Application for Temporary Employment Certification
ETA Form 9142 – General Instructions for the 9142
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IMPORTANT: Please read these instructions carefully before completing the ETA Form 9142 –Application for Temporary Employment Certification. These instructions contain full explanations of the questions and attestations that make up the ETA Form 9142. *In accordance with Federal Regulations, incomplete or obviously inaccurate applications will not be certified by the Department of Labor. If the employer received approval by the Department of Labor to submit this form non-electronically, __ALL__ required fields/items must be completed as well as any fields/items where is a response is conditioned on the response to another required field/item.*

Anyone, who knowingly and willingly furnishes any false information in the preparation of ETA Form 9142 and any supporting documentation, or aids, abets, or counsels another to do so is committing a federal offense, punishable by fine or imprisonment up to five years or both (18 U.S.C. §§ 2, 1001). Other penalties apply as well to fraud or misuse of this immigration document and to perjury with respect to this form (18 U.S.C. §§ 1546, 1621).

OMB Notice: These reporting instructions have been approved under the Paperwork Reduction Act of 1995. Persons are not required to respond to this collection of information unless it displays a currently valid OMB control number. Respondent's reply to these reporting requirements is mandatory to obtain the benefits of temporary employment certification (Immigration and Nationality Act, Section 101 (a)(15)(H)(ii)). Public reporting burden for this collection of information is estimated to average 1 hour for H-2A and 2 hours and 45 minutes for H-2B per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate to the Office of Foreign Labor Certification * U.S. Department of Labor * Room C4312 * 200 Constitution Ave., NW * Washington, DC * 20210. **Do NOT send the completed application to this address.**

Section A
Employment - Based Nonimmigrant Visa Information

1.   Enter the following classification symbol to indicate the type of visa supported by this application: "**H-2A**" or **"H-2B"**

Section B
Temporary Need Information

1.   Enter the title of the job opportunity for which the application for temporary employment certification is being sought by the employer.

2.   Enter the six or eight-digit Standard Occupational Classification (SOC)/Occupational Network (O*NET) code for the occupation, which most clearly describes the work to be performed.. For example, the six-digit SOC code for a fruit or vegetable harvester or orchard worker is 45-2092.02 (Farmworkers and Laborers, Crop).

3.   Enter the occupational title associated with the SOC/O*NET (OES) code. For example, the occupational title associated with SOC/O*NET code 45-2092.02 is "Farmworkers and Laborers, Crop".

4.   Enter whether this position is full-time by indicating "Yes" or "No". Although there is no regulatory definition for full-time employment, the Department generally considers 35 hours per week as the distinction point between full-time and part-time.

5.   Enter the beginning date for the worker's period of employment. Use a month/day/full year (MM/DD/YYYY) format.

6.   Enter the end date for the worker's period of employment. Use a month/day/full year (MM/DD/YYYY) format.

7.   The collection of this item contains two parts. First, enter the number of workers being requested for certification. Second, use collection items (a) through (f) to enter the number of workers in each applicable category based on the answer to the first part of this item. Every box MUST be filled. If the employer has no workers in a particular category, please indicate "0 (zero)."

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8. Mark the appropriate box to indicate the nature of the employer's temporary need for the services or labor to be performed. Only one standard of temporary need may be selected. The following definitions generally apply to temporary agricultural and non-agricultural work:

Seasonal Need: The employer must establish that the services or labor is traditionally tied to a season of the year by an event or pattern and is of a recurring nature. The employer shall specify the period(s) of time during each year in which it does not need the services or labor. The employment is not seasonal if the period during which the services or labor is not needed is unpredictable or subject to change or is considered a vacation period for the employer's permanent employees.

Peakload Need: The employer must establish that (1) it regularly employs permanent workers to perform the services or labor at the place of employment and that it needs to supplement its permanent staff at the place of employment on a temporary basis due to a seasonal or short-term demand, and (2) the temporary additions to staff will not become a part of the employer's regular operation.

One-Time Occurrence: The employer must establish that either (1) it has not employed workers to perform the services or labor in the past and that it will not need workers to perform the services or labor in the future, or (2) it has an employment situation that is otherwise permanent, but a temporary event of short duration has created the need for a temporary worker(s).

Intermittent Need: The employer must establish that it has not employed permanent or full-time workers to perform the services or labor, but occasionally or intermittently needs temporary workers to perform services or labor for short periods.

