H-2A Temporary Labor Certification Program

Annual NCAE Agriculture Employer Forum

December 6, 2019

Office of Foreign Labor Certification
Employment and Training Administration
United States Department of Labor
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Overview of the Immigration Process

Step 1 Obtain a labor certification from the Department of Labor
  – Requires conducting a labor market test with the State Workforce Agency where work will be performed.

Step 2 Obtain an approved petition from the DHS United States Citizenship and Immigration Service for a specific number of workers under H-2A visa classification.

Step 3 After receiving USCIS petition approval, workers will apply with one of the Department of State visa-issuing consulates abroad for an H-2A visa.

Step 4 After receiving the visa from a DOS consulate, workers arrive at a port of entry where DHS’s Customs and Border Protection officers verify eligibility for admission and length of stay.
OFLC receives and processes employer-filed applications through National Processing Centers.

OFLC programs are divided, by visa classification, into two major types:

**Immigrant**
- Atlanta Processing Center
- Permanent (PERM) Program
- “Green Card”

**Non-Immigrant**
- Chicago Processing Center
- H-1B, H-1B1, E-3 Skilled Occupations Visas
- H-2A Temporary Agricultural Visa
- H-2B Temporary Non-Agricultural Visa
- CW-1 Temporary Non-Immigrant CNMI

**Immigrant and Non-Immigrant**
- National Processing Center
- Prevailing Wage Determination
Section I

Workload Trends, Regulatory Actions, and Preparations for 2020 Filing Season
FY 2019 Workload
- 12,626 labor certifications
- 257,667 workers certified
- 96% certification rate
- 64% of certifications for individual farms-ranches
- 41% of workers certified for farm labor contractors

Top States of Employment

<table>
<thead>
<tr>
<th>State</th>
<th>FY 2008</th>
<th>FY 2019</th>
</tr>
</thead>
<tbody>
<tr>
<td>Florida</td>
<td>5,800</td>
<td>33,598</td>
</tr>
<tr>
<td>Georgia</td>
<td>6,500</td>
<td>29,480</td>
</tr>
<tr>
<td>Washington</td>
<td>2,500</td>
<td>26,226</td>
</tr>
<tr>
<td>California</td>
<td>2,900</td>
<td>23,321</td>
</tr>
<tr>
<td>North Carolina</td>
<td>9,100</td>
<td>21,605</td>
</tr>
</tbody>
</table>
# Department of Labor: H-2A Program Regulatory Actions

<table>
<thead>
<tr>
<th>Regulatory Action</th>
<th>Summary/Description</th>
<th>Status</th>
</tr>
</thead>
</table>
| 1205-AB89         | **DOL H-2A Program Modernization**  
Technical improvements to existing H-2A regulations to modernize and streamline administration of the program  
| 1205-AB90         | **DOL Modernizing H-2A Recruitment Requirements**  
Eliminate print newspaper advertisements and modernize requirements for advertising jobs to U.S. worker                                                                 | Completed Effective Oct. 21 |
| 1205-AB91         | **DOL-DHS Modernizing H-2B Recruitment Requirements**  
Eliminate print newspaper advertisements and modernize requirements for advertising jobs to U.S. workers                                                                 | Completed Effective Dec. 16 |

- For more information, visit [https://www.reginfo.gov/public/](https://www.reginfo.gov/public/)
Implemented new Forms ETA-790/790A and 9142A to streamline and standardize data collection to help reduce unnecessary errors and promote high quality applications.

Implemented an aggressive IT modernization schedule to replace the legacy iCERT system with the Foreign Labor Application Gateway (FLAG) system.

