



H-2 Labor Certification Programs Filing Tips

November 2019

**Chicago National Processing Center
Office of Foreign Labor Certification
Employment and Training Administration
U.S. Department of Labor**



Disclaimer



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H-2 Visa Programs



- I. Workload Trends
- II. H-2A Filing Tips
- III. H-2B Filing Tips
- IV. H-2A/B Tips for Responding to Audits.



Section I

Workload Trends

H-2 Visa Programs

H-2A Program Workload Trends, FY 2008 – 2019

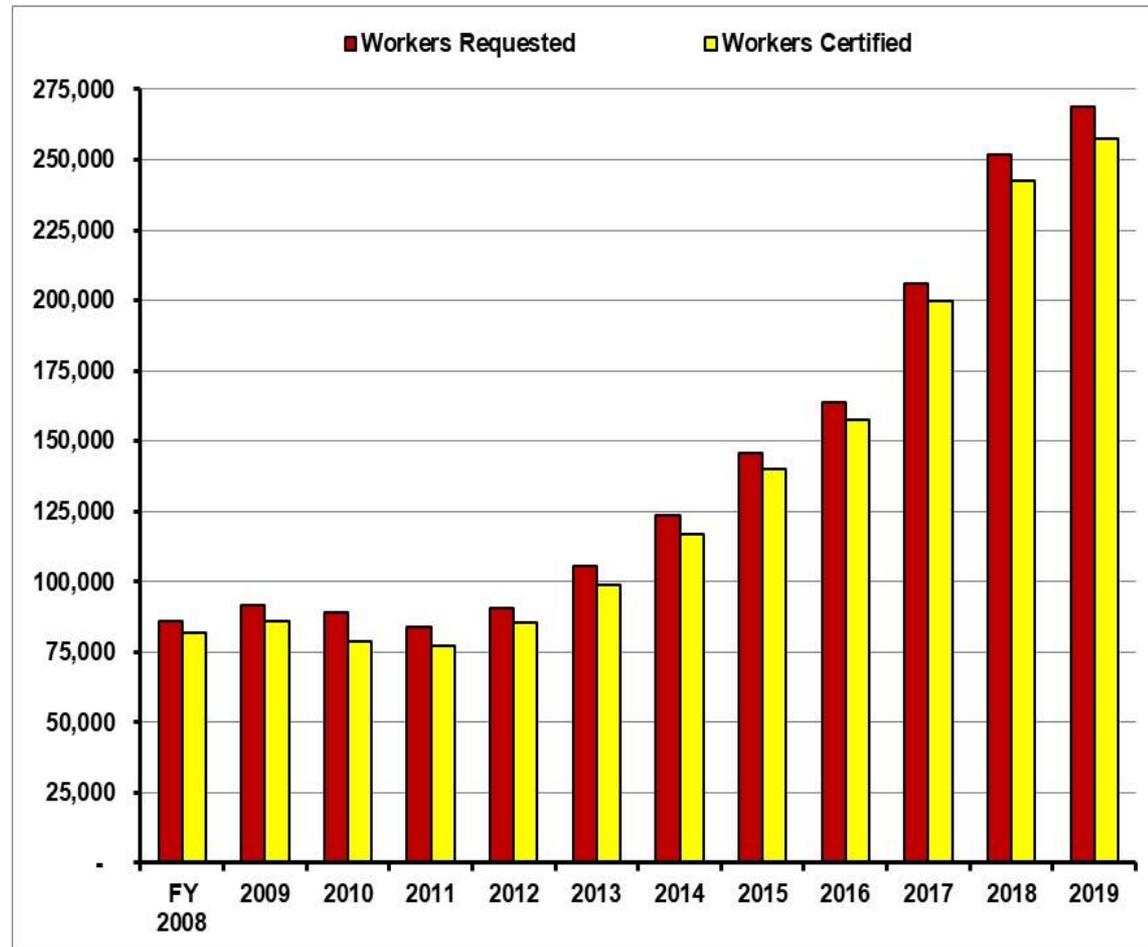


FY 2019 Workload

- 12,626 labor certifications
- 257,667 workers certified
- 96% certification rate
- 64% of certifications for individual farms-ranches
- 41% of workers certified for farm labor contractors

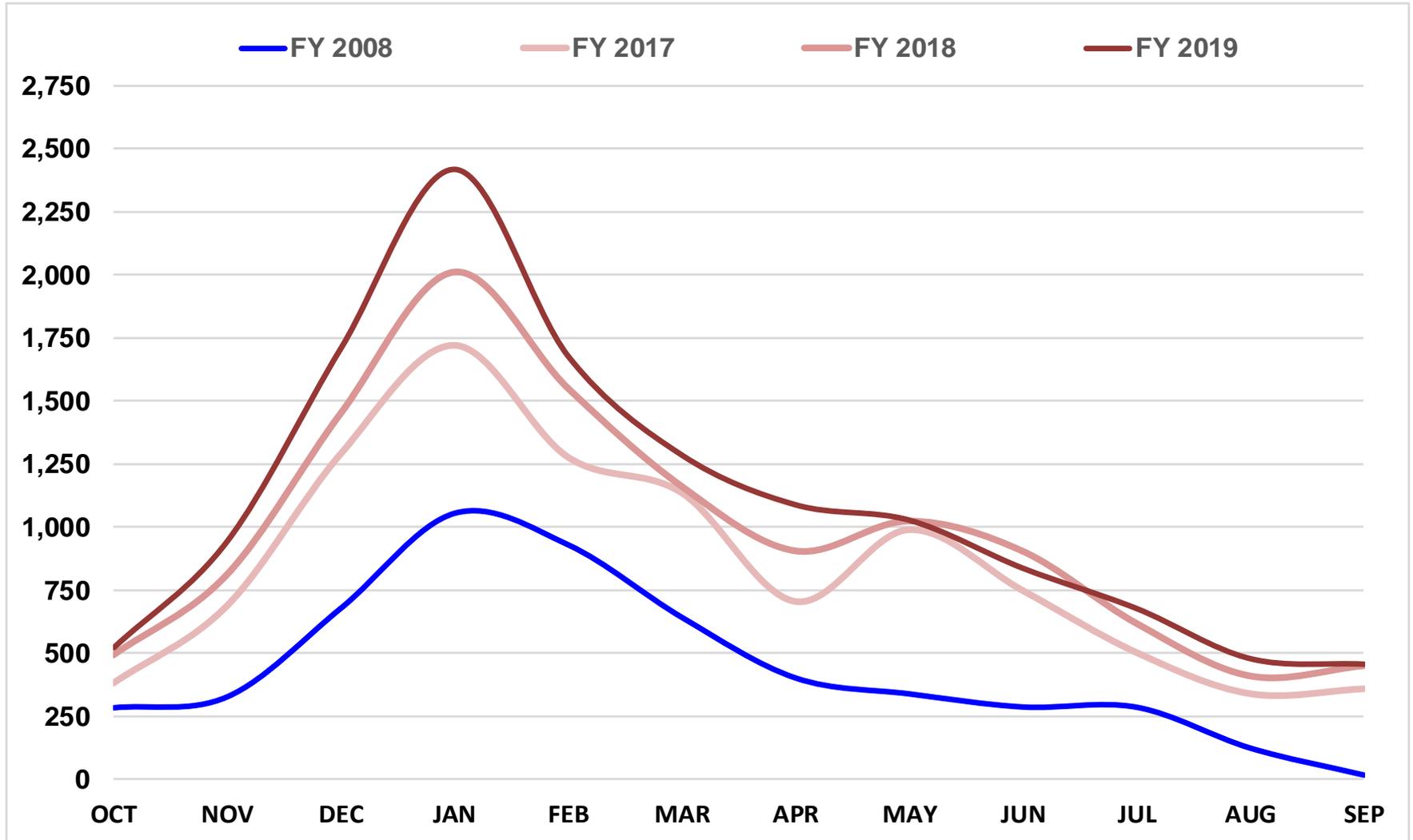
Top States of Employment

	<u>FY 2008</u>	<u>FY 2019</u>
Florida	5,800	33,598
Georgia	6,500	29,480
Washington	2,500	26,226
California	2,900	23,321
North Carolina	9,100	21,605



