation as a registered agricultural employer shall be
5 valid for 3 years, and the designation can be extended
6 upon reapplication for additional 3-year terms. The Sec-
7 retary shall revoke a designation before the expiration of
8 its 3-year term if the employer is subject to disqualifica-
9 tion from the employment of H-2C workers subsequent
10 to being designated as a registered agricultural employer.

11 “(e) ENFORCEMENT.—The Secretary of Agriculture
12 shall be responsible for conducting investigations and au-
13 dits, including random audits, of employers to ensure com-
14 pliance with the requirements of this section. All monetary
15 fines levied against employers shall be paid to the Depart-
16 ment of Agriculture and used to enhance the Department
17 of Agriculture’s investigatory and audit abilities to ensure
18 compliance by employers with their obligations under this
19 section and section 218A. The Secretary of Agriculture’s
20 enforcement powers and an employer’s liability described
21 in subsections (i) through (j) of section 218A are applica-
22 ble to employers employing H-2C workers pursuant to
23 this section.”.

24 “(c) PROHIBITION ON FAMILY MEMBERS.—Section
25 101(a)(15)(H) of the Immigration and Nationality Act (8

1 U.S.C. 1101(a)(15)(H)) is amended by striking “him;” at
2 the end and inserting “him, except that no spouse or child
3 may be admitted under clause (ii)(c);”.

4 (d) NUMERICAL CAP.—Section 214(g)(1) of the Im-
5 migration and Nationality Act (8 U.S.C. 1184(g)(1)) is
6 amended—

7 (1) in subparagraph (A), by striking “or” at
8 the end;

9 (2) in subparagraph (B), by striking the period
10 at the end and inserting “; or”; and

11 (3) by adding at the end the following:

12 “(C) under section 101(a)(15)(H)(ii)(c)—

13 “(i) except as otherwise provided under
14 this subparagraph, may not exceed 40,000 for
15 aliens issued visas or otherwise provided non-
16 immigrant status under such section for the
17 purpose of performing agricultural labor or
18 services consisting or meat or poultry proc-
19 essing;

20 “(ii) except as otherwise provided under
21 this subparagraph, may not exceed 410,000 for
22 aliens issued visas or otherwise provided non-
23 immigrant status under such section for the
24 purpose of performing agricultural labor or

1 services other than agricultural labor or services
2 consisting of meat or poultry processing;

3 “(iii) if the base allocation under clause (i)
4 or (ii) is exhausted during any fiscal year, the
5 base allocation under such clause for that and
6 subsequent fiscal years shall be increased by the
7 lesser of 10 percent or a percentage rep-
8 resenting the number of petitioned-for aliens
9 (as a percentage of the base allocation) who
10 would be eligible to be issued visas or otherwise
11 provided nonimmigrant status described in that
12 clause during that fiscal year but for the base
13 allocation being exhausted, and if the increased
14 base allocation is itself exhausted during a sub-
15 sequent fiscal year, the base allocation for that
16 and subsequent fiscal years shall be further in-
17 creased by the lesser of 10 percent or a percent-
18 age representing the number of petitioned-for
19 aliens (as a percentage of the increased base al-
20 location) who would be eligible to be issued
21 visas or otherwise provided nonimmigrant sta-
22 tus described in that clause during that fiscal
23 year but for the increased base allocation being
24 exhausted (subject to clause (iv));

“(iv) if the base allocation under clause (i) or (ii) is not exhausted during any fiscal year, the base allocation under such clause for subsequent fiscal years shall be decreased by the greater of 5 percent or a percentage representing the unutilized portion of the base allocation (as a percentage of the base allocation) during that fiscal year, and if in a subsequent fiscal year the decreased base allocation is itself not exhausted, the base allocation for fiscal years subsequent to that fiscal year shall be further decreased by the greater of 5 percent or a percentage representing the unutilized portion of the decreased base allocation (as a percentage of the decreased base allocation) during that fiscal year (subject to clause (iii) and except that the base allocations under clauses (i) and (ii) shall not fall below 40,000 and 410,000, respectively); and

“(v) the numerical limitations under this subparagraph shall not apply to any alien—

“(I) who—

“(aa) was physically present in the United States on October 23, 2017; and

1 “(bb) performed agricultural
2 labor or services in the United States
3 for at least 5.75 hours during each of
4 at least 180 days during the 2-year
5 period ending on the date of the en-
6 actment of the AG Act; or

7 “(II) who has previously been issued a
8 visa or otherwise provided nonimmigrant
9 status pursuant to subclause (a) or (b) of
10 section 101(a)(15)(H)(ii), but only to the
11 extent that the alien is being petitioned for
12 by an employer pursuant to section
13 218A(b) who previously employed the alien
14 pursuant to subclause (a) or (b) of section
15 101(a)(15)(H)(ii) beginning no later than
16 October 23, 2017.”.

17 (e) INTENT.—Section 214(b) of the Immigration and
18 Nationality Act (8 U.S.C. 1184(b)) is amended by striking
19 “section 101(a)(15)(H)(i) except subclause (b1) of such
20 section” and inserting “clause (i), except subclause (b1),
21 or (ii)(c) of section 101(a)(15)(H)”.

