



[Docket No. DHS-2011-0108]

RIN 1601-ZA11

## Identification of Foreign Countries Whose Nationals Are Eligible to Participate in the H-2A and H-2B Nonimmigrant Worker Programs

**AGENCY:** Office of the Secretary, DHS.

**ACTION:** Notice.

**SUMMARY:** Under Department of Homeland Security (DHS) regulations, U.S. Citizenship and Immigration Services (USCIS) may generally only approve petitions for H-2A and H-2B nonimmigrant status for nationals of countries that the Secretary of Homeland Security, with the concurrence of the Secretary of State, has designated by notice published in the **Federal Register**. Each such notice shall be effective for one year after its date of publication. This notice announces that the Secretary of Homeland Security, in consultation with the Secretary of State, is identifying 88 countries whose nationals are eligible to participate in the H-2A program and 89 countries whose nationals are eligible to participate in the H-2B program for the coming year.

**DATES:** The designations in this notice are effective from [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER] and shall be without effect on November 8, 2025.

**FOR FURTHER INFORMATION CONTACT:** Patrice Francis, Office of Strategy, Policy, and Plans, Department of Homeland Security, Washington, DC 20528, (202) 282-9708.

### SUPPLEMENTARY INFORMATION:

#### Background:

Generally, USCIS may approve H-2A and H-2B petitions for nationals of only those countries that the Secretary of Homeland Security, with the concurrence of the Secretary of

State, has designated as participating countries.<sup>1</sup> Such designation must be published as a notice in the **Federal Register** and expires after one year. In designating countries to include on the lists, the Secretary of Homeland Security, with the concurrence of the Secretary of State, will take into account factors including, but not limited to: (1) the country's cooperation with respect to issuance of travel documents for citizens, subjects, nationals, and residents of that country who are subject to a final order of removal; (2) the number of final and unexecuted orders of removal against citizens, subjects, nationals, and residents of that country; (3) the number of orders of removal executed against citizens, subjects, nationals, and residents of that country; and (4) such other factors as may serve the U.S. interest. *See* 8 CFR 214.2(h)(5)(i)(F)(1)(i) and 8 CFR 214.2(h)(6)(i)(E)(1).<sup>2</sup> Examples of specific factors serving the U.S. interest that are taken into account when considering whether to designate or terminate the designation of a country include, but are not limited to: fraud (e.g., fraud in the H-2 petition or visa application process by nationals of the country, the country's level of cooperation with the U.S. government in addressing H-2 associated visa fraud, and the country's level of information sharing to combat immigration-related fraud), nonimmigrant visa overstay<sup>3</sup> rates for nationals of the country (including but not limited to H-2A and H-2B nonimmigrant visa overstay rates), and non-

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<sup>1</sup> With respect to all references to "country" or "countries" in this document, it should be noted that the Taiwan Relations Act of 1979, Public Law 96-8, Section 4(b)(1), provides that "[w]henver the laws of the United States refer or relate to foreign countries, nations, states, governments, or similar entities, such terms shall include and such laws shall apply with respect to Taiwan." 22 U.S.C. § 3303(b)(1). Accordingly, all references to "country" or "countries" in the regulations governing whether nationals of a country are eligible for H-2 program participation, 8 CFR 214.2(h)(5)(i)(F)(1)(i) and 8 CFR 214.2(h)(6)(i)(E)(1), are read to include Taiwan. This is consistent with the United States' one-China policy, under which the United States has maintained unofficial relations with Taiwan since 1979.

<sup>2</sup> DHS published a Notice of Proposed Rulemaking (NPRM) in the Federal Register that proposes to eliminate the requirement to designate countries whose nationals are eligible to participate in the H-2A and H-2B programs from DHS regulations. 88 FR 65040 (Sep. 20, 2023). The rule is in a proposal stage and does not impact the designation of eligible countries contained in this notice. The regulations requiring the designation of countries whose nationals are eligible to participate in the H-2 programs remain in effect until such time as DHS publishes any final rule amending such regulations and such final rule goes into effect, if applicable.