Implemented real-time issuance of electronic certifications through the FLAG system, replacing mailroom and blue security paper that took several days for employers to receive.
Promote electronic filing and continue to examine ways to increase automation (94% electronic filing, FY 2019)

Expanded contractor support within the Chicago NPC to provide administrative and case adjudication services

Cross-trained staff within the OFLC processing centers to perform adjudication functions traditionally performed by other centers

Extended IT contract support for extended hours to address system outages or performance degradation
Based on U.S. Department of Agriculture’s (USDA) Farm Labor Survey

Annual weighted average hourly wage for field and livestock workers (combined)

Wage rates are statewide based on USDA regions

2020 AEWRs will be published in the Federal Register (December 2019)

For current AEWRs, visit the OFLC Agricultural Online Wage Library at: https://www.foreignlaborcert.doleta.gov/adverse.cfm
Department of Labor: H-2A Program

Expected 2020 AEWRs, by U.S. State

For Government Training Use Only (December 2019)
Section II

H-2A Filing Tips
Topics we will cover:

- New Forms Location (790/790A, 9142A, Appendix A)
- 790/790A Filing Tips
- Addendum A
- Addendum B
- Addendum C
H-2A New Forms Location

https://www.foreignlaborcert.doleta.gov/form.cfm
**H-2A Application for Temporary Employment Certification**

Form ETA-9142A – APPENDIX A  
U.S. Department of Labor

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

**A. Attorney or Agent Declaration**

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

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

<table>
<thead>
<tr>
<th>1. Attorney or Agent’s Last (family) Name *</th>
<th>2. First (given) Name *</th>
<th>3. Middle Initial §</th>
</tr>
</thead>
<tbody>
<tr>
<td>4. Firm/Business Name *</td>
<td></td>
<td></td>
</tr>
<tr>
<td>5. Signature *</td>
<td>6. Date Signed *</td>
<td></td>
</tr>
</tbody>
</table>
H-2A Application for Temporary Employment Certification
Form ETA-9142A – APPENDIX A
U.S. Department of Labor

The H-2A Labor Contractor has obtained from each fixed-site agricultural business that will provide housing or transportation to the workers a written statement stating:

a. All housing used by workers and owned, operated, or secured by the fixed-site agricultural business complies with the applicable housing standards in 20 CFR 655.122(c) and, if applicable, 655.235; and
b. All transportation between the worksite and the workers' living quarters that is provided by the fixed-site agricultural business complies with all applicable Federal, State, or local laws and regulations and will provide, at a minimum, the same vehicle safety standards, driver licensure, and vehicle insurance as required under 29 U.S.C. 1641 and 29 CFR part 526, except where workers' compensation is used to cover such transportation as described in §655.122(c); and

c. Attach to the statement certificates of occupancy from the SWA for all employer owned housing and copies of all drivers' licenses, vehicle registration, and insurance policies for all drivers and vehicles used to transport H-2A workers.

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

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

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

Public Burden Statement (1205-0466)
Persons are not required to respond to this collection of information unless it displays a currently valid OMB control number. Public reporting burden for this collection of information is estimated to average 3.96 hours per response for all H-2A information collection requirements, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing, reviewing, and submitting the collection of information. The obligation to respond to this data collection is required to obtain/retain benefits (Immigration and Nationality Act, 8 U.S.C. 1101, et seq.). Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the U.S. Department of Labor, Employment and Training Administration, Office of Foreign Labor Certification, 200 Constitution Ave., NW, Suite PRR 12-200, Washington, DC 20210. (Papework Reduction Project OMB 1205-0466). DO NOT send the completed application to this address.
ETA 790A

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

1. Education: minimum U.S. diploma/degree required. *
   - None  ☐  High School/GED ☐  Associate’s ☐  Bachelor’s ☐  Master’s or Higher ☐  Other degree (JD, MD, etc.)

2. Work Experience: number of months required. *
   - 

3. Training: number of months required. *
   - 

4. Basic Job Requirements (check all that apply) *
   - a. Certification/license requirements
   - b. Driver requirements
   - c. Criminal background check
   - d. Drug screen
   - e. Exposure to extreme temperatures
   - f. Extreme pushing or pulling
   - g. Extensive sitting or walking
   - h. Frequent stooping or bending over
   - i. Repetitive movements

5a. Supervision: does this position supervise the work of other employees? *  ☐ Yes  ☐ No

5b. If “Yes” to question 5a, enter the number of employees worker will supervise. $