9. Provide a statement clearly describing the employer's temporary need for the services or labor to be performed. The employer's statement must explain (a) the nature of the employer's business or operations, (b) why the job opportunity and number of workers being requested for certification reflect a temporary need, and (c) how the employer's request for the services or labor to be performed meets the chosen standard under Question 8 of a seasonal, peakload, one-time occurrence, or an intermittent basis.

Section C
Employer Information

1. Enter the full legal name of the business, person, association, firm, corporation, or organization, i.e., the employer filing this application. The employer's full legal name is the exact name of the individual, corporation, LLC, partnership, or other organization that is reported to the Internal Revenue Service. For master applications filed on behalf of more than one employer under the H-2A program, submit a separate attachment that identifies each employer, by name, mailing address, and total worker positions needed, under the application

2. Enter the full trade name or "Doing Business As" (DBA) name, if applicable, of the business, person, association, firm, corporation, or organization, i.e., the employer filing this application.

3. Enter the street address of the employer's principal place of business.

4. If additional space is needed for the street address, use this line to complete the employer's street address.

5. Enter the city of the employer's principal place of business. If the city and country are the same, the name must still be entered in both fields.

6. Enter the state of the employer's principal place of business.

7. Enter the postal (zip) code of the employer's principal place of business.

8. Enter the country of the employer's principal place of business. If the city and country are the same, the name must still be entered in both fields.

9. Enter the province of the employer's principal place of business, if applicable.

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10. Enter the area code and telephone number for the employer's principal place of business. Include country code, if applicable.

11. Enter the extension of the telephone number for the employer's principal place of business, if applicable.

12. Enter the nine-digit Federal Employer identification Number (FEIN) as assigned by the IRS. Do not enter a social security number.

    Note: All employers, including private households, MUST obtain an FEIN from the IRS before completing this application. Information on obtaining an FEIN can be found at www.IRS.gov.

13. Enter the four to six-digit North American Industry Classification System (NAICS) code that best describes the employer's business, not the alien's job. A listing of NAICS codes can be found at http://www.census.gov/epcd/www/naics.html

14. Enter the number of number of full-time equivalent (FTE) employees the employer employs. If the employer has two part-time employees each working 20 hours a week in an industry in which 40 hours a week is full-time then the employer should enter 1 FTE. If an employer has two part-time employees each working 30 hours a week, then the employer should enter 1.5 FTE.

15. Enter the employer's total annual receipts of the last complete fiscal year.

16. Enter the year the employer's business was established under the current FEIN number.

17. Mark the appropriate to indicate the type of application being filed for temporary employment certification. Only one application type can be selected..

Section D
Employer Point of Contact Information

An employer point of contact is an employee of the employer whose position authorizes the employee to provide information and supporting documentation concerning this Application for Temporary Employment Certification and to communicate with the Department of Labor on behalf of the employer. The employer point of contact should be the individual most familiar with the content of this application and circumstances of the foreign worker's employment.

Note: The employer point of contact information in this Section, specifically the name, telephone number, and email address, must be different from the attorney/agent information listed in Section E, unless the attorney is an employee of the employer.

1. Enter the last (family) name of the employer's point of contact.

2. Enter the first (given) name of the employer's point of contact.

3. Enter the middle initial of the employer's point of contact.

4. Enter the job title of the employer's point of contact.

5. Enter the business street address for the employer's point of contact.

6. If additional space is needed for the street address, use this line to complete the street address.

7. Enter the city of the employer's point of contact. If the city and country are the same, the name must still be entered in both fields.

8. Enter the state of the employer's point of contact.

9. Enter the postal (zip) code of the employer's point of contact.

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10. Enter the country of the employer's point of contact. If the city and country are the same, the name <u>must</u> still be entered in <u>both</u> fields.

11. Enter the province of the employer's point of contact, if applicable.

12. Enter the area code and business telephone number of the employer's point of contact. Include country code, if applicable.

13. Enter the extension of the telephone number of the employer's point of contact, if applicable.

14. Enter the business e-mail address of the employer's point of contact in the format <u>name@emailaddress.top-level</u> domain.

Section E
Attorney or Agent Information (if applicable)

Note: The attorney/agent information in this Section, specifically the name, telephone number, and email address, <u>must</u> be different from the employer's point of contact information in Section D, unless the attorney is an employee of the employer.

1. Identify whether the employer is represented by an attorney or agent in the process of filing this application. Only mark one box. If "Yes" complete the remainder of Section E. If "No" in question 1, skip questions 2 to 19 and continue to Section F. Associations filing H-2A applications as an agent on behalf of one or more of its grower members must mark "Yes" to this question.

