

UPDATES ON THE H-2A PROGRAM AND COVID-19: EXPANSION OF THE CATEGORIES OF H-2 VISA APPLICANTS WHOSE APPLICATIONS CAN BE DECIDED ON WITHOUT AN IN-PERSON INTERVIEW

Margarita Velandia, Professor, Department of Agricultural and Resource Economics, University of Tennessee

Annette Wszelaki, Professor, Department of Plant Science, University of Tennessee

Andy Bailey, Extension Professor, Department of Plant and Soil Sciences, University of Kentucky

On Wednesday, we released the D 64 factsheet entitled “Updates On the H-2A Program In the Midst of COVID-19”; all of the information in this publication still holds, including the fact that farmers should be consulting with their agents/recruiters about any updates. Nonetheless, we need to provide an update on the expansion of the categories of H-2 visa applicants whose applications can be adjudicated, or decided on, without an in-person interview.

A statement from the State Department released March 26, 2020, says: “*Consular officers can, if they so choose, now waive the visa interview requirement for first-time and returning H-2 applicants who have no apparent ineligibility or 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, 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.*”

What does this mean for the workers coming from Mexico (Mission Mexico issued 88.2 percent of all H-2A visas in 2019)? What workers now classify for an interview waiver?

1. A worker that held an H-2A visa within the last two years (this is up one year).
2. They had no illegal presence (they were in the U.S. without proper documentation) since April 1, 1997. Illegal presence means that an individual stayed in the U.S. without legal documentation.
3. They have not been arrested or convicted of a crime involving moral turpitude.(Note: Traffic infractions and fines that did not involve an arrest would not meet this definition.)
4. They have not been arrested for an alcohol-related offense (such as DUI) within the past five years, unless they have received clearance from a panel physician since the arrest.
5. They have not been granted a waiver of ineligibility in the past. This means the workers that have to interview and apply for a waiver every year will not be able to come.
6. Workers that have never held an H-2A visa but fulfill requirements 2 to 5.

Workers need an updated recent photo. That means a picture from this year (2020).

Instructions at the consulates are changing on a daily basis; therefore, we recommend that farmers contact their agents/recruiters for additional information.



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