22 (f) CLERICAL AMENDMENT.—The table of contents
23 for the Immigration and Nationality Act (8 U.S.C. 1101
24 et seq.) is amended by inserting after the item relating
25 to section 218 the following:

“Sec. 218A. Admission of temporary H–2C workers.

“Sec. 218B. At-will employment of temporary H–2C workers.”.

1 SEC. 4. MEDIATION.

2 Nonimmigrants having status under section
 3 101(a)(15)(H)(ii)(c) of the Immigration and Nationality
 4 Act (8 U.S.C. 1101(a)(15)(H)(ii)(c)) may not bring civil
 5 actions for damages against their employers, nor may any
 6 other attorneys or individuals bring civil actions for dam-
 7 ages on behalf of such nonimmigrants against the non-
 8 immigrants’ employers, unless at least 90 days prior to
 9 bringing an action a request has been made to the Federal
 10 Mediation and Conciliation Service to assist the parties
 11 in reaching a satisfactory resolution of all issues involving
 12 all parties to the dispute and mediation has been at-
 13 tempted.

14 SEC. 5. MIGRANT AND SEASONAL AGRICULTURAL WORKER
15 PROTECTION.

16 Section 3(8)(B)(ii) of the Migrant and Seasonal Agri-
 17 cultural Worker Protection Act (29 U.S.C.
 18 1802(8)(B)(ii)) is amended by striking “under sections
 19 101(a)(15)(H)(ii)(a) and 214(c) of the Immigration and
 20 Nationality Act.” and inserting “under subclauses (a) and
 21 (c) of section 101(a)(15)(H)(ii), and section 214(c), of the
 22 Immigration and Nationality Act.”.

1 **SEC. 6. BINDING ARBITRATION.**

2 (a) APPLICABILITY.—H–2C workers may, as a condi-
3 tion of employment with an employer, be subject to man-
4 datory binding arbitration and mediation of any grievance
5 relating to the employment relationship. An employer shall
6 provide any such workers with notice of such condition of
7 employment at the time it makes job offers.

8 (b) ALLOCATION OF COSTS.—Any cost associated
9 with such arbitration and mediation process shall be
10 equally divided between the employer and the H–2C work-
11 ers, except that each party shall be responsible for the cost
12 of its own counsel, if any.

13 (c) DEFINITIONS.—As used in this section:

14 (1) The term “condition of employment” means
15 a term, condition, obligation, or requirement that is
16 part of the job offer, such as the term of employ-
17 ment, job responsibilities, employee conduct stand-
18 ards, and the grievance resolution process, and to
19 which applicants or prospective H–2C workers must
20 consent or accept in order to be hired for the posi-
21 tion.

22 (2) The term “H–2C worker” means a non-
23 immigrant described in section 218A(a)(5) of the
24 Immigration and Nationality Act, as added by sec-
25 tion 3(a) of this Act.

1 **SEC. 7. ELIGIBILITY FOR HEALTH CARE SUBSIDIES AND**
2 **REFUNDABLE TAX CREDITS; REQUIRED**
3 **HEALTH INSURANCE COVERAGE.**

4 (a) HEALTH CARE SUBSIDIES.—H-2C workers (as
5 defined in section 218A(a)(5) of the Immigration and Na-
6 tionality Act, as added by section 3(a) of this Act)—

7 (1) are not entitled to the premium assistance
8 tax credit authorized under section 36B of the Inter-
9 nal Revenue Code of 1986 and shall be subject to
10 the rules applicable to individuals who are not law-
11 fully present set forth in subsection (e) of such sec-
12 tion; and

13 (2) shall be subject to the rules applicable to in-
14 dividuals who are not lawfully present set forth in
15 section 1402(e) of the Patient Protection and Af-
16 fordable Care Act (42 U.S.C. 18071(e)).

17 (b) REFUNDABLE TAX CREDITS.—H-2C workers (as
18 defined in section 218A(a)(5) of the Immigration and Na-
19 tionality Act, as added by section 3(a) of this Act), shall
20 not be allowed any credit under sections 24 and 32 of the
21 Internal Revenue Code of 1986. In the case of a joint re-
22 turn, no credit shall be allowed under either such section
23 if both spouses are such workers or aliens.

24 (c) REQUIREMENT REGARDING HEALTH INSURANCE
25 COVERAGE.—Notwithstanding the Fair Labor Standards
26 Act of 1938 (29 U.S.C. 201 et seq.) and State and local

1 wage laws, not later than 21 days after being issued a
2 visa or otherwise provided nonimmigrant status under sec-
3 tion 101(a)(15)(H)(ii)(c) of the Immigration and Nation-
4 ality Act (8 U.S.C. 1101(a)(15)(H)(ii)(c)), an alien must
5 obtain health insurance coverage accepted in their State
6 or States of employment and residence for the period of
7 employment specified in section 218A(b)(1) of the Immi-
8 gration and Nationality Act. H-2C workers under section
9 218A or 218B of the Immigration and Nationality Act
10 who do not obtain and maintain the required insurance
11 coverage will be considered to have failed to maintain non-
12 immigrant status under section 101(a)(15)(H)(ii)(c) of
13 the Immigration and Nationality Act and shall be subject
14 to removal under section 237(a)(1)(C)(i) of the Immigra-
15 tion and Nationality Act (8 U.S.C. 1227(a)(1)(C)(i)).

