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**Subject:** H-2A Update: State Department Increases Visa Waiver Capability

All,

As you may be aware, USDA has been working diligently with DOL, DHS, and State to limit the disruption in the H-2A workforce caused by COVID-19. Today the State Department took additional steps to increase processing of H-2 visa holders through consulates around the world. USDA applauds these modifications and the expansion of interview waiver eligibility to ensure that the majority of H-2 processing can continue.

Specifically:

- Secretary Pompeo, in consultation with the Department of Homeland Security, has authorized consular officers to expand the categories of H-2 visa applicants whose applications can be adjudicated without an in-person interview.
- Consular officers can, if they so choose, now waive the visa interview requirement for first-time and returning H-2 applicants who have no potential ineligibility.
- This expansion also increases the period in which returning workers may qualify for an interview waiver. Applicants whose previous visas expired in the last **48 months** (increased from 12 months), and who did not require a waiver of ineligibility the last time they applied, do not need to be interviewed in-person if they are applying for the same visa classification as their previous visa.
- We anticipate the vast majority of otherwise qualified H-2 applicants will now be adjudicated without an interview.

Attached (below) you will find FAQs and a more complete summary. Guidance can be found on <https://travel.state.gov/content/travel/en/News/visas-news/important-announcement-on-h2-visas.htm> and is available at [www.farmers.gov/manage/h2a](http://www.farmers.gov/manage/h2a). Please note: these activities relate to US Consular activities. Where other countries have travel restrictions or lock down policies in place, Embassies generally operate by that local guidance. This may impact the application of this guidance. USDA encourages you to monitor the respective Embassy's webpage for most up to date information.

USDA continues to work with DOL, DHS, and State to limit the disruption in the H-2A workforce while protecting the health and safety of federal employees and the individuals seeking entry under the H-2 programs. If there are specific labor related questions please email [aglabor@usda.gov](mailto:aglabor@usda.gov).

Best,  
Lillie

## Q&A

### **Q: How many people will this apply to?**

- It is too early to provide an estimate as to how many individuals may benefit from this change in policy.

### **Q: How long will this be in effect?**

- This is a **temporary** action due to the COVID-19 pandemic. These measures will end no later than December 31, 2020.

### **Q: What will happen to people with security issues/people who need a waiver?**

- In light of the current drawdown in services and the inability to interview these applicants in person, cases with associated derogatory information will be suspended and refused under INA 221(g) until the resumption of visa interviews.
- Employers seeking workers should anticipate that applicants with visa ineligibilities will not be issued even if they were previously issued after an in-person interview or granted a waiver.
- Petitioners and employers are encouraged to closely vet workers to ensure they are likely to be issued without a need for an interview.

### **Q: What if the original visa holder is no longer available to work?**

- In some instances, U.S. employers may substitute a worker with an individual who may ultimately qualify for an H-2 visa.
- To substitute a worker who has not been admitted into the United States, the petitioning employer must provide written notification to the consular section.
- This notification must name both the worker who was originally issued the visa (or named on the petition) and the worker who will be replacing him or her.
- Consulates in Mexico that regularly process H-2 visas will notify its petitioners and agents of the new procedures to implement these changes.

**Q: Why are you doing this?**

- The H-2 program is essential to the economy and food security of the United States and is a national security priority.
- Although in response to significant worldwide challenges related to the COVID-19 pandemic the Department of State has temporarily suspended routine visa services at all U.S. Embassies and Consulates, the Department has advised that H-2 applications are “mission critical” and should continue to be processed to the extent permitted by post resources and local government restrictions.
- The health and safety of mission staff and applicants is of utmost importance. Each Embassy and Consulate worldwide will continue to monitor the situation and adjust visa services to ensure public safety and adhere to local health advisories to mitigate the transmission of COVID-19.

**Q: Which Embassy does the most H-2A processing?**

- H-2A visas are processed at many embassies and consulates around the world.
- Mission Mexico issued 88.2 percent of all H-2A visas and 74.1 percent of all H-2B visas in FY 2019.
- Each embassy or consulate’s capacity to process H-2A visas will depend on the circumstances at that embassy or consulate, and applicants should visit the embassy website to determine the operating status of that embassy or consulate.