

GROWERTALKS

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H-2B Update

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H-2B Update

In lieu of a permanent solution to the H-2B cap, the H-2B Workforce Coalition has been supporting the inclusion of an exemption to the 66,000-program cap for returning H-2B workers who have participated in the program in one of the past three fiscal years. There's been a lot of activity on these annual spending bills in the past few months, but we don't expect Congress to finish its work on these appropriations bills before the start of the new fiscal year, which began on October 1.

We may see a series of short-term spending bills or continuing resolutions that temporarily fund the federal government at current levels. We could also see a temporary government shutdown fueled by disagreements between Democrats and Republicans over spending levels and policy disagreements over issues such as abortion and nutrition funding.

On June 21, the House Appropriations Committee passed the FY '24 Homeland Security appropriations bill by a vote of 33-25. For Fiscal Year 2024, which started on October 1, the bill would exempt from the 66,000 cap H-2B returning workers who were issued an H-2B visa during one of the previous three fiscal years. The Senate took up its version of the spending bill in committee this week. During the debate, Senators Murkowski (R-AK) and Van Hollen (D-MD) offered an amendment that would have exempted returning workers and seafood workers from the cap. In a common procedural amendment, they withdrew the amendment after a commitment was made from the committee chair to work on H-2B cap relief before the bill moves to the Senate floor.

In addition, the House Appropriations Subcommittee that oversees Department of Labor funding passed a bill that would continue some H-2B regulatory relief provisions that have been included in law since 2015. The same language is included in the version of the bill passed by the Senate Appropriations Committee.

—Frida Mendez, DCLRS

State Certification Standards for Pesticide Applicators

In 2017, the Environmental Protection Agency (EPA) finalized more robust standards for people using restricted use pesticides (RUPs). The revisions to the Certification of Pesticide Applicators (CPA) rule help ensure RUPs are used safely and reduce the likelihood of misapplication of RUPs.

The 2017 CPA final rule required states, territories, tribes and some federal agencies (certifying authorities) with

existing EPA-approved certification plans, to submit proposed modifications by March 4, 2020, to comply with the federal standards. Plans in place before March 4, 2020, remain in effect until the EPA approves the revised plans or the CPA rule deadline, whichever is earlier. In August 2022, EPA extended the expiration date for existing plans to November 4, 2023.

States and Territories submitted 56 revised certification plans to the EPA. To date, the EPA has approved 35 of these revised certification plans. While six of the remaining 21 certification plans are being modified by their submitting states and territories to resolve EPA feedback, the other 15 are under review by the EPA following revisions made by submitting states and territories in response to EPA feedback.

With a fast-approaching deadline and a potential governmental shutdown, can the EPA complete its evaluations of the unapproved certification plans? If the EPA cannot finalize the reviews, what are the consequences to states and territories if their respective plan isn't approved? A few options may be available, but EPA needs to be clearer on how it plans to proceed.

—Dr. Michael Martin, AmericanHort



Willoway Nurseries Hosts Their Congressman

In August, Willoway Nurseries, Inc. hosted Congressman Max Miller (R-OH -07) and members of his staff at their farm in Avon, Ohio. They discussed horticulture's Farm Bill priorities, the importance of pesticide and disease research, and other vital topics for the industry.

Photo courtesy of Rep. Max Miller's office.

Plant Health Challenges a Focus at National Plant Board Meeting

The National Plant Board held its annual meeting in Arkansas the week of July 31. The Plant Board represents the state officials responsible for nursery and greenhouse plant certification and many of the plant pest quarantines and shipping restrictions that apply to live plants. USDA-APHIS and Customs & Border Protection officials also participate in this event.

For many years, AmericanHort (and ANLA previously) has been invited to address the group on the state of the horticultural industry and to share our perspectives on pest mitigation and troubleshooting challenges that can scramble the industry supply chain. In fact, AmericanHort is routinely the only trade group given a spot on the program for this purpose. There are always important and beneficial side meetings and conversations as well.

This year, we covered topics ranging from the Systems Approach to Nursery Certification (SANC) to box tree moth, *Ralstonia*, vascular streak dieback, problems being encountered at the USDA plant inspection stations, international movement of new fruit tree cultivars, and relevant provisions of the new Farm Bill.

Learning is a two-way street and we also picked up useful insights on compliance problems being encountered. For instance, we were informed of a recent regulatory incident in which citrus trees purchased by a consumer on a major online platform were shipped to Hawaii, a serious violation of regulations targeting citrus pests and diseases. It's worth noting that such errant shipments, and resulting penalties and destruction orders could be avoided through

use of the subscription-based Plant Sentry program, which is an AmericanHort affinity partner.

As the adage goes, the only constant is change and nine of the 50 states' plant regulatory officials are new in their positions and were attending for the first time. The need to educate and establish constructive relationships never ends!

—Craig Regelbrugge & Dr. Michael Martin, AmericanHort

DHS Announces Revised Form I-9 & Remote Verification Options

The U.S. Citizenship and Immigration Services (USCIS) published a revised Form I-9 and an optional remote procedure for employers meeting certain requirements to complete the I-9 employment verification process.

Perhaps the biggest change announced was the aforementioned procedure, which allows employers enrolled in E-verify to indicate they virtually examined identity and authorization documents, instead of reviewing the documents in person. There's much more information around these changes, which can be found via [the Society for Human Resource Management post](#) and [a blog from law firm Ogletree Deakins](#).

—Tal Coley, CEO, Florida Nursery, Growers & Landscape Association

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