

Legislation Will Reform Temporary Visa Program

WASHINGTON – Today, Oregon’s Senator Jeff Merkley and Rep. Peter DeFazio introduced The American Jobs in American Forests Act to tighten restrictions on a visa program that was used to hire foreign workers at the expense of Oregon forest workers.

Last year, a Department of Labor investigation found federal stimulus funds were awarded to contractors in Oregon who underbid competition by using foreign laborers under the H-2B visa program. After Merkley and DeFazio requested changes to the program last year, the Department of Labor agreed to certain reforms that will go into effect next month. The Merkley-DeFazio bill would further reform the H-2B process to ensure that contractors are held to even tougher standards.

“Nobody could claim with a straight face that there weren’t Oregonians available to do forest thinning work in 2009 and 2010,” said Merkley. “It’s obvious that the H-2B visa program is being abused and that stricter standards are necessary to ensure Americans have a full opportunity to fill these jobs.”

“The Department of Labor has made some common sense changes, but we need to do more to ensure that federal dollars that go to federal projects hire American workers,” said DeFazio. “Companies that game the system and exploit immigration loopholes to undercut competition should not be awarded federal contracts. Many of the DOL’s failings have been addressed, but our legislation will further strengthen their rule changes to protect American workers.”

“Unscrupulous contractors used loopholes within the H-2B program to get around hiring qualified Oregonian workers,” said Mike Wheelock, owner of Grayback Forestry in Merlin. “Grayback received over a 1000 applications during this time period from hardworking Oregonians who were desperate for work. Sadly, companies like ours were adversely impacted by negligent efforts to enforce the H-2B regulations. I want to thank Senator Merkley for his

vigilant efforts to put pressure on the US Department of Labor and for the proposing of corrective legislation to close these loopholes within the H-2B guest worker system.”

In 2010, *The Bend Bulletin* ran a series of articles highlighting possible H-2B Visa irregularities related to Forest Service contracts in Central Oregon funded by the American Recovery and Reinvestment Act. The H-2B visa program allows employers to temporarily hire foreign workers if they can establish that no Americans are qualified or available for the work. In the case of the contractors involved with the 2009 stimulus funding, no meaningful effort was made to hire Oregonians.

DeFazio asked the DOL’s Inspector General (IG) to review these irregularities and their investigation found federal stimulus funds were awarded to contractors in Oregon who underbid competition by using foreign laborers. The IG report can be found here: <http://www.oig.dol.gov/public/reports/oa/2012/17-12-001-03-321.pdf>

Merkley and DeFazio previously called on the Department of Labor, the Office of Management and Budget, and the U.S. Forest Service to make changes to how the program is administered and how the Forest Service conducts oversight of contractors performing work in federal forests.

The American Jobs in American Forests Act would make three key changes to the DOL’s H-2B visa program:

- 1) **Enhanced recruitment:** Employers, before submitting a petition to hire H-2B workers, would have to conduct robust recruitment of U.S. workers including advertising at job fairs, with local and state workforce agencies and nonprofits (and other appropriate entities), advertising on local radio and reputable Internet job-search sites, and other recruitment strategies that the state workforce agency considers appropriate.
- 2) **State Workforce Agencies:** Before the Secretary of Labor could grant a temporary labor certification to an employer to hire H-2B workers, the Director of the state workforce agency must certify that the employer has complied with all recruitment requirements and must make a formal determination that Americans are unavailable to fill the employment opportunities offered

by the prospective H-2B employer.

3) **Itineraries covering multiple states:** If an employer seeks to be certified for a work itinerary that covers multiple states and if the work outside the primary state lasts for seven days or longer, the employer will have to submit a separate application for the work planned in the other state or states.

According to a February 15 letter from Laurie Warner, Director of the Oregon Employment Department, to U.S. Labor Secretary Hilda Solis, Oregon's job seeker database includes 4,110 Forest and Conservation Workers and 1,237 Forest and Conservation Technicians actively seeking work.

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