

## Form I-129H2A Reinstatement, with change - Responses to 60-day FRN Public Comments

Public Comments (regulations.gov): [USCIS-2025-0469](https://www.regulations.gov/document/USCIS-2025-0469)

60-day FRN Citation (federalregister.gov): [91 FR 3912](https://www.federalregister.gov/documents/2026/01/29/91-fr-3912)

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| Comment ID           | Comment Summary                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        | USCIS Response                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
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| <b>1.</b>            | <b>Commenter: Texas RioGrande Legal Aid</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
| <a href="#">0009</a> | <p>Texas RioGrande Legal Aid (TRLA) submitted comments in response to the Department of Homeland Security’s information collection request regarding the H-2A nonimmigrant worker petition. TRLA represents indigent farmworkers, many of whom are H-2A visa holders. A persistent issue for these workers is the payment of unlawful recruitment or placement fees to agents or recruiters. The Department of Labor (DOL) requires prospective H-2A employers to include as part of their temporary labor certification applications a copy of its agreements with agents or recruiters of H-2A workers. 20 C.F.R. § 655.135(p) and 655.137. Currently, Form I-129H2A requires that “[t]he petition should be filed with evidence that indicates the beneficiaries have not paid, and will not pay, prohibited fees.” The proposed revision to the form removes this requirement, which TRLA strongly opposes. TRLA argues that DHS and DOL will face considerable obstacles in enforcing the prohibition on H-2A workers being charged recruitment, placement and other unlawful fees by agents and recruiters of the employer, especially since recruiters are often outside U.S. jurisdiction. The tangible evidence requirement ensures H-2A employers take active steps to ensure recruitment and placement fees are not charged, rather than simply providing assurances that the workers are not assessed recruitment or placement fees.</p> <p><b>Recommendations Made:</b></p> <p><b>I. Retain the Evidence Requirement:</b> TRLA recommends that the requirement for employers to provide tangible evidence demonstrating that no unlawful fees are being collected from H-2A workers should remain on Form I-129H2A.</p> <p><b>II. Strengthen Enforcement:</b> TRLA suggests that requiring tangible evidence is necessary to effectively enforce prohibitions on recruitment and placement fees and to ensure employers take affirmative steps to prevent these fees.</p> | <p><b>Response:</b> DHS disagrees that removing this specific sentence in the form instructions would impact the agency’s ability to enforce the provisions against prohibited fees. DHS as well as DOL regulations on prohibited fees remain unchanged. In Form I-129H2A, Instructions for Petition for a Nonimmigrant Worker: H-2A Classification, all other detailed instructions regarding prohibited fees remain unchanged. DHS believes the deleted sentence is unnecessary because the other information collected by DHS and DOL is sufficient to effectively enforce the prohibited fee provisions.</p> |
| <b>2.</b>            | <b>Commenter: Centro de los Derechos del Migrante</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
| <a href="#">0008</a> | <p><b>Recommendation:</b></p> <p><b>I. Maintain Questions About Employer and Employment Information:</b><br/>CDM applauded part of USCIS’s revisions that collect additional information about H-2A employers and the proposed employment, such as updating “Part 1. Petitioner Information” to request the petitioner’s date of birth and “Part 5. Basic Information About the</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    | <p><b>Response:</b> DHS appreciates the commenter’s support for the proposed collection of additional information about petitioning employers and their proposed employment of H-2A nonimmigrant workers.</p> <p>DHS will not make changes in response to this comment. These questions from Part 5. will be</p>                                                                                                                                                                                                                                                                                                 |