<sup>3</sup> An overstay is a nonimmigrant lawfully admitted to the United States for an authorized period, but who remained in the United States beyond his or her authorized period of admission. U.S. Customs and Border Protection (CBP) identifies two types of overstays: 1) individuals for whom no departure was recorded (Suspected In-Country Overstays), and 2) individuals whose departure was recorded after their authorized period of admission expired (Out-of-Country Overstays). For purposes of this Federal Register Notice, DHS uses Fiscal Year 2023 CBP nonimmigrant overstay data for the H-2A and H-2B nonimmigrant visa categories and the Fiscal Year 2023 Entry/Exit Overstay Report for all other visa categories.

compliance with the terms and conditions of the H-2 visa programs by nationals of the country.

As previously indicated, *see* 88 FR 77343, in evaluating the U.S. interest, the Secretary of Homeland Security, with the concurrence of the Secretary of State, will generally ascribe a negative weight to evidence that a country had a suspected in-country visa overstay rate of 10 percent or higher with a number of expected departures of 50 individuals or higher in either the H-2A or H-2B classification according to U.S. Customs and Border Protection overstay data, and generally, with the concurrence of the Secretary of State, will terminate designation of that country from the H-2A or H-2B nonimmigrant visa program, as appropriate, unless, after consideration of other relevant factors, it is determined not to be in the U.S. interest to do so.

Similarly, DHS recognizes that countries designated under long-standing practice by U.S. Immigration and Customs Enforcement (ICE) as “At Risk of Non-Compliance” or “Uncooperative” with removals based on ICE data put the integrity of the immigration system and the American people at risk. Therefore, unless other favorable factors in the U.S. interest outweigh such designations by ICE, the Secretary of Homeland Security, with the concurrence of the Secretary of State, generally will terminate designation of such countries from the H-2A and H-2B nonimmigrant visa programs. Because there are separate lists for the H-2A and H-2B categories, it is possible that, in applying the above-described regulatory criteria for listing countries, a country may appear on one list but not on the other.

Even where the Secretary of Homeland Security has determined to terminate or decided not to designate a country, DHS, through USCIS, may allow, on a case-by-case basis, a national from a country that is not on the list to be named as a beneficiary of an H-2A or H-2B petition based on a determination that it is in the U.S. interest, in the totality of the circumstances, for that individual noncitizen to be a beneficiary of an H-2 petition. Determination of such U.S. interest will take into account factors, including but not limited to: 1) evidence from the petitioner demonstrating that a worker with the required skills is not available either from among U.S. workers or from among foreign workers from a country currently on the list described in 8 CFR

214.2(h)(5)(i)(F)(1)(i) (H-2A nonimmigrants) or 214.2(h)(6)(1)(E)(1) (H-2B nonimmigrants), as applicable; 2) evidence that the beneficiary has been admitted to the United States previously in H-2A or H-2B status; 3) the potential for abuse, fraud, or other harm to the integrity of the H-2A or H-2B visa program through the potential admission of a beneficiary from a country not currently on the list; and 4) such other factors as may serve the U.S. interest. *See* 8 CFR 214.2(h)(5)(i)(F)(1)(ii) and 8 CFR 214.2(h)(6)(i)(E)(2). An additional factor for beneficiaries of H-2B petitions, although not necessarily determinative, would be whether the H-2B petition qualifies under section 1049 of the National Defense Authorization Act (NDAA) for FY 2018, Public Law 115-91, section 1045 of the NDAA for FY 2019, Public Law 115-232, section 9502 of the NDAA for FY 2021, Public Law 116-283, or section 5901 of the NDAA for FY 2023, Public Law 117-263. The FY 2024 NDAA, which took effect on December 22, 2023, extended the current exemption from the temporary need requirement for an additional 5 years, through the end of the day on December 30, 2029. *See* FY 2024 NDAA, Public Law 118-31 section 1807.

