

North Carolina Law Life

Secretary Janet Napolitano Designates 11 New Countries for H-2A and H-2B Programs

By: Oliver Branch. *This was posted Tuesday, January 26th, 2010*

This week, [Department of Homeland Security \(DHS\)](#) Secretary Janet Napolitano designated 11 new countries as eligible to participate in the H-2A and H-2B nonimmigrant visa programs. With the addition of the 11 new designated countries, the following countries are now designated for H-2A and H-2B purposes: Argentina, Australia, Belize, Brazil, Bulgaria, Canada, Chile, Costa Rica, Croatia, Dominican Republic, Ecuador, El Salvador, Ethiopia, Guatemala, Honduras, Indonesia, Ireland, Israel, Jamaica, Japan, Lithuania, Mexico, Moldova, the Netherlands, New Zealand, Nicaragua, Norway, Peru, Philippines, Poland, Romania, Serbia, Slovakia, South Africa, South Korea, Turkey, Ukraine, United Kingdom, and Uruguay.

The [H-2A nonimmigrant visa program \(“H-2A program”\)](#) allows foreign nationals to enter into the U.S. to perform agricultural labor or services of a temporary or seasonal nature. In order to employ foreign nationals under the H-2A program, employers must prove that no qualified U.S. workers are available at the time and place needed and that use of foreign workers will not create an adverse effect on the wages or working conditions of similarly employed US workers. The employer must also provide housing (if employee cannot reasonably commute from home), three meals a day, and transportation.

Although similar to the H-2A program, the [H-2B nonimmigrant visa program \(“H-2B program”\)](#) allows foreign nationals to enter into the U.S. temporarily and engage in nonagricultural employment which is seasonal, intermittent, a peak load need, or a one-time occurrence. H-2B workers are frequently used to fill labor needs in occupational areas such as construction, health care, landscaping, lumber, manufacturing, food service/processing, and resort/hospitality services. Like the H-2A program, employers must prove that no qualified U.S. workers are available at the time and place needed. Up to 66,000 H-2B visas are granted each year with half reserved for jobs with start dates in the first half of the government fiscal year and the remainder reserved for the second half. The employer must pay the employee’s transportation costs home if the employee is terminated early. Unlike the H-2A program, H-2B program employers are NOT required to provide housing or meals for their H-2B workers.

For more information about the H-2A or H-2B programs, [please contact our offices.](#)

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