H-2 Visa Programs

H-2A Monthly Applications Received, FY 2008 vs. FY 2017 – 2019



H-2 Visa Programs

H-2B Workload Trends, FY 2008 – 2019

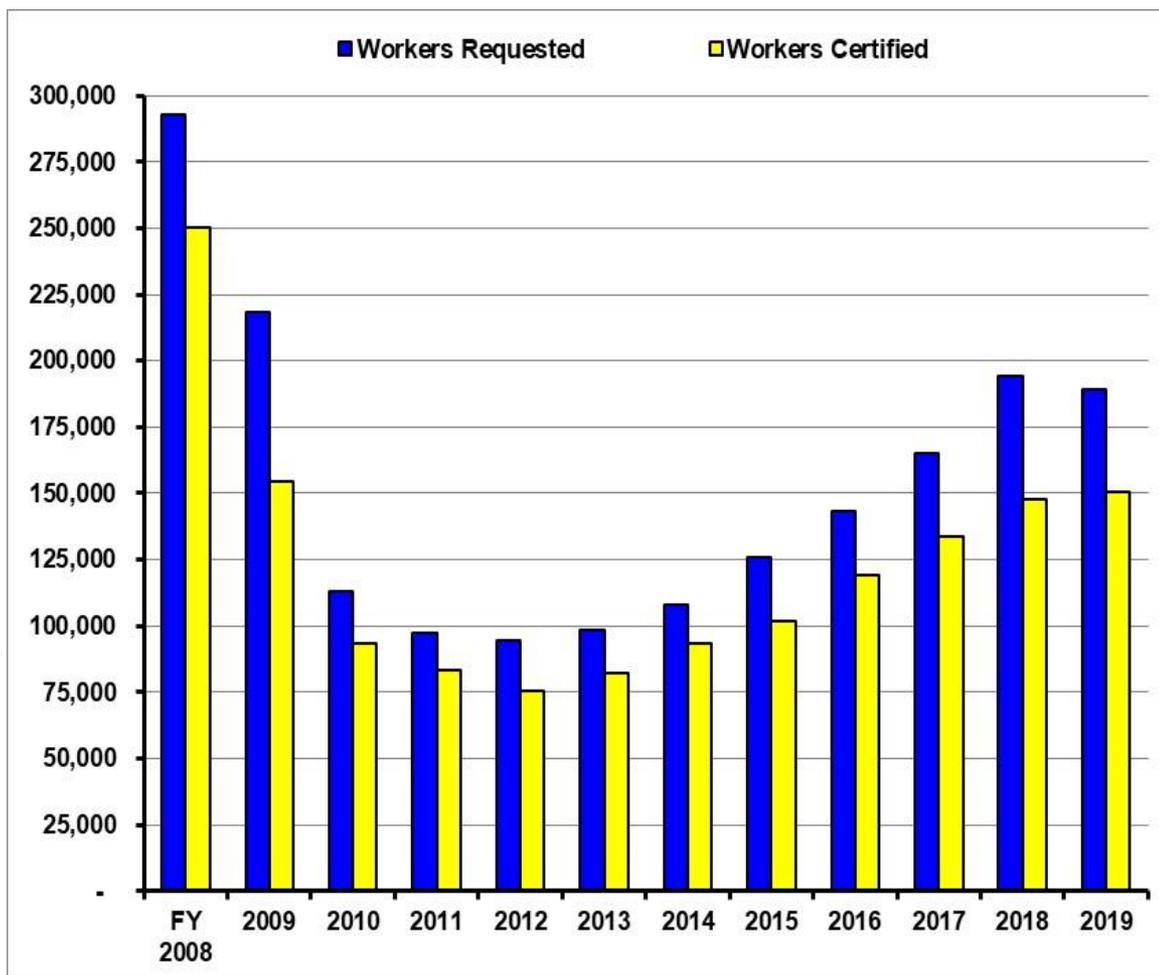


FY 2019 Workload

- 9,236 cases processed
- 150,465 workers certified
- 88% certification rate
- 53% of certifications for *seasonal* labor needs
- 20 workers certified (average) per employer application

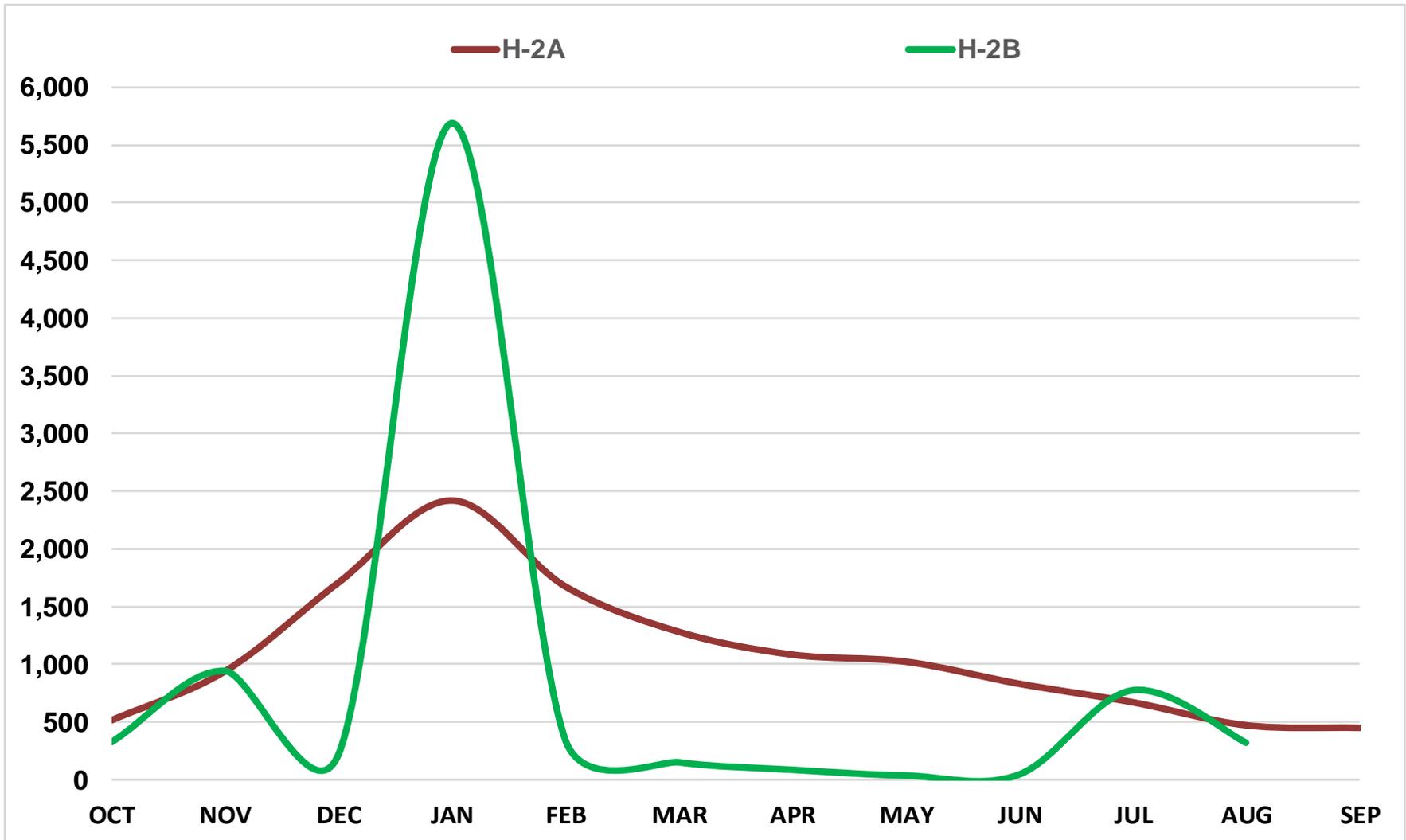
Top States of Employment

	<u>FY 2008</u>	<u>FY 2019</u>
Texas	35,100	16,106
Florida	22,200	5,768
Colorado	16,400	6,943
Louisiana	13,800	4,924
Pennsylvania	9,600	5,006



H-2 Visa Programs

Applications Received by Month, H-2A vs. H-2B, FY 2019





Section II

H-2A Filing Tips

H-2 Visa Programs

Section II. *H-2A Filing Tips*



Topics we will cover:

- New Forms Location (ETA-790/ETA-790A, ETA-9142A, Appendix A)
- ETA-790/ETA-790A Filing Tips
- Addendum A
- Addendum B
- Addendum C

H-2 Visa Programs

Section II. H-2A Filing Tips – New Form



H-2A New Forms Location

<https://www.foreignlaborcert.doleta.gov/form.cfm>

UNITED STATES DEPARTMENT OF LABOR
Employment & Training Administration

A to Z | Site Map | FAQs | Forms | About DOL | Contact Us | Español

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[ETA Home](#) > Foreign Labor Certification

Office of Foreign Labor Certification

- About FLC
- How do I...
- Policies & Regulations
- Program Debarments
- Foreign Labor Recruiter List
- OFLC Performance Data
- Contact Information
- OFLC Help Desks

Ombudsman Programs

- H-2A
- H-2B

Electronic Filing

- Foreign Labor Application Gateway (FLAG) System
- iCERT Online Filing System
 - H-2A and H-2B Electronic Filing Resources
- PERM Online Filing System

Forms and Instructions

Hiring Foreign Workers

- Permanent
- H-1B / H-1B1 / E-3
- H-2A

Foreign Labor Certification

Office of Foreign Labor Certification
Helping U.S. employers fill jobs while protecting U.S. and foreign workers

H-2A H-2B H-1B CW-1 PERM Prevailing Wage Determinations

I Want To...

