

# Effects of Changes in Immigration Law

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# INTRODUCTION

## 2 Categories Determine Foreign Worker Visas

### 1. Time Period of Labor Need

Seasonal (H2A, H2B)

-Harvest

-Grinding Season

Non-Seasonal

-Peak (H2B)

### 2. Worksite

On Farm (H2A)

Off Farm (H2B)

# Visa Categories

- H2A – Agricultural Workers
  - Allows Employers to bring in foreign nationals to U.S. for temporary or seasonal agricultural work.
- H2B- Non-Agricultural Workers
  - Allows Employers to bring in foreign nationals to U.S. for temporary or seasonal/peak non-agricultural work.

# H2A-Agricultural Visa

- New Regulations allow extension of time period remaining in US from 10 to 30 days
- Reduce from 6 months to 3 months the time an H2A worker must wait outside the US before they are eligible to re-obtain H2A status.
- In some cases, would allow companies to pay lower wages to workers

# H2A Agricultural Visa

- Goal is to coax agricultural firms into using H2A program instead of hiring undocumented workers

# H2A Program and Sugar

- Although staff increases by more than double during harvest period, not great need for foreign workers during harvest period.
- Most workers arrive from all areas within U.S.
- Although need for foreign workers might increase with decreasing rural population.

# H2B Non-Agricultural Visa

- Created to provide access to non-immigrant, temporary worker for seasonal and peak load needs when no American workers can be found. Foreign workers offer seasonal businesses short-term help and return to their country at the end of their season.
- Off the farm work (Sugar Mills)
- Does not get a lot of attention as other visa categories such as H1B or H2A
- Very narrow area of law with very specific requirements
- Nature of employer's need is looked at as Seasonal or Peak

# H2B Difficulties

- Only 66,000 visas available each year
- 33,000 available from October 1 – March 31; 33,00 available from April 1 – September 30
- No returning worker exemption this year(failed to pass in senate)
- Can only file 120 days before work starts

# H2B Visa Difficulties

- Each year, visa cap is being reached earlier.
  - For first half of FY 2008, cap was met on Sept. 27
  - For first half of FY 2007, cap was met on Nov. 28
- More than 100,000 petitions typically are filed for 66,000 available slots

# H2B Visa difficulties

- To help fill additional needs for temporary workers, Congress established 2 year program in 2005 which exempts returning workers from counting against 66,000 visa cap.
- In 2006 Congress extended the exemption for 1 year until Sept. 20 2007
- Congress did not extend exemption for this year

# Use of H2B Workers

- Used during the Grinding Season (105 days)
- Ideal to enter week before grinding season to work on harvest
- Positions
  - Sugar Boilers
  - Evaporator Operator
  - Filter Operator
  - Fabrication Superintendents

# Alternatives to H2B

- No Other Alternative to Hiring H2B Workers for These Positions
  - Recruitment in U.S. has brought no experienced workers
  - Workers have generations of experience abroad and with U.S. firms
  - Grinding season in their country (July- August) complements grinding season in U.S.
  - Feeling that firms are at mercy of agencies (DOL, USCIS, Consulate) and any administrative error could delay arrival of workers

# Save Our Small and Seasonal Businesses Act

- HR 1843
- S 988