



H-2B visa cap met for first half of FY 2009

By Kati O'Hare
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MONTROSE — Employers needing seasonal workers before April of next year better have their H-2B petitions already to the government. If they don't, they may be out of luck.

The U.S. Citizenship and Immigration Services department announced Wednesday that the cap for the first half of Fiscal Year 2009 has been met. The office said it has received enough petitions to reach the limit of 33,000 H-2B workers for the first half of next year.

The 33,000 visas will be awarded through a computer-generated random selection process. The USCIS will reject, and return the fee, for all cap-subject petitions not randomly selected, according to a USCIS news release.

H-2B visas allow noncitizens to come to the United States to perform temporary or seasonal work that is nonagricultural. These include workers in the travel and service industries such as resorts and ski areas.

For years, local sweet corn owners have brought in workers on H-2B visas because of the nature of the laborers' work in loading, sorting and packing the area's produce.

In 2001, there was a crackdown on student visas, said Nancy Fishing of Olathe Corn Company. With stricter border control, more employers were hiring legal workers as well. Both, she said, contributed to the H-2B cap of 66,000 workers being met for the first time in 2004. When the cap was met, many businesses were left scrambling to get seasonal workers.

Then in May 2005, Congress authorized a program which allowed workers who had previously been coming to the U.S. on H-2B visas to return and not be counted as part of the cap. That legislation expired in September 2007.

There have been several attempts by lawmakers to renew the exemption, but the Congressional Hispanic Caucus opposed it, according to earlier reports.

Fishing hopes that a solution will still be found.

"I don't think it's failed yet ... I'm just ever so hopeful they will fix it this year," she said. "There is no reason why the government shouldn't take on programs that are working."

However, U.S. Sen. Wayne Allard's office (R-Colo.) did not show as much optimism.

"This Congress has done nothing in the last few weeks of value. This is one of several very important issues that is clearly a concern but not on the radar," said Steve Wymer, office spokesman. "Partisan bickering in Washington has never been worse."

He said the senator has heard from many Colorado residents who would like the cap expanded. Wymer said it's not only affecting the agriculture sector, but also areas such as engineering.

This was the first year the H-2B returning workers' visa was not in place. It led Fishing to bring in her employees on H-2A visas, which are for the agriculture sector. H-2A visas require employers to provide government-approved housing. This created a housing shortage and other obstacles for employers.

The cap hasn't been met for the second part of the year, so local farmers still might have a chance. It's a slim chance though because employers can't apply for the visas until 120 days before they are needed. This means that if a farmer needed help for a July harvest, he couldn't apply for an H-2B visa until sometime in March. For 2008, the cap of 66,000 workers nationwide was reached in the first week of January.

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