

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



IMPORTANT: Employers and authorized preparers must read these instructions carefully before completing the Form ETA-9142A – *H-2A Application for Temporary Employment Certification*, and all required appendices. These instructions contain full explanations of the questions and attestations that make up the Form ETA-9142A. If you are not submitting these forms electronically, please complete ALL required items containing an asterisk (*) and any applicable fields/items where a response is conditionally required, as indicated by the section (§) symbol.

Anyone who knowingly and/or willingly furnishes any false information in the preparation of Form ETA-9142A and/or any supplement thereto, or aids, abets, or counsels another to do so, is committing a federal offense, punishable by fines, imprisonment, 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).

Section A

Nature of the H-2A Application

1. Select one of the following options to indicate the type of application being filed for temporary agricultural labor certification. Mark only one box.
 - Individual Employer:* Select this option if the application is being filed by or on behalf of one employer.
 - Joint Employer:* Select this option if the application is being filed by or on behalf of two or more individual employers. Each employer seeking to jointly employ H-2A workers under this application must be identified on the Form ETA-790A, Addendum B, and, unless Question 1a is marked "Association—Joint Employer," separately submit a signed and dated Appendix A.
- 1a. If an agricultural association is filing the application, select one of the following options to indicate the agricultural association's employer or agency status. 20 CFR 655.131(a)(1). Mark only one box.
 - Association – Sole Employer:* Select this option if the application is being filed by an agricultural association that will be the sole employer.
 - Association – Joint Employer:* Select this option if the application is being filed by an agricultural association as a joint employer with each of the employer-members named on the application (i.e., a "master" application). The agricultural association must be identified in Section B of the Form ETA-9142A, while each employer-member seeking to jointly employ H-2A workers with the agricultural association under this application must be identified on the Form ETA-790A, Addendum B.
 - Association – Agent:* Select this option if the application is being filed by an agricultural association acting as an agent (identified in Section D of the application) on behalf of employer-member(s).

Important Note: An agricultural association means any nonprofit or cooperative association of farmers, growers, or ranchers (including but not limited to processing establishments, canneries, gins, packing sheds, nurseries, or other similar fixed-site agricultural employers), incorporated or qualified under applicable State law, that recruits, solicits, hires, employs, furnishes, houses, or transports any worker that is subject to 8 U.S.C. 1188. 20 CFR 655.103. The agricultural association must retain documentation substantiating the employer or agency status of the agricultural association and be prepared to submit such documentation in response to a Notice of Deficiency (NOD) from the Certifying Officer (CO) prior to issuing a final temporary agricultural labor certification decision, or in the event of an audit or investigation. 20 CFR 655.131(a).

2. Select "Yes" or "No" to indicate if the employer requesting certification is operating as an H-2A Labor Contractor (H-2ALC). Pursuant to 20 CFR 655.103(b), an H-2ALC is defined as any person who meets the definition of employer and is not a fixed-site employer, an agricultural association, or an employee of a fixed-site employer or agricultural association, as those terms are defined in 20 CFR 655.103(b), who recruits, solicits, hires, employs, furnishes, houses, or transports any worker subject to 8 U.S.C. 1188, 29 CFR part 501, or 20 CFR part 655, subpart B.
3. Select one of the following options 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.
 - SEASONAL** – Select this option where the employer's need for agricultural services or labor is tied to a certain time of the year by an event or pattern, such as a short annual growing cycle or a specific aspect of a longer cycle, and requires labor levels far above those necessary for ongoing operations. 20 CFR 655.103(d).
 - OTHER TEMPORARY NEED** – Select this option where the employer's need for agricultural services or labor **IS NOT** seasonal and is expected to last no longer than 1 year, except in extraordinary circumstances. 20 CFR 655.103(d).