6. Additional Information Regarding Job Qualifications/Requirements
   (Please begin response on this form and use Addendum C if additional space is needed. If no additional skills or requirements, enter “NONE” below.) *
### B. Minimum Job Qualifications/Requirements

<table>
<thead>
<tr>
<th></th>
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<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Certification/License Requirements</td>
<td>None</td>
<td>3</td>
<td>0</td>
<td>No</td>
<td>No</td>
<td>No</td>
<td>Yes</td>
<td>Yes - 50 lbs.</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
</tr>
<tr>
<td>Exposure to Extreme Temperatures</td>
<td>Yes</td>
<td>Yes</td>
<td></td>
<td>Yes</td>
<td>No</td>
<td>Yes</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Extensive Pushing or Pulling</td>
<td>No</td>
<td>Yes</td>
<td></td>
<td>No</td>
<td>Yes</td>
<td>Frequent Stooping or Bending Over</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Supervise Others? [B.5a-b]</td>
<td>No</td>
<td></td>
<td></td>
<td>Yes</td>
<td>Yes</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**Additional Information [B.6]**

3 months experience in job offered required.

Once hired worker may be required to submit to a random drug test at no cost to worker. Testing positive or failure to comply may result in immediate termination from employment.
Section E
Provision of Meals

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

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**Good example:**

<table>
<thead>
<tr>
<th>E. Provision of Meals</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Meal Details [E.1]</strong></td>
<td>Employer will provide free, convenient and fully equipped with refrigerator, stove, pots, pans, utensils and counter space cooking and kitchen facilities to workers living in employer provided housing, which will enable workers to prepare their own meals. Also will provide transportation once per week to go to a store to buy food and other necessaries.</td>
</tr>
<tr>
<td><strong>Employer will charge workers [E.2]</strong></td>
<td>No</td>
</tr>
<tr>
<td><strong>Amount per Worker per Day [E.2]</strong></td>
<td></td>
</tr>
</tbody>
</table>
Section F
Transportation and Daily Subsistence

1. Describe how the employer will provide workers daily transportation to the place(s) of employment. At a minimum, describe the arrangements for transporting workers, at no cost to workers, from employer-provided housing and, if applicable, centralized pick-up points to the places of employment at the beginning of each workday and back at the end of each workday. Please also disclose the mode(s) of transportation (e.g., vans, buses) that will be used each day, if known, as well as whether the daily transportation at no cost to workers is available to workers who do not reside in employer-provided housing. If additional space is needed, use the Form ETA-790A, Addendum C.

2. Describe how the employer will provide workers with transportation (a) to the place of employment from the place from which the worker has come to work for the employer (i.e., inbound) and (b) from the place of employment to the place from which the worker has come to work for the employer (i.e., outbound). At a minimum, state whether such transportation, and related daily subsistence, will be provided by the employer or paid by the employer to the worker for reasonable costs incurred (e.g., advance payment or reimbursement) and identify the modes of transportation, if known. For example, the employer may state that it will provide or pay for charter bus services or other modes of transportation to groups of H-2A or U.S. workers, or permit workers to select any means of transportation they choose and reimburse workers at no less than the most economical and reasonable common carrier transportation charges for the distances involved. If additional space is needed, use the Form ETA-790A, Addendum C.

3. Enter the amounts per day that the employer will pay for or reimburse daily meals for each worker
   a. Enter the minimum daily subsistence amount per day in currency format (e.g., $99.99).
   b. Enter the maximum daily subsistence amount per day with receipts in currency format (e.g., $99.99).
### Good example:

<table>
<thead>
<tr>
<th>F. Transportation and Daily Subsistence</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Daily Transport</strong></td>
<td>Employer will provide a mode of transportation to transport worker from housing to work site and return back to housing at no cost to worker each day.</td>
</tr>
<tr>
<td>Terms [F.1]</td>
<td></td>
</tr>
<tr>
<td><strong>Employment</strong></td>
<td>The employer will provide or pay for charter bus services or other modes of transportation to groups of H-2A or U.S. workers, or permit workers to select any means of transportation they choose and reimburse workers at no less than the most economical and reasonable common carrier transportation charges for the distances involved.</td>
</tr>
<tr>
<td><strong>Transport Terms</strong></td>
<td></td>
</tr>
<tr>
<td>[F.2]</td>
<td></td>
</tr>
<tr>
<td><strong>Meal</strong></td>
<td>Meal $55.00</td>
</tr>
<tr>
<td>Reimbursement</td>
<td></td>
</tr>
<tr>
<td>Daily Minimum [F.3]</td>
<td></td>
</tr>
</tbody>
</table>

