

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 *

B. Employer Declaration

By virtue of my initials and signature below, **I HEREBY CERTIFY** my knowledge of and compliance with the following conditions of employment applicable to H-2B workers and/or U.S. workers who are hired during the requested period of positions covered by this application, including any approved extension thereof:

Initials

- _____ 1. The job opportunity is a bona fide, full-time temporary position (at least 35 hours per workweek), the qualifications and requirements for which are consistent with the normal and accepted qualifications and requirements imposed by non-H-2B employers in the same or comparable occupations and areas of intended employment. The employer has listed all qualifications and requirements in the job offer.
- _____ 2. There is no strike or lockout at any of the employer's worksites within the area of intended employment for which the employer is requesting an H-2B certification.
- _____ 3. The job opportunity was/is open to any qualified U.S. worker until 21 days before the date of need regardless of race, color, national origin, age, sex, religion, disability, or citizenship. U.S. workers who apply for the job will be hired, unless the employer has a lawful, job-related reason for the rejection, and the employer will retain records of all rejections.
- _____ 4. The employer has not/will not offer terms, wages, and working conditions to U.S workers that are less favorable than those offered or will be offered to H-2B workers or impose restrictions or obligations on U.S. workers that are not imposed on H-2B workers. This does not relieve the employer from providing H-2B workers with at least the minimum benefits, wages, and working conditions that must be offered to U.S. workers under 20 CFR 655.18, except for those required by 20 CFR 655.18(b)(17).
- _____ 5. The offered wage equals or exceeds the highest of the applicable Federal, State, or local minimum wage, or the prevailing wage determination for the occupation that is issued by the Department to the employer, as reflected on the employer's approved Application for Temporary Employment Certification, for the time period the work is performed. If, after the issuance of a prevailing wage determination, the Department issues a new or revised prevailing wage determination that is assigned to the employer's application or certified period of employment, the employer must offer a wage that equals or exceeds the highest of the new prevailing wage or the applicable Federal, State, or local minimum wage, unless notified otherwise by the Department. The employer will pay at least the offered wage, free and clear, either in cash or in a negotiable instrument

¹ The Department of Labor Appropriations Act, 2016, Division H, Title I of Public Law 114-113 ("2016 DOL Appropriations Act"), prohibited the Department of Labor ("Department") from using any funds to enforce the definition of corresponding employment found in 20 CFR 655.5 or the three-fourths guarantee rule definition found in 20 CFR 655.20, or any reference thereto. See Sec. 113. This appropriations rider has been included in the continuing resolutions that have passed throughout FY 2017, 2018, 2019, 2020, 2021 as well as in the Department of Labor Appropriations Act, 2022, Division H, Title I of Public Law 117-103 ("2022 DOL Appropriations Act"). Therefore, in order to comply, the Department has removed references to these provisions from the Form 9142B - Appendix B. However, the aforementioned appropriations acts and continuing resolutions did not vacate these regulatory provisions, and they remain in effect, thus imposing a legal duty on H-2B employers, even though the Department will not use any funds to enforce them until such time as the appropriations rider may be lifted.