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4. Select "Yes" or "No" to indicate whether a statement explaining how the employer's need for the agricultural services or labor to be performed is seasonal or temporary in nature is attached to the application. If submitted, 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 seasonal need standard or otherwise qualifies as temporary. If the nature of the employer's need changes, is unclear, and/or requires further explanation beyond the information on the forms and statement, if submitted, the CO will issue a NOD requesting additional explanation or supporting documentation.

Important Note: If the employer is filing the application electronically and marks "YES", the electronic filing system will require the employer to upload an electronic document or statement demonstrating temporary need in order for the application to be submitted for processing.

5. If the application is submitted less than 45 days before the employer's first date of need, select "Yes" or "No" to indicate whether the employer's application is being filed with a request to waive the regulatory time period due to an emergency situation. Pursuant to 20 CFR 655.134(a), the CO may waive the time period for filing for employers who did not make use of temporary foreign agricultural workers during the prior year's agricultural season or for any employer that has other good and substantial cause, provided that the CO has sufficient time to test the domestic labor market on an expedited basis to make the determinations required by 20 CFR 655.100.

Important Note: A request for waiver of the time period for filing requires the employer to concurrently submit to the CO: a completed Form ETA-9142A; a completed job order, i.e., Form ETA-790/790A; and a statement justifying the request for waiver of the time period requirement. See 20 CFR 655.134.

6. **FOR EMERGENCY SITUATIONS:** If the employer marked "Yes" to Question A.5 indicating that the application IS being filed due to an emergency situation, mark "Yes" to indicate that a statement justifying the employer's emergency situation is attached to the application, as required.

Important Note: Pursuant to 20 CFR 655.134(b), an employer must submit, at the time of filing, a statement justifying the request for a waiver of the time period requirement. The statement must indicate whether the waiver request is due to the fact that the employer did not use H-2A workers during the prior agricultural season or whether the request is for good and substantial cause. If the waiver is requested for good and substantial cause, the employer's statement must also include detailed information describing the good and substantial cause which has necessitated the waiver request. Good and substantial cause may include, but is not limited to, the substantial loss of U.S. workers due to Acts of God (e.g., weather-related activities) or similar unforeseeable man-made catastrophic events, unforeseen events affecting the work activities to be performed, pandemic health issues, or similar conditions that are wholly outside of the employer's control.

FOR NON-EMERGENCY SITUATIONS: If the employer marked "No" to Question A.5 indicating that this application **IS NOT** being filed due to an emergency situation, please mark "**N/A.**"

Section B Employer Information

Important Note: Enter the full name of the individual employer, partnership, or corporation and all other required information in this section. If the response to Question A.1 is marked "**JOINT EMPLOYER**", please enter information for the joint employer who will be the main or primary point of contact for the joint employers in the section below and then use **Form ETA-790A, Addendum B** to identify all other joint employers under this application. If the response to Question A.1a is marked "**ASSOCIATION – JOINT EMPLOYER**," the agricultural association must complete the section below and then use **Form ETA-790A, Addendum B** to identify all employer-members who will be in joint employment with the agricultural association under this application.

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 (IRS).
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). Do not include "DBA" in front of the full trade name entered or after the full legal name entered in Item B.1.
3. Enter the street address of the employer's principal place of business. The place of business must be a physical location and not a Post Office (P.O.) Box.
4. If additional space is needed for the street address, use this line to complete the employer's street address. If no additional space is needed, enter "N/A" or leave blank.

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5. Enter the city of the employer's principal place of business.
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.
9. Enter the province of the employer's principal place of business, if applicable.
10. Enter the area code and telephone number for the employer's principal place of business. Include country code, if outside the United States.
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-digit North American Industry Classification System (NAICS) code that most closely corresponds to the employer's primary economic or business activity, not the specific job opportunity being requested for temporary employment certification. For example, an employer primarily engaged in a combination of apple, citrus, and berry farming, would select NAICS Code "1113". The first two digits identifies the major economic sector (e.g., 11 – Agriculture, Forestry, Fishing and Hunting); the third digit identifies the subsector (e.g., 1 – Crop Production); and the fourth digit identifies the industry group (e.g., 3 – Fruit and Tree Nut Farming). Additional information concerning the NAICS can be found at <http://www.census.gov/epcd/www/naics.html>.

