

[USCIS Response to Coronavirus \(COVID-19\)](#)

U.S. Citizenship
and Immigration
Services

[Home](#) > [News](#) > [News Releases](#) > U.S. Departments of Homeland Security and Labor Issue Joint Rule Supplementing H-2B Visa Cap

U.S. Departments of Homeland Security and Labor Issue Joint Rule Supplementing H-2B Visa Cap

Release Date : 05/21/2021

WASHINGTON—The Department of Homeland Security (DHS) and the Department of Labor (DOL) have published a [joint temporary final rule](#) making available an additional 22,000 H-2B temporary nonagricultural guest worker visas for fiscal year (FY) 2021 to employers who are likely to suffer irreparable harm without these additional workers. Of the supplemental visas, 6,000 are reserved for nationals of the Northern Triangle countries of Honduras, El Salvador, and Guatemala.

DHS first announced the planned supplemental increase of 22,000 visas for the H-2B Temporary Non-Agricultural Worker program on April 20, 2021. The supplemental H-2B visa allocation consists of 16,000 visas available only to returning H-2B workers from one of the last three fiscal years (FY 2018, 2019, or 2020), and 6,000 visas for Northern Triangle nationals, which are exempt from the returning worker requirement.

“Today’s joint rule helps American businesses and addresses the need for robust worker protections,” said Secretary of Homeland Security Alejandro N. Mayorkas. “For the first time, we are setting aside supplemental visas for noncitizens from Northern Triangle countries, in furtherance of President Biden’s and Vice President Harris’ direction to expand legal pathways for protection and opportunity for individuals from those countries.”

“The temporary final rule is designed to prevent permanent and severe financial loss to U.S. employers by supplementing the congressionally mandated H-2B visa cap, takes into account feedback from American businesses, employer organizations, and labor representatives, and is one piece of the administration’s broader comprehensive framework for managing migration throughout North and Central America,” said USCIS Acting Director Tracy L. Renaud. “This rule incorporates several key provisions to ensure adequate safeguards for U.S. workers and H-2B workers. The rule requires that employers take additional steps to recruit U.S. workers, and provides for “portability,” which allows H-2B workers already in the United States to begin employment with a new H-2B employer or agent once USCIS receives a timely filed, non-frivolous H-2B petition, but before the petition is approved. Portability enables H-2B workers to change employers more quickly if they encounter unsafe or abusive working conditions. DHS and DOL will also conduct a significant number of post-adjudication reviews to ensure compliance with the program’s requirements.”

Starting May 25, eligible employers who have already completed a test of the U.S. labor market to verify that there are no U.S. workers who are willing, qualified, and able to perform the seasonal nonagricultural work can file [Form I-129, Petition for a Nonimmigrant Worker](#), to seek additional H-2B workers. They must submit an attestation with their petition to demonstrate their business is likely to suffer irreparable harm without a supplemental workforce. Additional details on eligibility and filing requirements are available in the temporary final rule and the [Temporary Increase in H-2B Nonimmigrant Visas for FY 2021 webpage](#).

For more information on USCIS and its programs, please visit uscis.gov or follow us on [Twitter](#), [Instagram](#), [YouTube](#), [Facebook](#), and [LinkedIn](#).

Last Reviewed/Updated: 05/21/2021