



U.S. Citizenship
and Immigration
Services

Press Release

October 23, 2006

USCIS Announces Extension of Returning Worker Exemption to the H-2B Numerical Limitation

One Year Exemption to Remain in Effect until September 30, 2007

Washington, D.C.— U.S. Citizenship and Immigration Services (USCIS) announced today that the “returning worker” exemption to the H-2B numerical limitation has been extended by the National Defense Authorization Act for Fiscal Year 2007 (H.R. 5122), section 1074, which was signed by President Bush on Oct. 17, 2006. The one year extension of the “returning worker” provisions will remain in effect until September 30, 2007.

Petitions filed for returning H-2B workers do not count towards the congressionally mandated bi-annual H-2B cap. “Returning workers” are exempt from H-2B cap limitations. In order to qualify, USCIS must have previously counted the “returning worker” against the H-2B numerical cap in one of the three fiscal years preceding the current year (i.e. between October 1, 2003 and September 30, 2006). Any worker not certified as a “returning worker” is subject to the numerical limitations for the relevant fiscal year. Petitions received after the “final receipt date” which contain a combination of “returning workers” and workers subject to the current H-2B cap will be rejected with respect to non-returning workers, and petitioning employers will receive partial approvals for those aliens who qualify as “returning workers” if otherwise approvable.

USCIS will continue to process petitions filed to:

- Extend the stay of a current H-2B worker in the United States;
- Change the terms of employment for current H-2B workers and extend their stay;
- Allow current H-2B workers to change or add employers and extend their stay; or
- Request eligible H-2B “returning workers.”

More information about the H-2B work program is available at www.uscis.gov or by calling the National Customer Service Center at 1-800-375-5283.

– USCIS –

On March 1, 2003, U.S. Citizenship and Immigration Services became one of three legacy INS components to join the U.S. Department of Homeland Security. USCIS is charged with fundamentally transforming and improving the delivery of immigration and citizenship services, while enhancing the integrity of our nation's security.