Section C 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 *H-2A 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 D, unless the person in Section D 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 name 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 of 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, District, or Territory of the employer's point of contact.
9. Enter the postal (zip) code of the employer's point of contact.
10. Enter the country of the employer's point of contact. If the city and country are the same, the name must still be entered in both 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.

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13. Enter the extension of the telephone number of the employer's point of contact, if applicable.
14. Enter the business email address of the employer's point of contact in the format [name@emailaddress.top-leveldomain](#). The email entered in this field must be the same as the one regularly used by the employer's point of contact for its business operations and capable of sending and receiving electronic communications to and from the Department with respect to the processing of this application. If the employer's point of contact does not possess a business email address, please enter "N/A."

Section D
Attorney or Agent Information (if applicable)

Important Note: The attorney/agent information in this Section, specifically the name, telephone number, and email address, must be different from the employer's point of contact information in Section C, unless the person in Section D 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.
Note: If "Attorney" or "Agent" is selected, complete the remainder of Section D. If "None," skip Questions 2 to 21 and continue to Section E.
2. Enter the last (family) name of the attorney/agent.
3. Enter the first (given) name of the attorney/agent.
4. Enter the middle name 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 must still be entered in both fields.
8. Enter the State, District, or Territory 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 must still be entered in both 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 business email address of the attorney/agent in the format [name@emailaddress.top-leveldomain](#). The email entered in this field must be the one regularly used by the attorney/agent's point of contact to send and receive electronic communications to and from the Department with respect to the processing of this application. If the attorney/agent's point of contact does not possess a business email address, please enter "N/A."
15. Enter the attorney/agent's law firm or business name.
16. Enter the attorney/agent's law firm or business nine-digit FEIN assigned by the IRS.

Questions 17 through 19 in this section must be answered when "Attorney" is selected in response to Question D.1.

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 that does not issue State Bar numbers, leave the field blank and once confirmed it will be automatically pre-populated with "N/A."

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 State of the highest court where the attorney is in good standing.
19. Enter the name of the highest court in the State where the attorney is in good standing.

Questions 20 and 21 in this section must be answered when "Agent" is selected in response to Question D.1.

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20. Mark "Yes" to indicate that the employer is submitting a copy of the agent agreement or other documentation demonstrating the agent's authority to represent the employer, as required. See 20 CFR 655.133(a).
21. Mark "Yes" to indicate that a copy of the current Migrant and Seasonal Agricultural Worker Protection Act (MSPA) Farm Labor Contractor (FLC) Certificate of Registration identifying the farm labor contracting activities the agent is authorized to perform is attached to this application, as required by 20 CFR 655.133(b). If the agent is not performing any activities related to this application that require the agent to obtain a MSPA FLC Certificate of Registration, mark "N/A".

Section E
Job Opportunity & Supporting Documentation

1. Enter the six digit Standard Occupational Classification (SOC) or eight digit 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 (Farmworkers and Laborers, Crop, Nursery, and Greenhouse). If O*NET includes an eight digit code for the occupation, the employer may enter the more specific O*NET code. The entry in this field should be the same as the SOC code entered by the State Workforce Agency (SWA) on the Form ETA-790, if available, and may include the more specific O*NET code, if applicable.
2. Enter the occupational title associated with the SOC/O*NET (Occupational Employment and Wage Statistics Survey (OEWS)) code. For example, the occupational title associated with SOC/O*NET code 45-2092 is "Farmworkers and Laborers, Crop, Nursery, and Greenhouse." The entry in this field should be the same as the SOC title entered by the SWA on the Form ETA-790, if available, and may include the more specific O*NET code title, if applicable.
3. Mark "Yes" to indicate that the employer is submitting a copy of the completed job order (Form ETA-790/790A) with this application. Reminder: The job order must satisfy all requirements listed at 20 CFR 653, subpart F, and 20 CFR 655, subpart B.