Select an Option GO

Performance Data

[Click Here](#)

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To sign up for updates or to access your subscriber preferences, please enter your contact information below.

*Email Address [Subscribe](#)

Announcements

OCT 23

October 23, 2019. OFLC Issues Frequently Asked Questions (FAQs), Round 14, Covering the Definition of Agricultural Labor or Services in the H-2A Temporary Agricultural Labor Certification Program

The Office of Foreign Labor Certification (OFLC) has posted a set of FAQs, Round 14, related to H-2A Applications for Temporary Employment Certification under the 2010 H-2A Final Rule. These FAQs address questions related to the definition of *agricultural labor or services* for H-2A program purposes. To access the Round 14 FAQs, please click [here](#).

H-2 Visa Programs

Section II. *H-2A Filing Tips – New Form*



foreignlaborcert.doleta.gov

AUG
27

August 27, 2019. OFLC Announces New H-2A Application Forms and Schedule for Electronic Filing in the Foreign Labor Application Gateway System

The Office of Foreign Labor Certification (OFLC) announced changes to the forms and the online filing process for the H-2A temporary agricultural program.

On August 22, 2019, the Office of Management and Budget (OMB) approved revisions for form [ETA-9142A, Application for Temporary Employment Certification](#), and [Appendix A, H-2A Assurances and Obligations](#). This approved package includes a newly designed form [ETA-790/790A, H-2A Agricultural Clearance Order](#), to collect information about the employer's agricultural job opportunity in an electronically fillable and fileable format, reducing the need for employers to submit "paper-based" job orders to State Workforce Agencies (SWAs).

OMB also approved form [ETA-9142A, Final Determination: H-2A Temporary Labor Certification Approval](#), which allows OFLC to begin issuing H-2A temporary labor certification approvals electronically to employers and, if applicable, their authorized attorneys or agents.

The following schedule outlines when the new and updated forms will be used, as well as the migration from the iCERT to [FLAG System](#).

Electronic Filing Schedule for New H-2A Application Forms

Beginning September 4, 2019 (at 12:00 p.m. Eastern Time):

- The FLAG System's H-2A Program Module will be enabled and stakeholders will be able to begin preparing job orders using the Form ETA-790/790A and applications using the Form ETA-9142A. However, the **FLAG System will not permit the submission of H-2A job orders and applications until October 1, 2019, at 12:00 p.m. Eastern Time.**

H-2 Visa Programs

Section II. H-2A Filing Tips – Appendix A



OMB Approval: 1205-0466
Expiration Date: 08/31/2022

H-2A Application for Temporary Employment Certification Form ETA-9142A – APPENDIX A U.S. Department of Labor



For Use in Filing Applications under the H-2A Agricultural Program ONLY

A. Attorney or Agent Declaration

I hereby declare under penalty of perjury that I am an attorney for the employer, or that I am an employee of, or hired by, the employer listed in Section B of the Form ETA-9142A, and that I have been designated by that employer in accordance with 20 CFR 655.133 to act on its behalf in connection with this application, as evidenced by the attached agent agreement.

I HEREBY CERTIFY that I have provided to the employer the Form ETA-9142A, Form ETA-790/790A and all supporting documentation for review and to the best of my knowledge the information contained herein is true and accurate, including the employer's declaration regarding activities that I have undertaken on the employer's behalf in connection with this application. I understand that to knowingly and/or willfully furnish materially false information in the preparation of this form and any supplement hereto or to aid, abet, or counsel another to do so is a federal offense punishable by fines, imprisonment, or both (18 U.S.C. 2, 1001, 1546, 1621).

1. Attorney or Agent's Last (family) Name *	2. First (given) Name *	3. Middle Initial §
4. Firm/Business Name *		
5. Signature *		6. Date Signed *

H-2 Visa Programs

Section II. H-2A Filing Tips – Appendix A



OMB Approval: 1205-0466
Expiration Date: 08/31/2022

H-2A Application for Temporary Employment Certification Form ETA-9142A – APPENDIX A U.S. Department of Labor



- (v) The H-2A Labor Contractor has obtained from each fixed-site agricultural business that will provide housing or transportation to the workers a written statement stating that:
- All housing used by workers and owned, operated, or secured by the fixed-site agricultural business complies with the applicable housing standards in 20 CFR 655.122(d) and, if applicable, 655.235; and
 - All transportation between the worksite and the workers' living quarters that is provided by the fixed-site agricultural business complies with all applicable Federal, State, or local laws and regulations and will provide, at a minimum, the same vehicle safety standards, driver licensure, and vehicle insurance as required under 29 U.S.C. 1841 and 29 CFR part 500, except where workers' compensation is used to cover such transportation as described in § 655.122(e); and
 - Attach to the statement certificates of occupancy from the SWA for all employer owned housing and copies of all drivers' licenses, vehicle registration, and insurance policies for all drivers and vehicles used to transport H-2A workers.

I hereby designate the agent or attorney identified in Section D (if any) of the Form ETA-9142A and Section A above to represent me for the purpose of labor certification and, by virtue of my signature in Block 5 below, **I take full responsibility** for the accuracy of any representations made by my agent or attorney on every page of the Form ETA-9142A, Form ETA-790/790A and documentation supporting this application.

I declare under penalty of perjury that I have read and reviewed this application, including every page of the Form ETA-9142A, Form ETA-790/790A, and supporting documentation, and that to the best of my knowledge the information contained therein is true and accurate. *I understand that to knowingly and/or willfully furnish materially false information in the preparation of this form and any supplement thereto or to aid, abet, or counsel another to do so is a federal offense punishable by fines, imprisonment, or both (18 U.S.C. 2, 1001, 1546, 1621).*

1. Last (family) Name *	2. First (given) Name *	3. Middle Initial §
4. Title *		
5. Signature *		6. Date Signed *

Public Burden Statement (1205-0466)

Persons are not required to respond to this collection of information unless it displays a currently valid OMB control number. Public reporting burden for this collection of information is estimated to average 3.66 hours per response for all H-2A information collection requirements, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing, reviewing, and submitting the collection of information. The obligation to respond to this data collection is required to obtain/retain benefits (Immigration and Nationality Act, 8 U.S.C. 1101, et seq.). Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the U.S. Department of Labor, Employment and Training Administration, Office of Foreign Labor Certification, 200 Constitution Ave., NW, Suite PPII 12-200, Washington, DC, 20210. (Paperwork Reduction Project OMB 1205-0466). DO NOT send the completed application to this address.

H-2 Visa Programs

Section II. *H-2A Filing Tips – ETA-790/ETA-790A*



ETA-790A

- Section B. Minimum Job Qualifications
- Section E. Provision of Meals
- Section F. Transportation and Daily Subsistence
- Conditions of Employment and Assurances
- Addendum A
- Addendum B
- Addendum C



H-2 Visa Programs

Section II. H-2A Filing Tips – ETA-790A Sec.B. Minimum Job Qualifications

OMB Approval: 1205-0466
Expiration Date: XXXXXXXX

H-2A Agricultural Clearance Order
Form ETA-790A
U.S. Department of Labor



B. Minimum Job Qualifications/Requirements

1. Education: minimum U.S. diploma/degree required. *	
<input type="checkbox"/> None <input type="checkbox"/> High School/GED <input type="checkbox"/> Associate's <input type="checkbox"/> Bachelor's <input type="checkbox"/> Master's or Higher <input type="checkbox"/> Other degree (JD, MD, etc.)	
2. Work Experience: number of <u>months</u> required. *	3. Training: number of <u>months</u> required. *
4. Basic Job Requirements (check all that apply) *	
<input type="checkbox"/> a. Certification/license requirements	<input type="checkbox"/> g. Exposure to extreme temperatures
<input type="checkbox"/> b. Driver requirements	<input type="checkbox"/> h. Extensive pushing or pulling
<input type="checkbox"/> c. Criminal background check	<input type="checkbox"/> i. Extensive sitting or walking
<input checked="" type="checkbox"/> d. Drug screen	<input type="checkbox"/> j. Frequent stooping or bending over
<input type="checkbox"/> e. Lifting requirement _____ lbs.	<input type="checkbox"/> k. Repetitive movements
5a. Supervision: does this position supervise the work of other employees? *	5b. If "Yes" to question 5a, enter the number of employees worker will supervise. §
<input type="checkbox"/> Yes <input type="checkbox"/> No	
6. Additional Information Regarding Job Qualifications/Requirements. <i>(Please begin response on this form and use Addendum C if additional space is needed. If no additional skills or requirements, enter "NONE" below) *</i>	

B.4. Basic Job Requirements (check all that apply) ?