16 **SEC. 8. EFFECTIVE DATES; SUNSET; REGULATIONS.**

17 (a) EFFECTIVE DATES.—

18 (1) IN GENERAL.—Sections 2 and 4 through 6
19 of this Act, subsections (a) and (c) through (f) of
20 section 3 of this Act, and the amendments made by
21 the sections, shall take effect on the date on which
22 the Secretary issues the rules under subsection (c)
23 of this section, and the Secretary of Homeland Secu-
24 rity shall accept petitions pursuant to section 218A
25 of the Immigration and Nationality Act, as inserted

1 by this Act, beginning no later than that date. Sec-
2 tion 7 of this Act shall take effect on the date of the
3 enactment of the Act.

4 (2) AT-WILL EMPLOYMENT.—Section 3(b) of
5 this Act and the amendments made by that sub-
6 section shall take effect on the date that it becomes
7 unlawful for all persons or other entities to hire, or
8 to recruit or refer for a fee, for employment in the
9 United States an individual (as provided in section
10 274A(a)(1) of the Immigration and Nationality Act
11 (8 U.S.C. 1324a(a)(1))) without participating in the
12 E-Verify Program described in section 403(a) of the
13 Illegal Immigration Reform and Immigrant Respon-
14 sibility Act of 1996 (8 U.S.C. 1324a note) or an em-
15 ployment eligibility verification system patterned on
16 such program’s verification system, and only if at
17 that time the E-Verify Program (or another pro-
18 gram patterned after the E-Verify Program) re-
19 sponds to inquiries made by such persons or entities
20 by providing confirmation, tentative nonconfirma-
21 tion, and final nonconfirmation of an individual’s
22 identity and employment eligibility in such a way
23 that indicates whether the individual is eligible to be
24 employed in all occupations or only to perform agri-
25 cultural labor or services under sections 218A and

1 219B of the Immigration and Nationality Act, as
2 added by section 3 of this Act, and if the latter,
3 whether the nonimmigrant would be in compliance
4 with their maximum continuous period of authorized
5 status and requirement to remain outside the United
6 States under section 218A(n) of such Act, as added
7 by section 3(a) of this Act, and on what date the
8 alien would cease to be in compliance with their
9 maximum continuous period of authorized status.

10 (b) OPERATION AND SUNSET OF THE H-2A PRO-
11 GRAM.—

12 (1) APPLICATION OF EXISTING REGULA-
13 TIONS.—The Department of Labor H-2A program
14 regulations published at 73 Fed. Reg. 77110 et seq.
15 (2008) shall be in force for all petitions approved
16 under sections 101(a)(15)(H)(ii)(a) and 218 of the
17 Immigration and Nationality Act (8 U.S.C.
18 1101(a)(15)(h)(ii)(a); 8 U.S.C. 1188) beginning on
19 the date of the enactment of this Act, except that
20 the following, as in effect on the date of the enact-
21 ment of this Act, shall remain in effect, and, to the
22 extent that any rule published at 73 Fed. Reg.
23 77110 et seq. is in conflict, such rule shall have no
24 force and effect:

1 (A) Paragraph (a) and subparagraphs (1)
2 and (3) of paragraph (b) of section 655.200 of
3 title 20, Code of Federal Regulations.

4 (B) Section 655.201 of title 20, Code of
5 Federal Regulations, except the paragraphs en-
6 titled “Production of Livestock” and “Range”.

7 (C) Paragraphs (c), (d), and (e) of section
8 655.210 of title 20, Code of Federal Regula-
9 tions.

10 (D) Section 655.230 of title 20, Code of
11 Federal Regulations.

12 (E) Section 655.235 of title 20, Code of
13 Federal Regulations.

14 (F) The Special Procedures Labor Certifi-
15 cation Process for Employers in the Itinerant
16 Animal Shearing Industry under the H-2A
17 Program in effect under the Training and Em-
18 ployment Guidance Letter No. 17-06, Change
19 1, Attachment B, Section II, with an effective
20 date of October 1, 2011.

21 (2) SUNSET.—Beginning on the date on which
22 employers can file petitions pursuant to section
23 218A of the Immigration and Nationality Act, as
24 added by section 3(a) of this Act, no new petitions
25 under sections 101(a)(15)(H)(ii)(a) and 218 of the

1 Immigration and Nationality Act (8 U.S.C.
2 1101(a)(15)(H)(ii)(a); 8 U.S.C. 1188) shall be ac-
3 cepted.

4 (c) REGULATIONS.—Notwithstanding any other pro-
5 vision of law, not later than the first day of the seventh
6 month that begins after the date of the enactment of this
7 Act, the Secretary of Homeland Security shall issue final
8 rules, on an interim or other basis, to carry out this Act.

○