### Poor example:

<table>
<thead>
<tr>
<th>F. Transportation and Daily Subsistence</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Daily Transport</strong></td>
<td>Employer will provide advance transportation for reasonable (most economical) common carrier or other transportation which conforms to the interstate Commerce Commission (ICC) inbound transportation (if it is the prevailing practice). If not the prevailing practice, the employer will reimburse the worker for transportation costs and subsistence to the employer's work site when the worker completes 50% of the work period.</td>
</tr>
<tr>
<td>Terms [F.1]</td>
<td></td>
</tr>
<tr>
<td><strong>Employment</strong></td>
<td>See Attached.</td>
</tr>
<tr>
<td><strong>Transport Terms</strong></td>
<td></td>
</tr>
<tr>
<td>[F.2]</td>
<td></td>
</tr>
<tr>
<td><strong>Meal</strong></td>
<td>Meal $55.00</td>
</tr>
<tr>
<td>Reimbursement</td>
<td></td>
</tr>
<tr>
<td>Daily Minimum [F.3]</td>
<td></td>
</tr>
<tr>
<td><strong>Meal</strong></td>
<td></td>
</tr>
<tr>
<td>Reimbursement</td>
<td></td>
</tr>
<tr>
<td>Daily Max with Receipts [F.3]</td>
<td></td>
</tr>
</tbody>
</table>
Page 5 of the Form ETA 790A outlines the Conditions of Employment and Assurances for H-2A Agricultural Clearance Orders.
Conditions of Employment and Assurances

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

1. **JOB OPPORTUNITY:** Employer assures that the job opportunity identified in this clearance order (hereinafter also referred to as the "job order") is a full-time temporary position being placed with the SWA in connection with an H-2A Application for Temporary Employment Certification for H-2A workers and this clearance order satisfies the requirements for agricultural clearance orders in 20 CFR 653, subpart F and the requirements set forth in 20 CFR 655.122. This job opportunity offers U.S. workers no less than the same benefits, wages, and working conditions that the employer is offering, intends to offer, or will provide to H-2A workers and complies with the requirements at 20 CFR 655, Subpart B. The job opportunity is open to any qualified U.S. worker regardless of race, color, national origin, age, sex, religion, handicap, or citizenship.

2. **NO STRIKE, LOCKOUT, OR WORK STOPPAGE:** Employer assures that this job opportunity, including all worksites for which the employer is requesting H-2A labor certification does not currently have workers on strike or being locked out in the course of a labor dispute. 20 CFR 655.135(b).

3. **HOUSING FOR WORKERS:** Employer agrees to provide for or secure housing for H-2A workers and those workers in corresponding employment who are not reasonably able to return to their residence at the end of the work day. That housing complies with the applicable local, State, or Federal standards and is sufficient to house the specified number of workers requested through the clearance system. The employer will provide the housing without charge to the worker. Any charges for rental housing will be paid directly by the employer to the owner or operator of the housing. If public accommodations are provided to workers, the employer agrees to pay all housing-related charges directly to the housing's management. The employer agrees that charges in the form of deposits for bedding or other similar incidentals related to housing (e.g., utilities) must not be levied upon workers. However, the employer may require workers to reimburse them for damage caused to housing by the individual worker(s) found to have been responsible for damage which is not the result of normal wear and tear related to habitation. When it is the prevailing practice in the area of intended employment and the occupation to provide family housing, the employer agrees to provide family housing at no cost to workers with families who request it. 20 CFR 655.122(d), 655.501(c) (3)(v).