2. Enter the last (family) name of the attorney/agent.

3. Enter the first (given) name of the attorney/agent.

4. Enter the middle initial of the attorney/agent.

5. Enter the street address of the attorney/agent.

6. If additional space is needed for the street address, use this line to complete the attorney/agent's street address.

7. Enter the city of the attorney/agent. If the city and country are the same, the name <u>must</u> still be entered in <u>both</u> fields.

8. Enter the state of the attorney/agent.

9. Enter the postal (zip) code of the attorney/agent.

10. Enter the country of the attorney/agent. If the city and country are the same, the name <u>must</u> still be entered in <u>both</u> fields.

11. Enter the province of the attorney/agent, if applicable.

12. Enter the area code and telephone number of the attorney/agent. Include country code, if applicable.

13. Enter the extension of the telephone number of the attorney/agent, if applicable.

14. Enter the e-mail address of the attorney/agent in the format <u>name@emailaddress.top-level</u> domain .

15. Enter the attorney/agent's law firm or business name.

16. Enter the attorney/agent's law firm or business nine-digit FEIN as assigned by the IRS.

17. Enter the attorney's state Bar number. If the attorney is licensed in more than one state, enter only one state Bar number. If submitting this form electronically and the attorney is licensed in a state which does not issue state Bar numbers, leave the field blank and once confirmed it will be automatically prepopulated with "N/A."

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Note: The answers to questions 18 and 19 below should correspond to the same state for which a Bar number was provided in question 17, if any.

18. Enter the <u>state</u> of the highest court where the attorney is in good standing.

19. Enter the <u>name</u> of the highest court in the state where the attorney is in good standing.

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Section F
Job Offer Information

    a. Job Description

    1. Enter the same job title as the one entered under Section B question 1.

    2. Enter the basic hours of work required per week and, if applicable, overtime hours per week in accordance with State and Federal law for the work and area of employment.

    3. Enter the daily work schedule for the job opportunity (e.g., 9 a.m. to 5 p.m., 7 a.m. to 11 a.m. and 4 p.m. to 8 p.m.).

    4. Mark "Yes" or "No" as to whether the job opportunity supervises the work of other employees.

    5. If "Yes" is marked in question 4, enter the total number of employees the job opportunity will supervise.

    6. Describe the job duties, in detail, to be performed by any worker filling the job opportunity. Specify any equipment to be used and pertinent working conditions.

    b. Minimum Requirements

    1. Identify whether the minimum U.S. diploma or degree required by the employer for the job opportunity is none, high school/GED, Associates, Bachelor's, Master's, Doctorate, or Other. Only mark one box.

1-A. If "Other" in question 1, enter the specific U.S. diploma or degree required. (Example: JD, MD, DDS, etc.). If the answer to question 1 is not "Other," enter "N/A."

1-B. Enter the major(s) and/or field(s) of study required by the employer for the job opportunity. You may list more than one field and/or more than one related major. If the answer to question 1 is "None" or "High School", enter "N/A."

    2. If the employer requires a second U.S. diploma or degree for the job opportunity, mark "Yes." Otherwise, mark "No."

2-A. If "Yes" in question 2, enter the specific second U.S. diploma or degree required. If the answer to question 2 is "No", enter "N/A."

    3. If the employer requires training for the job opportunity, mark "Yes." Otherwise, mark "No." Training may include, but is not limited to: programs, coursework, or training experience (other than employment). When answering this question, do not duplicate requirements – the training required should not be counted as education or experience required.

3-A. If "Yes" in question 3, enter the number of months of training required by the employer for the job opportunity. If the answer to question 3 is "No", enter "0" (zero). When answering this question, do not duplicate time requirements – the training time required should not be counted as (added to) education or experience time required.

3-B. If "Yes" in question 3, enter the field(s) and/or name(s) of the training required by the employer for the job opportunity. You may list more than one field and/or more than one name. If the answer to question 3 is "No", enter "N/A."

    4. If the employer requires employment experience, mark "Yes." Otherwise, mark "No."

4-A. If "Yes" in question 4, enter the number of months of experience required by the employer. If the answer to question 4 is "No", enter "0" (zero).

4-B. If "Yes" in question 4, enter the occupation in which experience is required by the employer for the job opportunity. If the answer to question 4 is "No", enter "N/A."

    5. Enter the job related special requirements. Examples are shorthand and typing speeds, specific foreign language proficiency, test results. Document business necessity for a foreign language requirement.

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Section F
Job Offer Information *(continued)*

     c.   Place of Employment

It is important for the employer to define the area of intended employment with as much geographic specificity as possible. This information is used for purposes of reviewing and verifying regulatory compliance with advertising, positive recruitment requirements, and prevailing wage determinations.

