HR
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HIGHLIGHTS

- On **Feb. 3, 2026**, the DOL and DHS published a temporary final rule increasing the numerical limit on H-2B nonimmigrant visas by **up to 64,716 additional visas** for FY 2026.
- The final temporary rule is effective from **Jan. 30, 2026, through Sept. 30, 2026**.
- The additional visas will be distributed in three allocations to assist U.S. businesses that need workers to begin on different start dates.

DOL and DHS Publish Temporary Final Rule Increasing H-2B Nonimmigrant Visas for FY 2026

On **Feb. 3, 2026**, the U.S. Department of Labor (DOL) and U.S. Department of Homeland Security (DHS) published a temporary final rule increasing the numerical limit on H-2B nonimmigrant visas by **up to 64,716 additional visas** for fiscal year (FY) 2026. The final temporary rule is effective from **Jan. 30, 2026, through Sept. 30, 2026**.

Background

The H-2B program allows U.S. employers who meet specific regulatory requirements to bring workers to the United States to fill temporary nonagricultural jobs. Currently, 66,000 H-2B visas are available each FY.

Key Highlights

The additional visas will be distributed in the following three allocations:

1. **18,490 immediately available visas** limited to returning workers (e.g., workers who were issued an H-2B visa or otherwise granted H-2B status in FY 2023, 2024 or 2025) who will be available for eligible employers with a need for workers to begin work between **Jan. 1, 2026, through March 31, 2026**. Employers must file these petitions no later than 14 days after the second half of the statutory cap is reached;
2. **27,736 visas**, plus any unused visas from the first allocation, limited to returning workers who will be available for eligible employers with a need for workers to begin work between **April 1, 2026, and April 30, 2026**. Employers must file these petitions no earlier than 15 days after the second half of the statutory cap is reached; and
3. **18,490 visas**, plus any unused visas from the first or second allocations, for workers who will be available for eligible employers with a need for workers to begin work between **May 1, 2026, and Sept. 30, 2026**. These petitions are exempt from the returning worker requirement. Employers must file these petitions no earlier than 45 days after the second half of the statutory cap is reached.

Only U.S. businesses that meet all existing H-2B eligibility requirements and that are suffering irreparable harm—meaning permanent and severe financial loss—or will suffer impending irreparable harm if they cannot employ all the H-2B workers that they request on their Form I-129 petition may file H-2B petitions under the temporary final rule.

Petitioners filing H-2B petitions under this FY 2026 supplemental cap must retain documentation of compliance with the attestation requirements for three years from the date DOL approved the temporary labor certification. Employers must provide documents and records to the DHS and/or DOL upon request and fully cooperate with any compliance reviews.

Employer Takeaway

Employers with FY 2026 H-2B employment needs should submit petitions at the earliest opportunity as each supplemental allocation becomes available. For more information about filing H-2B petitions for the additional visas, employers should review the DHS announcement.