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|                      | <p>Proposed Employment and Employer” to request additional information about concurrent applications and a more detailed justification of the seasonal or temporary need for workers’ services. As a general matter, CDM expressed concerns with the proposed revision to “Part 5. Basic Information About the Proposed Employment and Employer” to remove questions about the terms and conditions of the employment, such as the position’s job title, additional addresses of worksites, whether workers will have work off-site, working hours, and compensation. CDM recommends USCIS retain all questions in Form I-129H2A regarding employer and employment details, including job titles, worksite addresses, working hours, and compensation, to aid in detecting labor abuse and program violations.</p>                                                                                                                                                                                                                                            | <p>deleted as duplicative of information already collected by DOL. DOL requires that all prospective H-2A employers file Form ETA-790, Agricultural Clearance Order. Through this form, DOL collects data regarding the proffered job title, place of employment, any additional worksites, working hours, and compensation, as well as other information. DOL requests additional information in its Form ETA-9142A Application for Temporary Employment Certification. That form requests codes that correspond to job titles for each hired worker and additional workplace information for H-2A Farm Labor Contractors (H-2ALC). DHS has access to information collected on DOL forms and thus declines to ask petitioners to duplicate the information they are already providing to DOL.</p>                                                                                                                                                                                                                                                                                                  |
| <b>3.</b>            | <b>Commenter: Centro de los Derechos del Migrante</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
| <a href="#">0008</a> | <p><b>Recommendation:</b></p> <p><b>II. Increase Disclosure and Accessibility:</b><br/>CDM encourages increased disclosure by H-2A employers and greater accessibility of information about program participants and enforcement to workers and the general public to combat fraud, abuse, and trafficking. H-2A workers face significant barriers to accessing clear, transparent information about their employment and working conditions, making workers vulnerable to fraud, abuse, and trafficking. Additionally, lack of access to H-2A employer and employment information hinders advocates from identifying patterns of abuse and making recommendations for program improvements.</p>                                                                                                                                                                                                                                                                                                                                                              | <p><b>Response:</b> With respect to the commenter’s general requests to increase disclosure and accessibility to H-2A petition information, DHS considers these requests to be related to broader programmatic recommendations but are out of scope of the proposed revisions to this information collection.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
| <b>4.</b>            | <b>Commenter: Centro de los Derechos del Migrante</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
| <a href="#">0008</a> | <p><b>Recommendation:</b></p> <p><b>III. Remove Questions Regarding Substituted Workers:</b><br/>CDM recommends USCIS eliminate questions about substituted workers, specifically added in “Part 2. Information About This Petition,” of the form, as these are redundant, duplicative of already existing requirements, irrelevant to petition adjudication, and may facilitate retaliation against workers. CDM claims that collection of this information would be better handled by DOL and is not relevant to new petitions and may run afoul of the Paperwork Reduction Act.</p> <p>This information for substituted workers is already collected through other channels and is not relevant to adjudicating new petitions. Additionally, collecting this information may enable employers to retaliate against workers who report or try to improve their working conditions.</p> <p>Furthermore, allowing employers to report reasons for worker termination to USCIS increases the risk of retaliation against workers who complain about abuse.</p> | <p><b>Response:</b> DHS disagrees with the commenter’s statements that the proposed collection of additional information about substituted workers is duplicative and irrelevant. This requested information is necessary since it directly supports USCIS in ensuring the integrity of the H-2A program by allowing it to identify and analyze the use of substitution by H-2A employers. The collection of this information is already required under current regulations at 8 CFR 214.2(h)(5)(ix) (An H-2A petition requesting substitution of beneficiaries after admission must be filed with “a statement giving the name, date and country of birth, termination date, and the reason for termination, if applicable, for such worker and the date that USCIS was notified that the worker was terminated or did not report for work for a period of 5 consecutive workdays without the consent of the employer,” among other evidence.).</p> <p>DHS does not believe that requiring H-2A employers to provide a reason for a worker’s termination will enable or encourage retaliation.</p> |

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|                      | <p>Since H-2A workers' legal status depends on their employment, they may fear being unjustly terminated and having false reasons reported, which could harm their chances of returning to the U.S. CDM has documented this fear among H-2A workers.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             | <p>Again, this information is already required by regulation. 8 CFR 214.2(h)(5)(ix).</p> <p>Further, DHS does not agree that the proposed collection of additional information about substituted workers runs afoul of the PRA. The employment-related notification, effectively Form I-129N, H-2 Petitioner's Employment Related or Fee Related Notification, is covered under its own OMB Control Number 1615-0107, which includes associated burden with this collection. Compliance with the employment-related notification is a separate process from the Form I-129H2A collection of information for requesting substitutions for H-2A workers, and is covered under a separate regulation at 8 CFR 214.2(h)(5)(vi)(B).</p> <p>The commenter's recommendation for DOL to collect information about substituted workers is out of scope.</p> |
| <b>5.</b>            | <b>Commenter: Centro de los Derechos del Migrante</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
| <a href="#">0008</a> | <p><b>Recommendation:</b></p> <p><b>IV. Authorize Sharing of Petition Information with Worker-Beneficiaries:</b></p> <p>CDM urges USCIS to update the form to allow sharing of petition status information directly with worker-beneficiaries, enabling them to access accurate information about their immigration status and reducing vulnerability to exploitation. CDM recommends that USCIS update "Part 9. Declaration, Signature, and Contact Information of Petitioner or Authorized Signatory" to include a petitioner authorization for USCIS to share information about the petition, including approval status and whether an individual is named as a beneficiary, with named beneficiaries. Currently, worker-beneficiaries have no access to information about whether a petition was submitted on their behalf or whether the petition has been approved and instead must rely on representations made by their employer.</p> <p>Congress and the USCIS Ombudsman have directed USCIS to give H-2A workers direct access to their immigration status information. The Ombudsman highlighted legal issues and risks of worker abuse in the current system, where only employers receive proof of status. This leaves workers vulnerable if employers misrepresent their status, despite federal law requiring workers to have proof at all times.</p> | <p><b>Response:</b> The commenter's request to authorize sharing of petition information with worker-beneficiaries is out of scope. Such authorization was not included as part of the proposed reinstatement.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |