

From: U.S. Citizenship and Immigration Services [mailto:uscis@public.govdelivery.com]

Sent: Wednesday, December 21, 2016 11:54 AM

To:

Subject: H-2B Returning Worker Program Expired: Employers Should Stop Identifying "Returning Workers" in Petitions for FY 2017

The H-2B returning worker provisions of the Consolidated Appropriations Act of 2016 (Public Law 114-113) expired on Sept. 30, 2016. In anticipation that Congress could reauthorize this exemption from the H-2B cap, USCIS had [previously advised](#) H-2B employers to continue identifying potential returning workers with employment start dates in fiscal year (FY) 2017. However, because Congress has not reauthorized the H-2B returning worker program, USCIS now urges employers to stop identifying returning workers in petitions for FY 2017.

Because the returning worker program has expired, petitions requesting H-2B workers for new employment with an employment start date on or after October 1, 2016 will generally be counted toward the annual H-2B cap of 66,000 for FY 2017.

Petitions for the following types of workers are still exempt from the H-2B cap:

- Current H-2B workers in the U.S. petitioning to extend their stay and, if applicable, change the terms of their employment or change their employers;
- Fish roe processors, fish roe technicians or supervisors of fish roe processing; and
- Workers performing labor or services in the Commonwealth of Northern Mariana Islands or Guam from November 28, 2009, until December 31, 2019.

For FY 2017, USCIS will consider those identified by employers as potential returning workers as subject to the cap. Once the H-2B cap is reached, USCIS may accept petitions only for H-2B workers who are exempt from or not subject to the H-2B cap. Note that the spouse and children of H-2B workers classified as H-4 nonimmigrants are not counted against this cap.

For more information about the H-2B work program, visit uscis.gov/h-2b or call the National Customer Service Center at 800-375-5283 (TTY 800-767-1833).

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