In December 2008, DHS published the first lists of eligible countries for the H-2A and H-2B Visa Programs in the **Federal Register**. These notices, “Identification of Foreign Countries Whose Nationals Are Eligible to Participate in the H-2A Visa Program,” and “Identification of Foreign Countries Whose Nationals Are Eligible to Participate in the H-2B Visa Program,” designated 28 countries whose nationals were eligible to participate in the H-2A and H-2B programs. *See* 73 FR 77043 (Dec. 18, 2008); 73 FR 77729 (Dec. 19, 2008). The notices ceased to have effect on January 17, 2009, and January 18, 2009, respectively. Since the publication of the first lists in 2008, with the concurrence of the Secretary of State, DHS has published a series of notices on a regular basis. *See* 75 FR 2879 (Jan. 19, 2010) (adding 11 countries to both programs); 76 FR 2915 (Jan. 18, 2011) (removing one country from and adding 15 countries to both programs); 77 FR 2558 (Jan. 18, 2012) (adding five countries to both programs); 78 FR 4154 (Jan. 18, 2013) (adding one country to both programs); 79 FR 3214 (Jan. 17, 2014) (adding

four countries to both programs); 79 FR 74735 (Dec. 16, 2014) (adding five countries to both programs); 80 FR 72079 (Nov. 18, 2015) (removing one country from the H-2B program and adding 16 countries to both programs); 81 FR 74468 (Oct. 26, 2016) (adding one country to both programs); 83 FR 2646 (Jan. 18, 2018) (removing three countries from and adding one country to both programs); 84 FR 133 (Jan. 18, 2019) (removing two countries from and adding 2 countries to both programs, removing one country from only the H-2B program, and adding one country to only the H-2A program); 85 FR 3067 (January 17, 2020) (leaving the lists unchanged); 86 FR 2689 (Jan. 13, 2021) (removing two countries from both programs, removing one country from only the H-2A program, and adding one country to only the H-2B program); 86 FR 62559 (Nov. 10, 2021) (removing one country from only the H-2A program, adding one country to only the H-2B program, and separately adding five countries to both programs); 87 FR 67930 (Nov. 10, 2022) (adding one country to both programs); and 88 FR 77343 (Nov. 9, 2023) (adding one country to both programs).

### **Determination of Countries with Continued Eligibility**

The Secretary of Homeland Security has determined, with the concurrence of the Secretary of State, that the 87 countries previously designated to participate in the H-2A program in the November 9, 2023 notice continue to meet the regulatory standards for eligible countries and therefore should remain designated as countries whose nationals are eligible to participate in the H-2A program. Additionally, the Secretary of Homeland Security has determined, with the concurrence of the Secretary of State, that the 88 countries previously designated to participate in the H-2B program in the November 9, 2023 notice continue to meet the regulatory standards for eligible countries and therefore should remain designated as countries whose nationals are eligible to participate in the H-2B program. These determinations take into account how the regulatory factors identified above apply to each of these countries.

Consistent with the previous notices, nationals of non-designated countries may still be beneficiaries of approved H-2A and H-2B petitions upon the request of the petitioner if USCIS

determines, as a matter of discretion and on a case-by-case basis, that it is in the U.S. interest for the individual to be a beneficiary of such petition. *See* 8 CFR 214.2(h)(5)(i)(F)(1)(ii) and 8 CFR 214.2(h)(6)(i)(E)(2). USCIS may favorably consider a beneficiary of an H-2A or H-2B petition who is not a national of a country included on the H-2A or H-2B eligibility lists as serving the national interest, depending on the totality of the circumstances. Factors USCIS may consider include, among other things, whether a beneficiary has previously been admitted to the United States in H-2A or H-2B status and complied with the terms of the program. An additional factor for beneficiaries of H-2B petitions, although not necessarily determinative, would be whether the H-2B petition qualifies under section 1049 of the National Defense Authorization Act (NDAA) for FY 2018, Public Law 115-91, section 1045 of the NDAA for FY 2019, Public Law 115-232, section 9502 of the NDAA for FY 2021, Public Law 116-283, or section 5901 of the NDAA for FY 2023, Public Law 117-263. The FY 2024 NDAA, which took effect on December 22, 2023, extended the current exemption from the temporary need requirement for an additional 5 years, through the end of the day on December 30, 2029. *See* FY 2024 NDAA, Public Law, 118-31, section 1807. However, any ultimate determination of eligibility will be made according to all the relevant factors and evidence in each individual circumstance.