Joint Employer or Association–Joint Employer only

4. If the employer marked "Joint Employer" in Section A, Question 1, mark "Yes" to indicate that the job order (Form ETA-790A and Addendum B) identifies the name(s) and address(es) of each employer that will employ workers related to this application, the total number of workers each employer needs, and the crops and agricultural work of each employer. If "Individual Employer," "Association – Sole Employer," or "Association – Agent" is marked in Section A, Question 1a, mark "N/A" here.

H-2ALC only

If the employer is not operating as an H-2ALC related to this application, skip Questions 5 to 9 and continue to Section F.

5. If "Yes" is marked in Section A, Question 2, indicating the employer is operating as an H-2ALC related to this application, mark "Yes" here to indicate that the job order (Form ETA-790A, Addendum B) identifies the name(s) and location(s) of each fixed-site agricultural business where the worker(s) will perform labor or services, the expected first and last dates of work for each fixed-site agricultural business, and a description of the crops and activities the worker(s) will perform.
6. If "Yes" is marked in Section A, Question 2, indicating the employer is operating as an H-2ALC related to this application, mark "Yes" here to indicate that the employer is submitting with this application a copy of fully-executed work contract(s) with each fixed-site agricultural business identified on the job order (Form ETA-790A, Addendum B) where the worker(s) will perform labor or services.
7. If "Yes" is marked in Section A, Question 2, indicating the employer is operating as an H-2ALC related to this application, mark "Yes" here to indicate that the employer is submitting a copy of the employer's valid MSPA FLC Certificate of Registration with this application. If the employer is not subject to MSPA (i.e., is not required to obtain a MSPA FLC Certificate of Registration due to an applicable exemption as found in MSPA Section 4(a) and corresponding regulations at 29 C.F.R. 500.30) for the work described in the Form ETA-790A, mark "N/A." Reminder: If required under MSPA at 29 U.S.C. 1801 et seq., a Certificate of Registration identifying the specific farm labor contracting activities the H-2ALC is authorized to perform as an FLC must be submitted.
8. If "Yes" is marked in Section A, Question 2, indicating the employer is operating as an H-2ALC related to this application, mark "Yes" here to indicate that the employer is submitting a signed and dated surety bond using Appendix B, *H-2A Labor Contractor Surety Bond*, for the employer identified in Section B, as required by 20 CFR 655.132(c), with this application.

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9. If "Yes" is marked in Section A, Question 2, indicating the employer is operating as an H-2ALC related to this application, mark "Yes" or "No" here to indicate whether any of the fixed-site agricultural businesses provide the worker(s) with housing and/or transportation between the place of employment and the living quarters.
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Section F
Declaration of Employer and Attorney/Agent

The employer must read and agree to all the applicable terms, assurances, and obligations as a condition for receiving a temporary agricultural labor certification from the U.S. Department of Labor.

1. Mark "Yes" to confirm that the employer and attorney/agent (1) have read and agree to all the applicable terms, assurances, and obligations in Appendix A, (2) signed and dated Appendix A, and (3) submitted the signed and dated Appendix A with this application.
 2. If "Joint Employer" is marked in Section A, Question 1, and "Association – Joint Employer" is not marked in Section A, Question 1a, mark "Yes" here to indicate that (1) each of the joint employers included in this application has read and agrees to all the applicable terms, assurances, and obligations contained in Appendix A, (2) each joint employer has signed and dated a copy of Appendix A, and (3) a signed and dated Appendix A for each joint employer is submitted with this application. If any other employer application type is marked in Section A, Questions 1 and 1a, mark "N/A" here.
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Section G
Preparer