Request for Conditional Access to Intrastate or Interstate Clearance System: Employer assures that the housing disclosed on this clearance order will be in full compliance with all applicable local, State, or Federal standards at least 20 calendar days before the housing is to be occupied. 20 CFR 655.502(a)(3). The Certifying Officer will not certify the application until the housing has been inspected and approved.

Conditions of Employment and Assurances can also be found in Section I of the FLAG Form ETA 790A
Flag.dol.gov
Please **do not** repeat the Conditions of Employment and Assurances in Addendum C.
### A.3. Additional Crop or Agricultural Activities and Wage Offer Information

<table>
<thead>
<tr>
<th>Crop ID</th>
<th>Crop or Agricultural Activity</th>
<th>Wage Offer</th>
<th>Per</th>
<th>Piece Rate Units/Special Pay Information</th>
</tr>
</thead>
<tbody>
<tr>
<td>S01</td>
<td>Strawberry Regular Trim</td>
<td>$10.50</td>
<td>PR</td>
<td>per 1,000 plants trimmed and bundled calculated as follows: $8.50 per 1,000 plants trimmed and bundled, plus quality incentive bonus of $0 to $3.00 per thousand plants depending on the quality of work performed. If, after the bonus is applied to the base rate of $8.50 an employee does not reach the wage of $10.50 per 1,000 plants, Sierra Cascade will augment the wage to ensure that the employee receives at least $10.50 per 1,000 trimmed plants.</td>
</tr>
<tr>
<td>S02</td>
<td>Strawberry Green Trim</td>
<td>$14.00</td>
<td>PR</td>
<td>per 1,000 plants trimmed and bundled, plus quality incentive bonus of $0 to $3.00 per thousand plants depending on the quality of work performed.</td>
</tr>
<tr>
<td>S03</td>
<td>Strawberry Misted Tip Trim</td>
<td>$26.00</td>
<td>PR</td>
<td>per 1,000 plants trimmed, plus quality incentive bonus of $0 to $3.00 per thousand plants depending on the quality of the work performed.</td>
</tr>
<tr>
<td>S04</td>
<td>Strawberry Raspberry Trim</td>
<td>$15.00</td>
<td>PR</td>
<td>per box on a team piece rate basis (8 or 10 persons per team. Group (or team) piece rate is divided among team members.</td>
</tr>
<tr>
<td>C01</td>
<td>Cherry Harvest Yellow</td>
<td>$6.00</td>
<td>PR</td>
<td>per 20 lb or per bucket equivalent (bucket size may vary according to variety ranging from 12 lb to 20 lb)</td>
</tr>
<tr>
<td>C02</td>
<td>Cherry Harvest Red</td>
<td>$6.00</td>
<td>PR</td>
<td>per 30 lb or per bucket equivalent (bucket size may vary according to variety ranging from 12 lb to 30 lb)</td>
</tr>
<tr>
<td>A01</td>
<td>Apple Harvest Golden Delicious</td>
<td>$26.00</td>
<td>PR</td>
<td>per bin (46 inch X 43 inch X 25.5 inch) All cultivations</td>
</tr>
<tr>
<td>A02</td>
<td>Apple Harvest Pink Lady</td>
<td>$25.00</td>
<td>PR</td>
<td>per bin (47 inch X 47 inch X 24 1/2 inch) All cultivations</td>
</tr>
<tr>
<td>A03</td>
<td>Apple Harvest Fuji</td>
<td>$28.00</td>
<td>PR</td>
<td>per bin (47 inch X 47 inch X 24 1/2 inch) All cultivations</td>
</tr>
<tr>
<td>T01</td>
<td>Tree Training</td>
<td>$0.02</td>
<td>PR</td>
<td>Up to $0.50 per tree</td>
</tr>
</tbody>
</table>