### **Countries Now Designated as Eligible**

The Secretary of Homeland Security has also determined, with the concurrence of the Secretary of State, that Belize should be designated as an eligible country to participate in both the H-2A and H-2B nonimmigrant visa programs because its participation is in the U.S. interest consistent with the regulations governing these programs.

Belize consistently cooperates with accepting its nationals subject to a final order of removal. Furthermore, Belizean nationals are generally compliant with the terms and conditions of all visa categories. Nationals of Belize do not present significant visa overstay concerns and its overstay rates are generally consistent with other countries currently listed as eligible to participate in the H-2A and H-2B programs. In FY 2023, visa overstay rates for Belizean

nationals were less than five percent across all visa categories. Adding Belize to these programs would contribute to DOS's goals of promoting economic development and improving bilateral commercial relationships with Belize. Additionally, while irregular migration of Belizean nationals to the United States remains low, inclusion of Belize in the H-2A and H-2B programs will provide an alternative, lawful, pathway to irregular migration for Belizean nationals seeking economic opportunities in the United States.

DHS recognizes that Belize was previously removed from the H-2A and H-2B eligible countries list in 2018. At that time, DHS explained that Belize did not meet the standards for inclusion on the list due to its “Tier 3” placement on the U.S. Department of State’s 2017 Trafficking in Persons report.<sup>4</sup> A “Tier 3” placement is given to a country that does not fully meet the Trafficking Victims Protection Act’s (TVPA) minimum standards and is not making significant efforts to meet those standards.<sup>5</sup> Belize has since been rated as a “Tier 2” placement, meaning that, while the country does not yet fully meet the TVPA’s minimum standards, it is making significant efforts towards compliance with those standards.<sup>6</sup> Accordingly, DHS does not have the same concerns regarding Belize’s inclusion on the list as previously, and DHS has determined that, based on a review of the relevant factors, adding Belize to both the H-2A and H-2B eligible countries lists serves the U.S. interest.

### **Designation of Countries Whose Nationals Are Eligible to Participate in the H-2A and H-2B Nonimmigrant Worker Programs**

Pursuant to the authority provided to the Secretary of Homeland Security under sections 214(a)(1) and 215(a)(1) of the Immigration and Nationality Act (8 U.S.C. 1184(a)(1) and 1185(a)(1), I am designating, with the concurrence of the Secretary of State, the following countries as those whose nationals are eligible to participate in the H-2A nonimmigrant worker

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<sup>4</sup> 83 FR 2646, 2647 (Jan. 18, 2018).

<sup>5</sup> *Id.*

<sup>6</sup> U.S. Department of State Office to Monitor and Combat Trafficking in Persons, “2024 Trafficking in Persons Report,” June 2024, <https://www.state.gov/reports/2024-trafficking-in-persons-report>.

program:

1. Andorra
2. Argentina
3. Australia
4. Austria
5. Barbados
6. Belgium
7. Belize
8. Bolivia
9. Bosnia and Herzegovina
10. Brazil
11. Brunei
12. Bulgaria
13. Canada
14. Chile
15. Colombia
16. Costa Rica
17. Croatia
18. Republic of Cyprus
19. Czech Republic
20. Denmark
21. Dominican Republic
22. Ecuador
23. El Salvador
24. Estonia
25. The Kingdom of Eswatini