Important Note: For farm labor or job contractors filing under the H-2A or H-2B visa programs where multiple worksites are involved or where special procedures apply, submit a separate attachment identifying, by business name and address, all physical locations where the services or labor is expected to be performed. Enter the address of the first worksite location on the form using questions 1 through 7, and then use question 7-A to identify the business name for the first worksite location and write the words "See attached worksites".

    1.   Enter the street address of the worksite location identified in question1, where work will be performed. The worksite address must be a physical location and cannot be a P.O. Box.

    2.   If additional space is needed for the street address, use this line. If no additional space is needed, enter "N/A."

    3.   Enter the city of the worksite location.

    4.   Enter the county of the worksite location.

    5.   Enter the state/district/territory of the worksite location.

    6.   Enter the postal (zip) code of the worksite location.

    7.   If work will be performed in location(s) other than the address listed in questions 1-6 above, mark "Yes" and complete question 7-A. If work will not be performed in location(s) other than the address listed in questions 1-6 above, mark "No."

7-A. If "Yes" in question 7, identify the geographic place(s) of employment with as much specificity as possible, such as the Metropolitan Statistical Areas (MSAs) or the city(ies)/township(s)/county(ies) and the corresponding state(s) where work will be performed. The employer must provide enough geographic detail to cover all the worksite locations of intended employment.

Section G
Rate of Pay

    1.   Enter the rate of pay to be paid to the nonimmigrant workers.   If the wage offer is expressed as a range, enter the bottom of the wage range to be paid.

    Enter the top of the wage range to be paid to the nonimmigrant workers in the section indicating "To (Optional)."

1-A. Enter the rate of overtime pay, if applicable, to be paid to the nonimmigrant workers.   If the wage offer is expressed as a range, enter the bottom of the wage range to be paid.

    Enter the top of the wage range to be paid to the nonimmigrant workers in the section indicating "To (Optional)."

    2.   Enter whether the rate of pay is in terms of per year, month, two weeks, week or hour in the section indicating "Rate is Per." Mark only one box.

2-A. If the answer to question 2 is "Piece Rate", enter the wage offer requirements. Describe the unit size that governs how the piece rate is paid, such as tree size/spacing, weight/size/number of boxes picked/packed, dimensions of bags or boxes filled. For example: 5/8 bushel, 90 pound bag or box, 10 box bin.

    3.   Enter any additional wage information covered by the job opportunity and the anticipated area(s) of intended employment (e.g., itinerant work, multi-state worksite locations). In order to expedite the application review

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process, employers are **strongly encouraged** to list all valid prevailing wage determinations received by the OFLC National Processing Center (NPC) in support of the application as well as all corresponding wage offers.

Section H
Recruitment Information

1.   Enter the name of the State Workforce Agency which received the job offer from the employer and placed a job order on its active file for recruitment of U.S. workers.

2.   Enter the unique job order number provided by the State Workforce Agency.

2-A Enter the start date of the SWA job order. Use a month/day/full year (MM/DD/YYYY) format.

2-B Enter the end date of the SWA job order. Use a month/day/full year (MM/DD/YYYY) format. H-2A applicants must enter the date that is the midpoint of the contract period, which reflects the end of the 50% rule period as described in 20 CFR 655.135(d).

3.   Mark "Yes" or "No" whether there is a Sunday edition of a newspaper (of general circulation) in the area of intended employment.

Note: Only if the job opportunity is located in a rural area of intended employment that does not have a newspaper that publishes a Sunday edition, is the employer permitted to use the newspaper edition with the widest circulation in the area of intended employment, and not a Sunday edition.

4.   Enter the name of the newspaper of general circulation or other publication in which the H-2B employer placed an advertisement for the job opportunity. H-2A employers enter "N/A."

For the named newspaper/publication, enter the start and end dates in which the newspaper advertisement referenced was printed. Use a month/day/full year (MM/DD/YYYY) format. If the newspaper advertisement or publication took place on 1 day, then enter the same date in the "From:" and "To:".

5.   H-2B employers enter the name of the newspaper of general circulation or other publication in which the employer placed an advertisement for the job opportunity. H-2A employers enter "N/A."

For the named newspaper/publication, enter the start and end dates in which the newspaper advertisement referenced was printed. Use a month/day/full year (MM/DD/YYYY) format. If the newspaper advertisement or publication took place on 1 day, then enter the same date in the "From:" and "To:".