- Certification/license requirements
- Driver requirements
- Criminal background check
- Drug Screen
- Lifting requirements
- Exposure to extreme temperatures
- Extensive pushing or pulling
- Extensive sitting or walking
- Frequent stooping or bending over
- Repetitive movements

B.5.A. Supervision: does this position supervise the work of other employees? * ?

- Yes
- No

B.6. Additional Information Regarding Job Qualifications/Requirements

*(Please begin response on this form and use Addendum C if additional space is needed. If no additional skills or requirements, enter "NONE" below.) * ?*

0 / 1000 character limit



H-2 Visa Programs

Section II. H-2A Filing Tips – ETA-790A Sec.B. Minimum Job Qualifications

B. Minimum Job Qualifications/Requirements

Education Level [B.1]	None		Experience Months [B.2]	3		Training Months [B.3]	0		
Basic Job Requirements [B.4a-k]									
Certification/License Requirements	No	Driver Requirements	No	Criminal Background Check	No	Drug Screen	Yes	Lifting Requirement	Yes - 50 lbs.
Exposure to Extreme Temperatures	Yes	Extensive Pushing or Pulling	No	Extensive Sitting or Walking	Yes	Frequent Stooping or Bending Over	Yes	Repetitive Movements	Yes
Supervise Others? [B.5a-b]	No								
Additional Information [B.6]	3 months experience in job offered required. Once hired worker may be required to submit to a random drug test at no cost to worker. Testing positive or failure to comply may result in immediate termination from employment.								



H-2 Visa Programs

Section II. H-2A Filing Tips – ETA-790A Section E. Provision of Meals

Section E Provision of Meals

1. Describe how the employer will provide each worker with three (3) meals a day or furnish free and convenient cooking and kitchen facilities so that workers can prepare their own meals. Where the employer provides facilities for workers to prepare their own meals, please explain how the workers will have access to stores where they can purchase groceries and describe the facilities and space for food preparation, as well as the necessary equipment, appliances (including refrigeration), cooking accessories, and dishwashing facilities (e.g., adequate sinks with hot and cold water under pressure) that are in working condition and will be used by workers to sufficiently prepare three (3) meals a day. If the employer has an agreement with a third-party that will prepare the meals for the employer's workers, identify the vendor and explain the employer's arrangement with the vendor with sufficient detail to apprise workers how, when, and where the workers will obtain the meals from the vendor and that the employer will pay the vendor directly for the meals provided. If additional

Form ETA-790A

GENERAL INSTRUCTIONS

Page 7 of 13

OMB Approval: 1205-0466
Expiration Date: 08/31/2022

H-2A Agricultural Clearance Order
Form ETA-790A – General Instructions
U.S. Department of Labor



space is needed to complete the response to Item E.1, the employer may use the Form ETA-790A, *Addendum C*. On *Addendum C*, enter "E.1" in Item 1, "Provision of Meals" in Item 2, and then complete the description of the employer's provision of meals to workers in Item 3.

Important Note: Providing access to third-party vendors and requiring workers to purchase meals from the third-party vendor does not constitute compliance with the requirement to provide meals or cooking and kitchen facilities, even if the employer provides a meal stipend.

2. Select the option designating whether the employer will charge workers for the provision of meals. If the employer intends to charge workers for the provision of meals, the daily charge per worker must be entered in currency format (e.g., \$99.99).



H-2 Visa Programs

Section II. H-2A Filing Tips – ETA-790A Section E. Provision of Meals

Good example:

E. Provision of Meals

Meal Details [E.1] Employer will provide free, convenient and fully equipped with refrigerator, stove, pots, pans, utensils and counter space cooking and kitchen facilities to workers living in employer provided housing, which will enable workers to prepare their own meals. Also will provide transportation once per week to go to a store to buy food and other necessities.

Employer will charge No
workers [E.2]

Amount per Worker
per Day [E.2]

H-2 Visa Programs

H-2A Filing Tips – ETA-790A Section F. Transportation and Daily Subsistence



Section F Transportation and Daily Subsistence

1. Describe how the employer will provide workers daily transportation to the place(s) of employment. At a minimum, describe the arrangements for transporting workers, at no cost to workers, from employer-provided housing and, if applicable, centralized pick-up points to the places of employment at the beginning of each workday and back at the end of each workday. Please also disclose the mode(s) of transportation (e.g., vans, buses) that will be used each day, if known, as well as whether the daily transportation at no cost to workers is available to workers who do not reside in employer-provided housing. If additional space is needed, use the Form ETA-790A, *Addendum C*.
 2. Describe how the employer will provide workers with transportation (a) to the place of employment from the place from which the worker has come to work for the employer (i.e., inbound) and (b) from the place of employment to the place from which the worker has come to work for the employer (i.e., outbound). At a minimum, state whether such transportation, and related daily subsistence, will be provided by the employer or paid by the employer to the worker for reasonable costs incurred (e.g., advance payment or reimbursement) and identify the modes of transportation, if known. For example, the employer may state that it will provide or pay for charter bus services or other modes of transportation to groups of H-2A or U.S. workers, or permit workers to select any means of transportation they choose and reimburse workers at no less than the most economical and reasonable common carrier transportation charges for the distances involved. If additional space is needed, use the Form ETA-790A, *Addendum C*.
 3. Enter the amounts per day that the employer will pay for or reimburse daily meals for each worker
 - a. Enter the minimum daily subsistence amount per day in currency format (e.g., \$99.99).
 - b. Enter the maximum daily subsistence amount per day with receipts in currency format (e.g., \$99.99).
-



H-2 Visa Programs

H-2A Filing Tips – ETA-790A Section F. Transportation and Daily Subsistence

Good example:

F. Transportation and Daily Subsistence

Daily Transport Terms [F.1] Employer will provided a mode of transportation to transport worker from housing to work site and return back to housing at no cost to worker each day.

Employment Transport Terms [F.2] The employer will provide or pay for charter bus services or other modes of transportation to groups of H-2A or U.S. workers, or permit workers to select any means of transportation they choose and reimburse workers at no less than the most economical and reasonable common carrier transportation charges for the distances involved.

Meal Reimbursement Daily Minimum [F.3] \$12.46

Meal Reimbursement Daily Max with Receipts [F.3] \$55.00

Poor example:

F. Transportation and Daily Subsistence

Daily Transport Terms [F.1] Employer will provide advance transportation for reasonable (most economical) common carrier or other transportation which conforms to the interstate Commerce Commission (ICC) inbound transportation (if it is the prevailing practice). If not the prevailing practice, the employer will reimburse the worker for transportation costs and subsistence to the employer's work site when the worker completes 50% of the work period.

Employment Transport Terms [F.2] See Attached.

