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Immigration

## Cap Reached for Additional Returning Worker H-2B Visas

**Legal Update**

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*This article was prepared with the assistance of ABIL, the Alliance of Business Immigration Lawyers, of which Loan Huynh, Fredrikson Immigration Department Chair, is a member.*

U.S. Citizenship and Immigration Services (USCIS) announced on May 31, 2022, that it has received enough petitions to reach the cap for the additional 23,500 visas made available for returning workers only, under the recently announced H-2B supplemental cap temporary final rule, which increased by up to 35,000 the cap for additional H-2B nonimmigrant visas through the end of fiscal year (FY) 2022.

The random selection, completed on May 27, included all H-2B cap-subject petitions filed under the H-2B returning worker allotment that were received between May 19 and May 25. Petitions accepted for processing will have a receipt date of May 31, 2022.

USCIS said that petitioners whose workers were not selected for the 23,500 returning worker allotment “are encouraged to refile for workers from El Salvador, Guatemala, Honduras and Haiti while visas for that allotment remain available.” The final date for filing petitions for nationals of those countries who are exempt from the returning worker requirement is September 15, 2022, or when the cap is reached, whichever occurs first.

The agency will continue to accept H-2B petitions for workers filing under the El Salvador, Guatemala, Honduras and Haiti allotment, as well as those that are exempt from the congressionally mandated cap. This includes petitions for:

- Current H-2B workers in the United States petitioning to extend their stay and, if applicable, change the terms of their employment or change their employers;
- Fish roe processors, fish roe technicians, and/or supervisors of fish roe processing; and
- Workers performing labor or services in the Commonwealth of Northern Mariana Islands and/or Guam from November 28, 2009, until December 31, 2029.