6.   H-2B employers describe other efforts to positively recruit U.S. workers for the job opportunity. For each positive recruitment activity, identify the type or source of recruitment (e.g., additional SWA job orders, out-of-state newspaper, contact with former employees) <u>and</u> the date(s) on which the recruitment was conducted. H-2A employers enter "N/A."

Section I
Declaration of Employer and Attorney/Agent

1.   Employer must read and agree to all the applicable terms, assurances, and obligations as a condition for receiving a temporary labor certification from the U.S. Department of Labor. Mark "Yes" or "No" to confirm that Appendix A.2 is complete and being submitted with the filing of this application.

Section J
Preparer

This section must be completed if the preparer of this application is a person other than the one identified in either Section D (employer point of contact) or E (attorney or agent) of this application.

1.   Enter the last (family) name of the person preparing this application by or on behalf of the employer.

2.   Enter the first (given) name of the person preparing this application by or on behalf of the employer.

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3. Enter the middle initial of the person with preparing this application by or on behalf of the employer.
4. Enter the Firm/Business name of the person with preparing this application by or on behalf of the employer.

5. Enter the email address of the person with preparing this application by or on behalf of the employer. Format must be in the format name@emailaddress.top-level domain.

Section K
U.S. Government Agency User ONLY

Read this section. No entries required.

Section L
OMB *Paperwork Reduction Act/Information Control Number 1205-0*310

Read this section. No entries required.

APPENDIX A.1
Rate of Pay Information for Multiple Crop or Agricultural Activities

This appendix is no longer in use.

APPENDIX A.2
Employer and Attorney/Agent Declarations (H-2A Applications ONLY)

A.   Attorney/Agent Declaration

The law requires that agents obtain proof of representation from the employer, which is normally done through a Letter of Representation. Such proof must include the original signature of the employer and a statement appointing a specific person as agent for the employer, not a firm or agency. Such proof must be attached to the ETA Form 9142. Any licensed attorney, whether an employee or representative of the employer, must complete Section A of Appendix A.2.

1. Enter the last (family) name of the attorney/agent representing the employer in the filing of this application.

2. Enter the first (given) name of the attorney/agent representing the employer in the filing of this application.

3. Enter the middle initial of the attorney/agent representing the employer in the filing of this application.

4. Enter the Firm/Business name of the attorney/agent representing the employer in the filing of this application.

5. Enter the email address of the attorney/agent representing the employer in the filing of this application. Format must be in the format name@emailaddress.top-level domain.

6. The attorney/agent must sign the application. Read the entire application and verify all contained information prior to signing.

7. The attorney/agent must date the application. Use a month/day/full year (MM/DD/YYYY) format.

B.   Employer Declaration

1. Enter the last (family) name of the person with authority to sign on behalf of the employer.

2. Enter the first (given) name of the person with authority to sign on behalf of the employer.

3. Enter the middle initial of the person with authority to sign on behalf of the employer.

4. Enter the job title of the person with authority to sign on behalf of the employer.

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5. The person with authority to sign on behalf of the employer must sign the application. Read the entire application and verify all contained information prior to signing.

6. The person with authority to sign on behalf of the employer must date the application. Use a month/day/full year (MM/DD/YYYY) format.

APPENDIX B.1
Employer and Attorney/Agent Declarations (H-2B Applications ONLY)

A. Attorney/Agent Declaration

1. Enter the last (family) name of the attorney/agent representing the employer in the filing of this application.

2. Enter the first (given) name of the attorney/agent representing the employer in the filing of this application.

3. Enter the middle initial of the attorney/agent representing the employer in the filing of this application.

4. Enter the Firm/Business name of the attorney/agent representing the employer in the filing of this application.

5. Enter the email address of the attorney/agent representing the employer in the filing of this application. Format must be in the format name@emailaddress.top-level domain.

6. The attorney/agent must sign the application. Read the entire application and verify all contained information prior to signing.

7. The attorney/agent must date the application. Use a month/day/full year (MM/DD/YYYY) format.

B. Employer Declaration

1. Enter the last (family) name of the person with authority to sign on behalf of the employer.

2. Enter the first (given) name of the person with authority to sign on behalf of the employer.

3. Enter the middle initial of the person with authority to sign on behalf of the employer.

4. Enter the job title of the person with authority to sign on behalf of the employer.

5. The person with authority to sign on behalf of the employer must sign the application. Read the entire application and verify all contained information prior to signing.

6. The person with authority to sign on behalf of the employer must date the application. Use a month/day/full year (MM/DD/YYYY) format.