26. Fiji
27. Finland
28. France
29. Germany
30. Greece
31. Grenada
32. Guatemala
33. Haiti
34. Honduras
35. Hungary
36. Iceland
37. Ireland
38. Israel
39. Italy
40. Jamaica
41. Japan
42. Kiribati
43. Latvia
44. Liechtenstein
45. Lithuania
46. Luxembourg
47. Madagascar
48. Malta
49. Mauritius
50. Mexico
51. Monaco

52. Montenegro
53. Mozambique
54. Nauru
55. The Netherlands
56. New Zealand
57. Nicaragua
58. North Macedonia (formerly Macedonia)
59. Norway
60. Panama
61. Papua New Guinea
62. Paraguay
63. Peru
64. Poland
65. Portugal
66. Romania
67. Saint Lucia
68. San Marino
69. Serbia
70. Singapore
71. Slovakia
72. Slovenia
73. Solomon Islands
74. South Africa
75. South Korea
76. Spain
77. St. Vincent and the Grenadines

78. Sweden
79. Switzerland
80. Taiwan
81. Thailand
82. Timor-Leste
83. Turkey
84. Tuvalu
85. Ukraine
86. United Kingdom
87. Uruguay
88. Vanuatu

Pursuant to the authority provided to the Secretary of Homeland Security under sections 214(a)(1) and 215(a)(1) of the Immigration and Nationality Act (8 U.S.C. 1184(a)(1) and 1185(a)(1)), I am designating, with the concurrence of the Secretary of State, the following countries as those whose nationals are eligible to participate in the H-2B nonimmigrant worker program:

1. Andorra
2. Argentina
3. Australia
4. Austria
5. Barbados
6. Belgium
7. Belize
8. Bolivia
9. Bosnia and Herzegovina
10. Brazil

11. Brunei
12. Bulgaria
13. Canada
14. Chile
15. Colombia
16. Costa Rica
17. Croatia
18. Republic of Cyprus
19. Czech Republic
20. Denmark
21. Dominican Republic
22. Ecuador
23. El Salvador
24. Estonia
25. The Kingdom of Eswatini
26. Fiji
27. Finland
28. France
29. Germany
30. Greece
31. Grenada
32. Guatemala
33. Haiti
34. Honduras
35. Hungary
36. Iceland

37. Ireland
38. Israel
39. Italy
40. Jamaica
41. Japan
42. Kiribati
43. Latvia
44. Liechtenstein
45. Lithuania
46. Luxembourg
47. Madagascar
48. Malta
49. Mauritius
50. Mexico
51. Monaco
52. Mongolia
53. Montenegro
54. Mozambique
55. Nauru
56. The Netherlands
57. New Zealand
58. Nicaragua
59. North Macedonia (formerly Macedonia)
60. Norway
61. Panama
62. Papua New Guinea

63. Peru
64. The Philippines
65. Poland
66. Portugal
67. Romania
68. Saint Lucia
69. San Marino
70. Serbia
71. Singapore
72. Slovakia
73. Slovenia
74. Solomon Islands
75. South Africa
76. South Korea
77. Spain
78. St. Vincent and the Grenadines
79. Sweden
80. Switzerland
81. Taiwan
82. Thailand
83. Timor-Leste
84. Turkey
85. Tuvalu
86. Ukraine
87. United Kingdom
88. Uruguay

## 89. Vanuatu

This notice does not affect the current status of noncitizens who at the time of publication of this notice hold valid H-2A or H-2B nonimmigrant status. Noncitizens currently holding such status, however, will be affected by this notice should they seek an extension of stay in the H-2 classification, or a change of status from one H-2 status to another, for employment on or after the effective date of this notice. Similarly, noncitizens holding nonimmigrant status other than H-2 are not affected by this notice, but will be affected by this notice if they seek a change of status to H-2 on or after the effective date of this notice.

Nothing in this notice limits the authority of the Secretary of Homeland Security or his designee or any other federal agency to invoke against any foreign country or its nationals any other remedy, penalty, or enforcement action available by law.

**Alejandro N. Mayorkas,**  
*Secretary of Homeland Security.*

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