

## USCIS Response to Coronavirus (COVID-19)



U.S. Citizenship  
and Immigration  
Services

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## Cap Count for H-2B Nonimmigrants

**i ALERT:** On May 25, 2021, the Department of Homeland Security and the Department of Labor published a [temporary final rule](#) increasing the numerical limit (or cap) on H-2B nonimmigrant visas by up to 22,000 additional visas through the end of fiscal year 2021. These supplemental visas are available only to U.S. businesses which attest that they will likely suffer irreparable harm without the ability to employ all the H-2B workers requested in their petition.

The rule also grants portability to certain H-2B workers by allowing H-2B nonimmigrant 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.

Additional information on the additional visas and the temporary final rule is available on the [Temporary Increase in H-2B Nonimmigrant Visas for FY 2021](#) page and our news release: [DHS, DOL Issue Joint Rule Supplementing H-2B Visa Cap](#).

## The H-2B Program

The H-2B non-agricultural temporary worker program was created by Congress to allow U.S. employers to bring noncitizens to the United States to fill temporary non-agricultural jobs.

For more information about the H-2B program, see [H-2B Non-Agricultural Workers](#).

## What is the H-2B Cap?

Under the Immigration and Nationality Act (INA), as amended, there is a statutory numerical limit, or “cap,” on the total number of noncitizens who may receive an H-2B visa, or otherwise be granted H-2B status, during a fiscal year. Currently, Congress has set the H-2B cap at 66,000 per fiscal year, with 33,000 for workers who begin employment in the first half of the fiscal year (Oct. 1 - March 31) and 33,000 for workers who begin employment in the second half of the fiscal year (April 1 – Sept. 30). Any unused numbers from the first half of the fiscal year will be available for employers seeking to hire H-2B workers during the second half of the fiscal year. Unused H-2B numbers from one fiscal year do not carry over into the next fiscal year.

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## Reporting H-2B Fraud

Anyone (including American workers and H-2B workers who suspect they or others may be the victim of H-2B fraud or abuse) can send us tips, alleged violations, and other relevant information about potential fraud or abuse using our [online tip form](#).

## Workers Who Are Exempt from the H-2B Cap

Generally, workers in the United States in H-2B status who extend their stay, change employers, or change the terms and conditions of employment will not be subject to the cap. Similarly, H-2B workers who have previously been counted against the cap in the same fiscal year that the proposed employment begins will not be subject to the cap if the employer names them on the petition and indicates that they have already been counted. The spouse and children of H-2B workers classified as H-4 nonimmigrants also do not count against this cap.

Additionally, petitions for the following types of workers are exempt from the H-2B cap:

- Fish roe processors, fish roe technicians, or supervisors of fish roe processing;
- Workers performing labor or services in the Commonwealth of Northern Mariana Islands or Guam from Nov. 28, 2009, until Dec. 31, 2029.

Once the H-2B cap is reached, USCIS may only accept petitions for H-2B workers who are exempt or not subject to the H-2B cap.

## Fiscal Year 2022 H-2B Cap Count

USCIS is currently accepting petitions for employment start dates of Oct. 1, 2021 through March 31, 2022. Such petitions will be subject to the first half of the FY 2022 H-2B cap. USCIS will regularly update the chart below as H-2B petitions for FY 2022 are received.

Cap Type	Cap Amount	Beneficiaries Approved	Beneficiaries Pending	Total Beneficiaries <sup>1</sup>	Date of Last Count
H-2B: First Half of FY 2022	33,000	18,426	2,921	21,347	09/09/2021
H-2B: Second Half of FY 2022	33,000 <sup>2</sup>				

**Note:** The figures above are preliminary estimates and are only meant to give the public an approximate count of beneficiaries of H-2B visas who would be counted towards the INA cap for the fiscal year.

<sup>1</sup> Refers to the total number of beneficiaries of approved or pending petitions filed with USCIS that could potentially be counted towards the H-2B cap. This number will typically exceed the actual cap to allow for withdrawals, denials, and approvals for which no visa is issued.

<sup>2</sup> If the first half of the fiscal year cap of 33,000 H-2B visas is not reached during the first half of the fiscal year, USCIS will make those unused numbers available for use during the second half of the fiscal year. Unused fiscal year cap-subject H-2B visas do not carry over to the following fiscal year

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