Meal Reimbursement Daily Minimum [F.3] \$12.46

Meal Reimbursement Daily Max with Receipts [F.3] \$55.00



H-2 Visa Programs

Section II. H-2A Filing Tips – Conditions of Employment and Assurances

Page 5 of the Form ETA 790A outlines the Conditions of Employment and Assurances for H-2A Agricultural Clearance Orders

OMB Approval: 1205-0466
Expiration Date: XX/XX/XXXX

H-2A Agricultural Clearance Order
Form ETA-790A
U.S. Department of Labor

I. Conditions of Employment and Assurances for H-2A Agricultural Clearance Orders

By virtue of my signature below, I **HEREBY CERTIFY** my knowledge of and compliance with applicable Federal, State, and local employment-related laws and regulations, including employment-related health and safety laws, and certify the following conditions of employment:

- JOB OPPORTUNITY:** Employer assures that the job opportunity identified in this clearance order (hereinafter also referred to as the "job order") is a full-time temporary position being placed with the SWA in connection with an H-2A *Application for Temporary Employment Certification* for H-2A workers and this clearance order satisfies the requirements for agricultural clearance orders in 20 CFR 653, subpart F and the requirements set forth in 20 CFR 655.122. This job opportunity offers U.S. workers no less than the same benefits, wages, and working conditions that the employer is offering, intends to offer, or will provide to H-2A workers and complies with the requirements at 20 CFR 655, Subpart B. The job opportunity is open to any qualified U.S. worker regardless of race, color, national origin, age, sex, religion, handicap, or citizenship.
- NO STRIKE, LOCKOUT, OR WORK STOPPAGE:** Employer assures that this job opportunity, including all worksites for which the employer is requesting H-2A labor certification does not currently have workers on strike or being locked out in the course of a labor dispute. 20 CFR 655.135(b).
- HOUSING FOR WORKERS:** Employer agrees to provide for or secure housing for H-2A workers and those workers in corresponding employment who are not reasonably able to return to their residence at the end of the work day. That housing complies with the applicable local, State, or Federal standards and is sufficient to house the specified number of workers requested through the clearance system. The employer will provide the housing without charge to the worker. Any charges for rental housing will be paid directly by the employer to the owner or operator of the housing. If public accommodations are provided to workers, the employer agrees to pay all housing-related charges directly to the housing's management. The employer agrees that charges in the form of deposits for bedding or other similar incidentals related to housing (e.g., utilities) must not be levied upon workers. However, the employer may require workers to reimburse them for damage caused to housing by the individual worker(s) found to have been responsible for damage which is not the result of normal wear and tear related to habitation. When it is the prevailing practice in the area of intended employment and the occupation to provide family housing, the employer agrees to provide family housing at no cost to workers with families who request it. 20 CFR 655.122(d), 653.501(c)(3)(vi).

Request for Conditional Access to Intrastate or Interstate Clearance System: Employer assures that the housing disclosed on this clearance order will be in full compliance with all applicable local, State, or Federal standards at least 20 calendar days before the housing is to be occupied. 20 CFR 653.502(a)(3). The Certifying Officer will not certify the application until the housing has been inspected and approved.

- WORKERS' COMPENSATION COVERAGE:** Employer agrees to provide workers' compensation insurance coverage in compliance with State law covering injury and disease arising out of and in the course of the worker's employment. If the type of employment for which the certification is sought is not covered by or is exempt from the State's workers' compensation law, the employer agrees to provide, at no cost to the worker, insurance covering injury and disease arising out of and in the course of the worker's employment that will provide benefits at least equal to those provided under the State workers' compensation law for other comparable employment. 20 CFR 655.122(e).
- EMPLOYER-PROVIDED TOOLS AND EQUIPMENT:** Employer agrees to provide to the worker, without charge or deposit charge, all tools, supplies, and equipment required to perform the duties assigned. 20 CFR 655.122(f).
- MEALS:** Employer agrees to provide each worker with three meals a day or furnish free and convenient cooking and kitchen facilities to the workers that will enable the workers to prepare their own meals. Where the employer provides the meals, the job offer will state the charge, if any, to the worker for such meals. The amount of meal charges is governed by 20 CFR 655.173. 20 CFR 655.122(g).

For workers engaged in the herding or production of livestock on the range, the employer agrees to provide each worker, without charge or



H-2 Visa Programs

Section II. H-2A Filing Tips – Conditions of Employment and Assurances

flag.dol.gov/dashboard/application/790A/5db9ed0ce488ed001bb4b586

- Qualifications/Requirements
- Placement of Employment Information
- Housing Information
- Provision of Meals and Transportation
- Referral and Hiring Instructions
- I Conditions of Employment and Assurances**
- ADD A Addendum A - Additional Crops and/or Agricultural Activities
- ADD B Addendum B - Additional Place of Employment Information
- ADD B Addendum B - Additional Housing Location
- ADD C Addendum C - Material Terms and Conditions of the Job Offer
- State Workforce Agency (SWA)

Conditions of Employment and Assurances

By virtue of my signature below, I **HEREBY CERTIFY** my knowledge of and compliance with applicable Federal, State, and local employment-related laws and regulations, including employment-related health and safety laws, and certify the following conditions of employment:

- JOB OPPORTUNITY:** Employer assures that the job opportunity identified in this clearance order (hereinafter also referred to as the "job order") is a full-time temporary position being placed with the SWA in connection with an H-2A Application for Temporary Employment Certification for H-2A workers and this clearance order satisfies the requirements for agricultural clearance orders in 20 CFR 653, subpart F and the requirements set forth in 20 CFR 655.122. This job opportunity offers U.S. workers no less than the same benefits, wages, and working conditions that the employer is offering, intends to offer, or will provide to H-2A workers and complies with the requirements at 20 CFR 655, Subpart B. The job opportunity is open to any qualified U.S. worker regardless of race, color, national origin, age, sex, religion, handicap, or citizenship.
- NO STRIKE, LOCKOUT, OR WORK STOPPAGE:** Employer assures that this job opportunity, including all worksites for which the employer is requesting H-2A labor certification does not currently have workers on strike or being locked out in the course of a labor dispute. 20 CFR 655.135(b).
- HOUSING FOR WORKERS:** Employer agrees to provide for or secure housing for H-2A workers and those workers in corresponding employment who are not reasonably able to return to their residence at the end of the work day. That housing complies with the applicable local, State, or Federal standards and is sufficient to house the specified number of workers requested through the clearance system. The employer will provide the housing without charge to the worker. Any charges for rental housing will be paid directly by the employer to the owner or operator of the housing. If public accommodations are provided to workers, the employer agrees to pay all housing-related charges directly to the housing's management. The employer agrees that charges in the form of deposits for bedding or other similar incidentals related to housing (e.g., utilities) must not be levied upon workers. However, the employer may require workers to reimburse them for damage caused to housing by the individual worker(s) found to have been responsible for damage which is not the result of normal wear and tear related to habitation. When it is the prevailing practice in the area of intended employment and the occupation to provide family housing, the employer agrees to provide family housing at no cost to workers with families who request it. 20 CFR 655.122(d),653.501(c) (3)(vi).

Request for Conditional Access to Intrastate or Interstate Clearance System: Employer assures that the housing disclosed on this clearance order will be in full compliance with all applicable local, State, or Federal standards at least 20 calendar days before the housing is to be occupied. 20 CFR 653.502(a)(3). The Certifying Officer will not certify the application until the housing has been inspected and approved.

Conditions of Employment and Assurances can also be found in Section I of Form ETA-790A

<https://flag.dol.gov>



H-2 Visa Programs

Section II. H-2A Filing Tips – Conditions of Employment and Assurances

Please **do not** repeat the Conditions of Employment and Assurances in Addendum C

The screenshot shows a web browser window with the URL cmp.dol.gov/suite/sites/tlc-case-processing/page/home/task/3331865. The page title is "Temporary Labor Certification - H-2B". The main content area is titled "Addendum C - Additional Material Terms and Conditions".

Section Number	Section Name	Additional Information
F.2	Inbound/Outbound Transportation	<p>Workers who qualify for inbound and/or outbound travel reimbursements are entitled to reimbursements up to \$55.00 per day determining the appropriate amount of reimbursement for meals for less than a day, the employer may provide for meal expenses reimbursement, with receipts, up to 75% of the maximum reimbursement for meals, or \$41.25 based on the GSA per diem schedule. If a worker cannot produce receipts they will be reimbursed \$12.46 per day.</p> <p>The employer will provide advance transportation for reasonable (most economical) common carrier or other transportation which conforms to the Interstate Commerce Commission (ICC) inbound transportation (if it is the prevailing practice.) If not the prevailing practice, the employer will reimburse the worker for transportation costs and subsistence to the employer's work site when the worker completes 50% of the work period.</p> <p>The employer will also provide advance subsistence at a minimum amount of \$ N/A per 24 hour period of travel from the place of recruitment to the place of employment (if it is the prevailing practice.)</p> <p>Workers who provide receipts for meals and non-alcoholic beverages in excess of \$ N/A will be reimbursed during the first pay periods, up to the maximum amount of \$ N/A per 24 -hour period of travel from place of recruitment to the place of employment (if it is the prevailing practice.)</p> <p>Workers who voluntarily quit or are terminated for cause prior to completing 50% of the contract period will be required to reimburse the employer for the full amounts of transportation and subsistence which were advanced and/or reimbursed to the worker.</p> <p>After worker has completed 50% of the work contract period, employer will reimburse worker for the cost of transportation and subsistence from the place of recruitment (travel reimbursement subsistence will be the minimum amount of \$ 12.46 per 24-hour period of travel and the maximum amount will be \$ 55.00 per day from the place of employment to the place of recruitment. Due to subsequent employment with another employer who agrees to pay such costs, in which the employer will only pay for the transportation and subsistence to the next job. The amount of the transportation payment will be equal to the most economical and reasonable similar</p>