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

<table>
<thead>
<tr>
<th>Name of Agricultural Business</th>
<th>Place of Employment</th>
<th>Additional Information About the Place of Employment</th>
<th>Begin Date</th>
<th>End Date</th>
<th>Total Workers</th>
</tr>
</thead>
<tbody>
<tr>
<td>Rolling Sheep Company</td>
<td>1290 W 5 Lane N Paul, ID 83347 Minidoka County</td>
<td>N/A</td>
<td>01/01/19</td>
<td>01/05/19</td>
<td>6</td>
</tr>
<tr>
<td>John Doe Ranch</td>
<td>18289 Highway 30 Hagerman, ID 83332 Gooding County</td>
<td>N/A</td>
<td>01/08/19</td>
<td>01/15/19</td>
<td>6</td>
</tr>
<tr>
<td>Jane Darby</td>
<td>Riverton, WY 82501 Fremont County</td>
<td>Shearing sheds located about 1 mile south on Highway 99</td>
<td>01/18/19</td>
<td>02/01/19</td>
<td>6</td>
</tr>
</tbody>
</table>
**Example 2:** *Addendum B* for an agricultural association filing as joint employer

<table>
<thead>
<tr>
<th><strong>Name of Agricultural Business</strong></th>
<th><strong>Place of Employment</strong></th>
<th><strong>Additional Information About the Place of Employment</strong></th>
<th><strong>Begin Date</strong></th>
<th><strong>End Date</strong></th>
<th><strong>Total Workers</strong></th>
</tr>
</thead>
<tbody>
<tr>
<td>Abby Doe</td>
<td>6095 Meadowbrook Road Benson, NC, 27504 Johnston County</td>
<td>Hay, Organic Tobacco, Straw</td>
<td>05/04/19</td>
<td>11/01/19</td>
<td>2</td>
</tr>
<tr>
<td>Bobby Dodd</td>
<td>462 Pinehaven Road Reidsville, NC, 27320 Rockingham County</td>
<td>Soy, Tobacco, Wheat</td>
<td>05/04/19</td>
<td>10/31/19</td>
<td>8</td>
</tr>
<tr>
<td>Claire Roberts</td>
<td>525 Chinquapin Road Mocksville, NC, 27028 Davie County</td>
<td>Soy, Sweet Potatoes, Tobacco</td>
<td>05/04/19</td>
<td>11/01/19</td>
<td>20</td>
</tr>
<tr>
<td>Dave Richards</td>
<td>P.O. Box 73 117 Church Street Franklin, NC, 27551 Macon County</td>
<td>Produce, Soy, Straw, Tobacco</td>
<td>05/04/19</td>
<td>10/28/19</td>
<td>14</td>
</tr>
</tbody>
</table>
Example 3: *Addendum B* for an H-2ALC

```
<table>
<thead>
<tr>
<th>Name of Agricultural Business</th>
<th>Place of Employment</th>
<th>Additional Information About the Place of Employment</th>
<th>4. Begin Date</th>
<th>5. End Date</th>
<th>6. Total Workers</th>
</tr>
</thead>
<tbody>
<tr>
<td>Jon Doe Citrus Orchards</td>
<td>102nd Avenue, State Road 60 Vero Beach, FL, 32960 Indian River County</td>
<td>Orchard groves 1,2,4, and 6 also located off SR 60 and 122nd Avenue in Vero Beach</td>
<td>11/15/19</td>
<td>05/01/20</td>
<td>N/A</td>
</tr>
<tr>
<td>Oakes Farms</td>
<td>Immokalee, FL, 34142 Collier County</td>
<td>Orchards also at or near North End of Thorpe Rd in Immokalee; CR 846 West by mulch pile and fairgrounds, Naples, FL; South end of County Line Rd in Immokalee</td>
<td>11/15/19</td>
<td>05/01/20</td>
<td>N/A</td>
</tr>
<tr>
<td>Sadie Cypress</td>
<td>16067 011 Well Road Immokalee, FL, 34142 Collier County</td>
<td>Orchards also near 4909 County Line Rd in Immokalee</td>
<td>11/15/19</td>
<td>05/01/20</td>
<td>N/A</td>
</tr>
<tr>
<td>Cypress Farm</td>
<td>Vero Beach, FL, 32961 Indian River County</td>
<td>Orchards located south side of 9th St SW .5 miles north of 122nd Ave</td>
<td>11/15/19</td>
<td>05/01/20</td>
<td>N/A</td>
</tr>
<tr>
<td>Franberry Farms, LLC.</td>
<td>1206 McGee Rd, Plant City, FL, 33565 Hillsborough County</td>
<td>Orchards also at or near 431 N. Alexander St and 2102 W. Knight Griffin Rd in Plant City</td>
<td>11/15/19</td>
<td>05/01/20</td>
<td>N/A</td>
</tr>
</tbody>
</table>
```