This section must be completed if the preparer of this application is a person other than the one identified in either Section C (employer point of contact) or D (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.
 3. If applicable, enter the middle initial of the person preparing this application by or on behalf of the employer.
 4. Enter the firm/business FEIN of the person preparing this application by or on behalf of the employer.
 5. Enter the firm/business name of the person preparing this application by or on behalf of the employer.
 6. Enter the business email address of the person preparing this application by or on behalf of the employer. Format must be name@emailaddress.top-leveldomain.
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Public Burden Statement Control Number 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 3.05 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. Specifically, the public reporting burden for this collection of information is estimated as follows: Form ETA-9142A and Appendix A at .583 hours; modifications or amendments to the application or job order at .75 hours; recruitment report at 1 hour; workers' compensation coverage at .17 hours; H-2ALC filing requirements, including Form ETA-9142A, Appendix B (surety bond) at 1.33 hours; evidence of agent relationship at .25 hours; evidence of agent MSPA registration at .083 hours; fee prohibition notice at .083 hours; abandonment/termination notice at .17 hours; notice obligations to workers at .116 hours; translation at 1 hour; foreign contact information collection at .033 hours; higher meal charge petition at 1 hour; substitute housing request at .33 hour; emergency situations waiver request at .50 hours; herder variance request at .50 hours; redetermination request at .50 hours; extension request at .50 hours; withdrawal request at .17 hours; withholding workers complaint at .50 hours; administrative appeal at .33 hours; document retention at .17 hours; and audit-imposed special procedures at 1 hour. 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, Room N-5311, Washington, DC, 20210. (Paperwork Reduction Project OMB 1205- 0466). **DO NOT** send the completed application to this address.

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APPENDIX A

Employer and Attorney/Agent Declarations for H-2A Employers

A. Attorney or Agent Declaration

If "Attorney" or "Agent" is marked in Question D.1, the Attorney or Agent must complete Section A of Appendix A, Form ETA-9142A. In accordance with 20 CFR 655.133(a), an agent filing an *H-2A Application for Temporary Employment Certification* on behalf of an employer must provide a copy of the agent agreement or other document demonstrating the agent's authority to represent the employer. For more information concerning the definitions of an attorney and agent, please read the Department's regulation at 20 CFR 655.103(b).

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

H-2A Labor Contractor Surety Bond

A. Bond Agreement

1. Enter the identification number of the bond secured in support of this application.
2. Enter the dollar amount of the bond secured in support of this application (e.g., \$99,999.99).

B. Principal

1. Enter the full legal name of the principal, *i.e.*, the person or entity that is the H-2ALC.
2. If the principal is not a natural person, enter the last (family) name of the person with authority to sign on behalf of the principal. If the principal is a natural person, enter "N/A."
3. If the principal is not a natural person, enter the first (given) name of the person with authority to sign on behalf of the principal. If the principal is a natural person, enter "N/A."
4. If the principal is not a natural person, enter the middle initial of the person with authority to sign on behalf of the principal.
5. The principal entered in Item B.1 or, if the principal is an entity, the person with authority to sign on behalf of the principal entered in Items B.2 – B.4 (*i.e.*, the signer) must sign the bond.
6. The signer must date the application. Use a month/day/full year (MM/DD/YYYY) format.

C. Surety

1. Enter the name of the surety.

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2. Enter the last (family) name of the surety's point of contact.
 3. Enter the first (given) name of the surety's point of contact.
 4. Enter the middle name of the surety's point of contact.
 5. Enter the business street address of the surety'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 surety's point of contact.
 8. Enter the State of the surety's point of contact.
 9. Enter the postal (zip) code of the surety's point of contact.
 10. Enter the area code and business telephone number of the surety's point of contact.
 11. Enter the extension of the telephone number of the surety's point of contact, if applicable.
 12. Enter the business email address of the surety's point of contact. Format must be name@emailaddress.top-leveldomain.
 13. Mark "Yes" to indicate that valid documentation of power of attorney is attached to Appendix B, as required.
 14. The person with authority to sign on behalf of the surety must sign the Appendix B.
 15. The person with authority to sign on behalf of the surety must date the application. Use a month/day/full year (MM/DD/YYYY) format.
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