H-2 Visa Programs

Section II. H-2A Filing Tips – Addendum A



OMB Approval: 1205-0466
Expiration Date: 300909000X

H-2A Agricultural Clearance Order
Form ETA-790A Addendum A
U.S. Department of Labor

A.8. Additional Crop or Agricultural Activities and Wage Offer Information

Crop ID	Crop or Agricultural Activity	Wage Offer	Per	Piece Rate Units/Special Pay Information
S01	Strawberry Regular Trim	\$ 10.50	PR	per 1,000 plants trimmed and bundled calculated as follows: \$8.50 per 1,000 plants trimmed and bundled, plus quality incentive bonus of \$0 to \$3.00 per thousand plants depending on the quality of work performed. If, after the bonus is applied to the base rate of \$8.50 an employee does not reach the wage of \$10.50 per 1,000 plants, Sierra Cascade will augment the wage to ensure that the employee receives at least \$10.50 per 1,000 trimmed plants.
S02	Strawberry Green Trim	\$ 14.00	PR	per 1,000 plants trimmed and bundled, plus quality incentive bonus of \$0 to \$3.00 per thousand plants depending on the quality of work performed
S03	Strawberry Misted Tip Trim	\$ 26.00	PR	per 1,000 plants trimmed, plus quality incentive bonus of \$0 to \$3.00 per thousand plants depending on the quality of the work performed
S04	Strawberry Raspberry Trim	\$ 15.00	PR	per box on a team piece rate basis (8 or 10 persons per team. Group (or team) piece rate is divided among team members
C01	Cherry Harvest Yellow	\$6.00	PR	per 201b lug or per bucket equivalent (bucket size may vary according to variety ranging from 121b to 201b)
C02	Cherry Harvest Red	\$6.00	PR	per 30 lb lug or per bucket equivalent (bucket size may vary according to variety ranging from 121b to 301b)
A01	Apple Harvest Golden Delicious	\$26.00	PR	per bin (46 inch X 43 inch X 25.5 inch) All cultivations
A02	Apple Harvest Pink Lady	\$25.00	PR	per bin (47 inch X 47 inch X 24 1/2 inch) All cultivations
A03	Apple Harvest Fuji	\$28.00	PR	per bin (47 inch X 47 inch X 24 1/2 inch) All cultivations
T01	Tree Training	\$0.02	PR	Up to \$.50 per tree

Important Note: Use Form ETA-790A, *Addendum A* to disclose all additional pay information that is related to a particular crop or agricultural activity. For additional pay information that is not related to a particular crop, including but not limited to overtime and bonus or work incentive payments that the employer will pay in addition to the basic wage rate (e.g., bonuses based on time on the job or calendar based/holiday bonuses), mark H.1 “**YES**” and use the Form ETA-790A, *Addendum C* to disclose the additional material terms and conditions of employment.

H-2 Visa Programs

Section II. H-2A Filing Tips – Addendum B



Example 1: Addendum B for an employer engaged in itinerant animal shearing

OMB Approval: 1205-0466
Expiration Date: XX/XX/XXXX

H-2A Agricultural Clearance Order
Form ETA-790A Addendum B
U.S. Department of Labor

C. Additional Place of Employment Information

1. Name of Agricultural Business §	2. Place of Employment *	3. Additional Information About the Place of Employment §	4. Begin Date §	5. End Date §	6. Total Workers §
Rolling Sheep Company	1290 W 5 Lane N Paul, ID 83347 Minidoka County	N/A	01/01/19	01/05/19	6
John Doe Ranch	18289 Highway 30 Hagerman, ID 83332 Gooding County	N/A	01/08/19	01/15/19	6
Jane Darby	Riverton, WY 82501 Fremont County	Shearing sheds located about 1 mile south on Highway 99	01/18/19	02/01/19	6

H-2 Visa Programs

Section II. H-2A Filing Tips – Addendum B



Example 2: *Addendum B* for an agricultural association filing as joint employer

OMB Approval: 1205-0456 Expiration Date: XX/XX/XXXX		H-2A Agricultural Clearance Order Form ETA-790A Addendum B U.S. Department of Labor			
C. Additional Place of Employment Information					
1. Name of Agricultural Business §	2. Place of Employment *	3. Additional Information About the Place of Employment §	4. Begin Date §	5. End Date §	6. Total Workers §
Abby Doe	6095 Meadowbrook Road Benson, NC, 27504 Johnston County	Hay, Organic Tobacco, Straw	05/04/19	11/01/19	2
Bobby Dodd	462 Pinehaven Road Reidsville, NC, 27320 Rockingham County	Soy, Tobacco, Wheat	05/04/19	10/31/19	8
Claire Roberts	525 Chinquapin Road Mocksville, NC, 27028 Davie County	Soy, Sweet Potatoes, Tobacco	05/04/19	11/01/19	20
Dave Richards	P.O. Box 73 117 Church Street Franklin, NC, 27551 Macon County	Produce, Soy, Straw, Tobacco	05/04/19	10/28/19	14

H-2 Visa Programs

Section II. H-2A Filing Tips – Addendum B



Example 3: Addendum B for an H-2ALC

OMB Approval: 1205-0466 Expiration Date: XXXXX00000					
H-2A Agricultural Clearance Order Form ETA-790A Addendum B U.S. Department of Labor					
C. Additional Place of Employment Information					
1. Name of Agricultural Business §	2. Place of Employment *	3. Additional Information About the Place of Employment §	4. Begin Date §	5. End Date §	6. Total Workers §
Jon Doe Citrus Orchards	102nd Avenue, State Road 60 Vero Beach, FL, 32960 Indian River County	Orchard groves 1,2,4, and 6 also located off SR 60 and 122nd Avenue in Vero Beach	11/15/19	05/01/20	N/A
Oakes Farms	Immokalee, FL, 34142 Collier County	Orchards also at or near North End of Thorpe Rd in <u>Immokalee</u> ; CR 846 West by mulch pile and fairgrounds, Naples, FL; South end of County Line Rd in <u>Immokalee</u>	11/15/19	05/01/20	N/A
Sadie Cypress	16067 011 Well Road Immokalee, FL, 34142 Collier County	Orchards also near 4909 County Line Rd in <u>Immokalee</u>	11/15/19	05/01/20	N/A
Cypress Farm	Vero Beach, FL, 32961 Indian River County	Orchards located south side of 9th St SW .5 miles north of 122nd Ave	11/15/19	05/01/20	N/A
Franberry Farms, LLC.	1206 McGee Rd. Plant City, FL, 33565 Hillsborough County	Orchards also at or near 431 N. Alexander St and 2102 W. Knight Griffin Rd in Plant City	11/15/19	05/01/20	N/A

Addendum B will collect up to 10 rows of information related to the places of employment. For electronic filings, if the employer needs to disclose more than 10 rows of information related to the places of employment, the filing system will automatically provide the employer with the option of adding more rows to Section C of the *Addendum B* until the response is completed. For mailed or paper filings, the employer will make one or more copies of Section C of the *Addendum B* to complete and attach to the Form ETA-790A.

H-2 Visa Programs

Section II. H-2A Filing Tips – Addendum B



Section C

Worksite Information (Page 6 of 13 Form ETA-790A General Instructions)

6. Enter any additional information about the worksite location. Examples may include more specific information about the fields where work will be performed in close proximity to the address location, more specific directions on how workers can reach the worksite and/or Global Positioning System (GPS) coordinates, especially in very rural and isolated geographic areas. If no additional information concerning the worksite is needed, enter “NONE” in the space provided.

7. In circumstances where work needs to be performed at additional places of employment other than the address listed in items 1 through 5 above, submit a completed Form ETA-790A, Addendum B identifying all additional places of employment and, where required, the agricultural business that will employ workers, or to whom the employer will be providing workers.