*Addendum B* will collect up to 10 rows of information related to the places of employment. For electronic filings, if the employer needs to disclose more than 10 rows of information related to the places of employment, the filing system will automatically provide the employer with the option of adding more rows to Section C of the *Addendum B* until the response is completed. For mailed or paper filings, the employer will make one or more copies of Section C of the *Addendum B* to complete and attach to the Form ETA-790A.
Section C
Worksite Information (Page 6 of 13 Form ETA 790A General Instructions)

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

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

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

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

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

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

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

1. Enter the Form ETA-790A Section and Item number associated with the additional information to be disclosed. For example, if additional space is required to fully disclose the qualification and requirement information for Item B.6 of the Form ETA-790A, on Addendum C, enter “B.6” in Item 1. Otherwise, enter “H” as the section, followed by a sequential number (e.g., H.1 for the first additional item disclosed, H.2 for the second additional item disclosed).

2. Enter the Form ETA-790A Section name associated with the additional information to be disclosed. For example, if additional space is required to fully disclose the qualification and requirement information for Item B.6 of the Form ETA-790A, on Addendum C, enter “Job Qualifications and Requirements” in Item 2. Otherwise, enter a descriptive category for the additional information to be disclosed (e.g., “Additional Conditions about the Wage Offer”).

3. Enter the additional information to be disclosed related to Items 1 and 2 above.
✓ Remember:

• Signed and dated Form ETA-9142A, Appendix A, *uploaded to case in FLAG*.

• Attorney or Agent Documentation (if applicable)

• Job Order (Form ETA-790/790A) uploaded to case in FLAG

• Relevant Form ETA-790A addenda *completed*

• Finally, please *upload* NOD responses directly to FLAG.

• Do *not* upload and also email to TLC!
Section III

H-2A BALCA Appeals & Policy Issues
Top Two Issues at BALCA in 2019

1) Agricultural vs nonagricultural work (20 CFR 655.103(c)):

- H-2A certifications are limited to agricultural work, as defined in the Department’s H-2A regulations
- The CO cannot certify an H-2A application that includes combination of agricultural and nonagricultural duties

Recent BALCA Decision: *Everglades Harvesting & Hauling, Inc.*, 2019-TLC-00088 (Nov. 8, 2019) (affirming denial where employees of someone other than the farmer/farm operator would spend 60% of their time working on sugar cane farms and 40% transporting the crop off of the farms)
2) Seasonal/temporary need (20 CFR 655.103(d)):

- Single employer test
- Employer burden to explain/support:
  - Different labor needs tied to different times of year (types and levels)
  - Seasonal need despite payroll showing year round labor
  - Changed dates of need
  - Seasonal or temporary need within a general labor shortage
  - Its own need is seasonal or temporary despite presumption of year round need (e.g., livestock, greenhouse)

Other Issues at BALCA in 2019

- Original surety bond (20 CFR 655.132(b)(3))
- Extension requests (20 CFR 655.170)
- Long-haul trucking (20 CFR 655.103(b); 655.131(b))
- Farm labor contractor/employee registration (driver authorization; exemption for combining grain) (20 CFR 655.132(b)(2))
- Positive recruitment before Notice of Acceptance issued (20 CFR 655.143(b)(2)-(3))
Final Rule Modernizing H-2A Recruitment Requirements

84 FR 49439 (Sept. 20, 2019), effective October 21, 2019

- Eliminates employer-placed print newspaper advertisements as a general requirement
- Expands and enhances advertisement/recruitment through the Department's electronic job registry posting (Seasonaljobs.dol.gov)