C. Place of Employment Information	
Address [C.1-4] 154 Honeydew Lane Alma, Georgia 31510	County [C.5] Bacon
Additional Info [C.6] 2937 Horseshoe Rd, Mershon, GA 31551	
Addendum B Attached? [C.7] No	

H-2 Visa Programs

Section II. H-2A Filing Tips – Addendum B



Section D

Housing Information (Page 7 of 13 of the Form ETA-790A General Instructions)

10. Enter any additional information about the housing. Examples may include more specific directions on how workers can reach the housing and/or GPS coordinates, especially in very rural and isolated geographic areas; availability of family units and/or single rooms; utilities (e.g., gas, electricity, and heat); and/or arrangements for utility hookups. For mobile units, explain where the mobile units will be used (e.g., “mobile unit will travel with the workers to various range locations through Jefferson, Fremont, and Bonneville Counties (Idaho) and Teton and Lincoln Counties (Wyoming)”). If no additional information concerning the housing is needed, enter “**NONE**” in the space provided.

11. In circumstances where workers will be provided housing at additional locations and/or additional space is needed to identify all available housing units for workers at the address listed in items 1 through 5 above, mark “**YES**” and submit a completed Form ETA-790A, *Addendum B* providing additional information on housing that will be provided to workers. If no additional information concerning the housing is needed, mark “**NO.**”

D. Housing Information			
Address [D.1-4]	405 S Pine Ave Lake Placid, Florida 33852	County [D.5]	Highlands
Housing Type [D.6]	Cider Block	Total Units [D.7]	1
		Total Occupancy [D.8]	7
Local Housing Standard Compliance [D.9]	Yes	State Compliance	Yes
		Federal Compliance	Yes
Additional Housing Information [D.10]	17 Glades Dr. Lake Placid, Fl. 33852 (7) 202 and 208 Washingtonia Lake Placid, Fl. 33852 (9) 18 Ranier Dr. Lake Placid, Fl. 33852 (6)		
Addendum B Attached? [D.11]	No		

H-2 Visa Programs

Section II. *H-2A Filing Tips – Addendum C*



ADDENDUM C

For Disclosure of Additional Material Terms and Conditions of the Job Offer

Addendum C may be used to **elaborate** or **further explain** material terms or conditions of the job offer previously disclosed on this clearance order or to disclose a material term or condition of the job offer that **is not** covered by the Form ETA-790A.

NOTE: *Addendum C* will collect two sections of additional information per page. For electronic filings, if the employer needs to disclose more sections of information, the filing system will automatically provide the employer with the option of adding more sections of the *Addendum C* until the response is completed. For mailed or paper filings, the employer will make one or more copies of the *Addendum C* to complete and attach to the Form ETA-790A.

1. Enter the Form ETA-790A Section and Item number associated with the additional information to be disclosed. For example, if additional space is required to fully disclose the qualification and requirement information for Item B.6 of the Form ETA-790A, on *Addendum C*, enter "B.6" in Item 1. Otherwise, enter "H" as the section, followed by a sequential number (e.g., H.1 for the first additional item disclosed, H.2 for the second additional item disclosed).
2. Enter the Form ETA-790A Section name associated with the additional information to be disclosed. For example, if additional space is required to fully disclose the qualification and requirement information for Item B.6 of the Form ETA-790A, on *Addendum C*, enter "Job Qualifications and Requirements" in Item 2. Otherwise, enter a descriptive category for the additional information to be disclosed (e.g., "Additional Conditions about the Wage Offer").
3. Enter the additional information to be disclosed related to Items 1 and 2 above.



Section III

H-2B Filing Tips

H-2 Visa Programs

Section III. *H-2B Filing Tips*



- ✓ Cross check data from ETA-9141 against data in ETA-9142B.
 - FEIN must be the same or else discuss and document Successor in Interest
 - Employer name
 - Location/MSA
 - Job details
 - Highest wage when multiple worksites

H-2 Visa Programs

Section III. *H-2B Filing Tips*



- ✓ Cross check data from ETA-9142B against data in Job Order.
- ✓ Common mismatches:
 - Wages
 - Work hours
 - Housing language
 - Place in F.b.9a for housing that is provided at no charge (mobile workforces)
 - Place in F.d.6 for housing that employee must pay for
 - Special Requirements
 - Use F.a.11 for statements re; background or drug tests

H-2 Visa Programs

Section III. *H-2B Filing Tips*



- ✓ Must pay equal to or higher than the PWD.
- ✓ Split shifts or other complex schedules
 - Complete F.a.5 with one schedule
 - Add discussion of possible alternatives or add other possible schedules in F.a.4 or F.a.11
 - Cross check data from ETA-9141 against data in ETA-9142B.
- ✓ F.3.1, F.e.2, F.e.3 - Enter at least two verifiable methods by which prospective U.S. workers can contact the employer and apply for the job opportunity.
 - “N/A” may be manually entered for F.e.2 or F.e.3.

H-2 Visa Programs

Section III. *H-2B Filing Tips*



- ✓ In free text fields, such as Job Duties and Statement of Temporary Need, employer must commence entry in form field in the FLAG System.
 - Do not start with “see attached”.
 - This will receive a NOD.
- ✓ Check information in the application against the regulatory requirements, such as for the type of temporary need requested.
- ✓ Each application is reviewed individually. Prior certifications do not guarantee continued certifications. If basis for temporary need, for example, is not clear or established, a NOD may be issued.

H-2 Visa Programs

Section III. *H-2B Filing Tips – Appendix A*



- ✓ City column must be completed.
 - If there are multiple cities in one county, then enter “Multiple Cities and Towns”.
- ✓ County column must be completed.
 - If there are multiple counties in a single MSA, they should be listed as separate line items or else “multiple counties” can be entered in the Additional Information field instead. (county field itself does not allow for the “multiple county” entry)
- ✓ Additional Information sections are only *as applicable*.

H-2 Visa Programs

Section III. *H-2B Filing Tips – Appendix A*



- ✓ Itineraries for Special Procedures cases must be provided in *Appendix A* in FLAG.
 - If employer submits an itinerary as an attachment and it does not match *Appendix A* in FLAG exactly, employer will receive a NOD.
 - Only information provided in FLAG is considered part of the official application.

H-2 Visa Programs

Section III. H-2B Filing Tips – Appendix A



■ Landscaping Example

City *	State *	County *	MSA Name/OES Area Title *	Additional Place of Employment Information §	Additional Work Itinerary Information §						
					Crew	Total Workers	Begin Date	End Date	Basic Wage Rate		Per
									From:	To:	
Multiple Cities and Towns	VA	Fredericksburg City	Washington-Arlington-Alexandria MSA	Various client worksites. Centralized pick-up point in Stafford, VA.	1	25	n/a	n/a	n/a	n/a	n/a
Multiple Cities and Towns	VA	Stafford	Washington-Arlington-Alexandria MSA	Various client worksites. Centralized pick-up point in Stafford, VA.	1	25	n/a	n/a	n/a	n/a	n/a
Multiple Cities and Towns	VA	Culpepper	Washington-Arlington-Alexandria MSA	Various client worksites. Centralized pick-up point in Stafford, VA.	1	25	n/a	n/a	n/a	n/a	n/a
Multiple Cities and Towns	VA	Loudon	Washington-Arlington-Alexandria MSA	Various client worksites. Centralized pick-up point in Leesburg, VA.	2	25	n/a	n/a	n/a	n/a	n/a
Multiple Cities and Towns	VA	Fairfax	Washington-Arlington-Alexandria MSA	Various client worksites. Centralized pick-up point in Leesburg, VA.	2	25	n/a	n/a	n/a	n/a	n/a

H-2 Visa Programs

Section III. H-2B Filing Tips – Appendix A



■ Reforestation Example

City *	State *	County *	MSA Name/OES Area Title *	Additional Place of Employment Information §	Additional Work Itinerary Information §						
					Crew	Total Workers	Begin Date	End Date	Basic Wage Rate		Per
									From:	To:	
Clinton	AR	Van Buren	North Arkansas Nonmetropolitan Area	Forest tracks located in close proximity to 1313 Pine Bluff Road, Clinton, MS 99999	1	25	10/01/18	10/16/18	\$12.87	n/a	HR
Winfield	LA	Winn	Central Louisiana Nonmetropolitan Area	33°0'44.47 N, 94°21'55.7' W	1	25	10/17/18	11/17/18	\$16.56	n/a	HR
Carthage	MS	Leake	Southeast Mississippi Nonmetropolitan Area	SEC 18-T11-R7, 27-11-7, 3-10-9, 14-11-8	1	25	11/18/18	12/31/18	\$15.00	n/a	HR
Hector	AR	Pope	West Arkansas Nonmetropolitan Area	SEC 2-TSN-R15E	2	10	10/01/18	10/16/18	\$12.84	n/a	HR
Clarksville	AR	Johnson	West Arkansas Nonmetropolitan Area	SEC 30-6N-12E	2	10	10/17/18	10/29/18	\$12.84	n/a	HR
Ruston	LA	Lincoln	Northeast Louisiana Nonmetropolitan Area	SEC 30-3N-11E	2	10	10/30/18	11/10/18	\$16.39	n/a	HR
Waynesboro	MS	Wayne	Southeast Mississippi Nonmetropolitan Area	SEC 13-4S-4W	2	10	11/11/18	12/15/18	\$15.00	n/a	HR
Grove Hill	AL	Clarke	Southwest Alabama Nonmetropolitan Area	SEC 15-5S-4 W	2	10	12/16/18	12/31/18	\$15.00	n/a	HR
Leslie	AR	Searcy	North Arkansas Nonmetropolitan Area	31.352938, -82.505713	3	15	10/01/18	10/25/18	\$12.87	n/a	HR
Taylor	LA	Bienville	Northeast Louisiana Nonmetropolitan Area	31.211019, -82.846429	3	15	10/26/18	11/29/18	\$16.39	n/a	HR
Oakdale	LA	Allen	Central Louisiana Nonmetropolitan Area	31.541549, -82.667846	3	15	11/30/18	12/31/18	\$16.56	n/a	HR

H-2 Visa Programs

Section III. H-2B Filing Tips – Appendix A



■ Seafood Example

City *	State *	County *	MSA Name/OES Area Title *	Additional Place of Employment Information *	Additional Work Itinerary Information §						
					Crew	Total Workers	Begin Date	End Date	Basic Wage Rate		Per
									From:	To:	
Sitka	AK	Sitka	Southeast Alaska Nonmetropolitan Area	Plant located on the west coast of Baranof Island.	1	25	04/01/19	10/01/19	n/a	n/a	n/a
Naknek	AK	Bristol Bay	Balance of Alaska Nonmetropolitan Area	Plant located on Peninsula Highway in Naknek, AK 99633	2	25	04/01/19	10/01/19	n/a	n/a	n/a
Naknek	AK	Bristol Bay	Balance of Alaska Nonmetropolitan Area	Same as above	3	450	06/01/19	10/01/19	n/a	n/a	n/a

H-2 Visa Programs

Section III. *H-2B Filing Tips – Appendix B*



- ✓ Use current *Appendix B*

- ✓ This document must bear original signature(s)
 - Print
 - Sign and date
 - Employer and attorney/agent (if any)
 - Scan and upload to case in the FLAG System
 - For job contractors, one for employer and one for employer-client

H-2 Visa Programs

Section III. H-2B Filing Tips – Appendix B



■ Current version – 5/31/2022 expiration

OMB Approval: 1205-0509
Expiration Date: 05/31/2022

H-2B Application for Temporary Employment Certification
Form ETA 9142B – Appendix B
U.S. Department of Labor



For Use in Filing Applications Under the H-2B Non-Agricultural Program ONLY¹

A. Attorney or Agent Declaration

I hereby declare under penalty of perjury that I am an attorney for the employer, or that I am an employee of, or hired by, the employer listed in Section C of the Form ETA-9142B, and that I have been designated by that employer in accordance with 20 CFR 655.8 to act on its behalf in connection with this application, as evidenced by the attached agency agreement.

I HEREBY CERTIFY that I have provided to the employer the Form ETA-9142B and all supporting documentation for review and to the best of my knowledge the information contained herein is true and accurate, including the employer's declaration regarding activities I have undertaken on the employer's behalf in connection with this application. I understand that to knowingly and/or willfully furnish materially false information in the preparation of this form and any supplement hereto or to aid, abet, or counsel another to do so is a federal offense punishable by fines, imprisonment, or both (18 U.S.C. 2, 1001, 1546, 1621).

1. Attorney or Agent's Last (family) Name *	2. First (given) Name *	3. Middle Initial §
4. Firm/Business Name *		
5. Signature *	6. Date Signed *	

H-2 Visa Programs

Section III. H-2B Filing Tips – Appendix B



■ Current version – 26 attestations

- _____ for the agent or recruiter, and any of their agents or employees, to recruit prospective foreign workers for the H-2B job opportunities offered by the employer.
- _____ 23. The employer will conduct all required recruitment activities pursuant to 20 CFR 655.40 through 655.46 including but not limited to: additional recruitment if required by the Certifying Officer and contacting all of its former U.S. workers employed in the occupation at the place of employment during the previous year, disclosing the terms of the job order, and soliciting their return, unless they were dismissed for cause or abandoned the worksite.
- _____ 24. The employer has and will continue to cooperate with the SWA by accepting referrals and will hire all qualified and eligible U.S. workers who apply for the job opportunity until 21 days before the date of need.
- _____ 25. The employer will cooperate with any agent or employee of the Secretary of Labor who is exercising or attempting to exercise the Department's authority pursuant to 8 U.S.C. 1184(c), including investigations as described in 29 CFR 503.25.
- _____ 26. The employer will retain all documents pertaining to this application and registration, the recruitment-related documents, the payroll records, and related documents for three years as required by the regulations at 20 CFR 655.56 and 29 CFR 503.17.

I hereby designate the agent or attorney identified in Section E (if any) of the Form ETA-9142B to represent me for the purpose of labor certification and, by virtue of my signature in Block 5 below, I take full responsibility for the accuracy of any representations made by my agent or attorney on every page of the Form ETA-9142B and documentation supporting this application.

I declare under penalty of perjury that I have read and reviewed this application, including every page of the Form ETA-9142B and supporting documentation, and that to the best of my knowledge the information contained therein is true and accurate. I understand that to knowingly and/or willfully furnish materially false information in the preparation of this form and any supplement thereto or to aid, abet, or counsel another to do so is a federal offense punishable by fines, imprisonment, or both (18 U.S.C. 2, 1001, 1546, 1621).

1. Last (family) Name *	2. First (given) Name *	3. Middle Initial §
4. Title *		
5. Signature *		6. Date Signed *

H-2 Visa Programs

Section III. *H-2B Filing Tips – Appendix C*



- ✓ Information on Foreign Recruiters must be provided in *Appendix C* in the FLAG System.
 - If employer submits recruiter information as an attachment and it does not match *Appendix C* in FLAG exactly, employer will receive a NOD.
 - Only information provided in FLAG is considered part of the official application.

H-2 Visa Programs

Section III. *H-2B Filing Tips*



✓ Remember:

- Signed and dated Form ETA-9142, *Appendix B*, uploaded to case in the FLAG System
- Attorney or Agent Documentation (if applicable)
- Foreign Labor Recruiter Agreement(s), or a statement that the employer is not using a Foreign Labor Recruiter (attachment preferred with clear title)
- Job Order
- Relevant Appendices *completed*
- Finally, please upload NOD responses directly to FLAG
- Do *not* upload and also email to TLC!



Section IV

Tips for Responding to Audits

H-2 Visa Programs

Section IV. *Tips for Responding to Audits*



- ✓ Audits may be conducted on certified H-2A applications and any adjudicated H-2B applications.
- ✓ Applications are selected within the sole discretion of the Certifying Officer.
- ✓ Audit begins with issuance of a Notice of Audit Examination (NOAE) Letter:
 - Requests documentation related to the application.
 - Due date for response is no more than 30 days from the issue date.
- ✓ Request for Supplemental Information (RSI) is issued for missing information or questions that arise from the NOAE response.
 - RSI responses are due 14 days from the date of the RSI.



Extension Requests

- ✓ Only one extension (up to 14 days) will be granted per audit examination, not per letter issued during the audit process.
- ✓ An additional extension may be granted in extenuating circumstances which should be detailed in the extension request.
 - Absent the explanation, the request will be denied and the response will remain due on the date listed in the letter.
- ✓ Submit what you have now, let us know what is missing and why, and send the remaining documents on the new due date.

H-2 Visa Programs

Section IV. *Tips for Responding to Audits*



Helpful Tips

- ✓ Read the audit letter carefully and respond to all items requested.
- ✓ NOAE letters change periodically. Make sure to respond to the instructions in the letter issued to you – not a previous NOAE.
- ✓ Help us complete your audit by providing as much supporting documentation as you can.
- ✓ It is better to submit a partial response than no response at all. We will review your partial submission while we wait for your full audit response based on an approved extension request.



Helpful Tips Continued

- ✓ Supporting documentation is sometimes necessary to address a problem we see or a question we have about what was submitted.
- ✓ Submit legible copies of recruitment documentation with the required information clearly visible.
- ✓ For H-2A, we are still auditing certifications prior to the new advertising rule which includes documentation in accordance with the recruitment outlined in the 2010 H-2A Final Rule.
 - See 75 CFR 6884, 6971 (Feb. 12, 2010).