DEPARTMENT OF LABOR

Employment and Training Administration

20 CFR Part 655

RIN 1205–AB24

Labor Certification and Petition Process for the Temporary Employment of Nonimmigrant Aliens in Agriculture in the United States; Modification of Fee Structure

AGENCY: Employment and Training Administration, Labor.

ACTION: Proposed rule; request for comments.

SUMMARY: The Employment and Training Administration (ETA) of the Department of Labor (Department or DOL) proposes to amend its regulations relating to the temporary employment of nonimmigrant agricultural workers (H–2A workers) in the United States. The proposed amendments would require employers to submit the fees for labor certification and the associated H–2A petition with a consolidated application form at the time of filing. The proposal also would modify the fee structure for H–2A labor certification applications.

Concurrently with the publication of this proposed rule, the Department is publishing a final rule setting forth the procedures and requirements for submission and processing of a consolidated *Application for Temporary Agricultural Labor Certification and H–2A Petition* (Form ETA 9079). Form ETA 9079 is attached as Appendix A to the proposed rule and comments are requested thereon.

DATES: Interested persons are invited to submit written comments on the proposed rule, on or before August 14, 2000.

ADDRESSES: Submit written comments to the Assistant Secretary for Employment and Training, U.S. Department of Labor, 200 Constitution Avenue, NW., Room N–4456, Washington, DC 20210, Attention: James H. Norris, Chief, Division of Foreign Labor Certifications.

FOR FURTHER INFORMATION: Contact Denis M. Gruskin, Senior Specialist, Division of Foreign Labor Certifications, Employment and Training Administration, 200 Constitution Avenue, NW., Room N–4456, Washington, DC 20210. Telephone: (202) 219–5263 (this is not a toll-free number.)

SUPPLEMENTARY INFORMATION:

I. Introduction

On October 2, 1998, ETA published in the **Federal Register** a Notice of Proposed Rulemaking (NPRM) proposing amendments to ETA's regulations at 20 CFR part 655, subpart B, relating to the temporary employment of nonimmigrant agricultural H–2A workers in the United States. One of those proposed amendments was to implement a proposed delegation from the Commissioner, Immigration and Naturalization Service (INS), to the Secretary of Labor (Secretary) of authority to adjudicate petitions currently processed by INS under 8 CFR 214.2(h)(5), ''Petition for alien to perform agricultural labor or services of a temporary or seasonal nature (H–2A).'' 63 FR at 53244 and 53248 (Oct. 2, 1998). The INS published an NPRM on December 7, 1998, proposing to amend its regulations by delegating to the Department of Labor such adjudication of H–2A petitions. 63 FR 67431 (Dec. 7, 1998). The Department published a final rule on June 29, 1999, relating to most of the amendments it had proposed on October 2, 1998. 64 FR 34958 (June 29, 1999). However, amendments to implement the delegation of H–2A petition authority were not included in that final rule. At that time, INS had not completed the rulemaking necessary to delegate the processing of H–2A petitions to the Department. Further, a number of technical issues had to be resolved by INS and the Department to implement a delegation of H–2A petition authority to DOL. The Department noted in the preamble to the June 29 final rule, however, that it was committed to completing the necessary rulemaking and associated procedural changes as soon as possible, if INS delegated to DOL the authority to adjudicate H–2A petitions. Comments received on that issue during the course of the earlier rulemaking have been considered in the development of this proposed rule and the concurrently published final rule.

II. Statutory Standard and Implementing Regulation

The decision whether to grant or deny an employer's petition to import nonimmigrant agricultural workers to the United States for the purpose of temporary employment is the responsibility of the Attorney General or her designee. The Immigration and Nationality Act (INA) (8 U.S.C. 1101 *et seq.*) provides that the Attorney General may not approve a petition from an employer for employment of nonimmigrant agricultural workers (H–2A visa holders) for temporary or seasonal services or labor in agriculture unless the petitioner has applied to the Secretary for a labor certification showing that:

(A) There are not sufficient U.S. workers who are able, willing, and qualified, and who will be available at the time and place needed to perform the labor or services involved in the petition; and

(B) The employment of the alien in such labor or services will not adversely affect the wages and working conditions of workers in the United States similarly employed.

(8 U.S.C. 1101(a)(15)(H)(ii)(a), 1184(c), and 1188.)

The Department of Labor has published regulations at 20 CFR part 655, subpart B, and 29 CFR part 501 to implement its responsibilities under the H–2A program. Regulations affecting employer-provided agricultural worker housing are in 20 CFR part 654, subpart E, and 29 CFR 1910.42.

III. Change in H–2A Fee Structure

The change in the H–2A fee structure which this NPRM addresses enhances the administrative efficiency and convenience to employers of filing a combined *Application for Temporary Agricultural Labor Certification and H–2A Petition.* This efficiency can best be achieved if employers submit a single check to cover the fees for both the issuance of the labor certification and the processing of the H–2A petition at the time the consolidated application is submitted to the Department.

The proposed procedural modification in the method of fee payment would depart from the current process in which the employer pays for the labor certification *after* it is issued and subsequently submits the H–2A petition to INS together with the INS filing fee. It is important to note that the proposed rule provides that both the certification fee and the money collected for the H–2A petition would be refunded if the labor certification were denied. The Department interprets the H–2A statute as permitting the collection of a fee only if a certification is issued. In the course of the 1987 rulemaking under the H–2A program Senator Simpson, the primary sponsor of the 1986 amendments to the INA, pointed out in response to the Department's proposal to require employers to submit a fee with the application, that the statute used the language as a ''condition of issuing the certification'' and not as a condition of processing the application. See 8 U.S.C. 1188(a)(2) (''The Secretary of Labor may require by regulation, as a condition of issuing the certification, the payment of

a fee to recover the reasonable costs of processing applications for certification.''). Since the fee for labor certification would be returned if the application is denied, the money collected for the labor certification would remain a *certification* fee, as it is characterized in the statute and current regulations, as opposed to a *processing* fee. Few fees paid with requests for labor certification will require a refund as the denial rate has historically been low. Moreover, as stated above, the proposed rule provides that the H–2A petition fee would be returned to the employer if the certification is denied. Currently, the petition fee is collected as an up-front processing fee by INS and is not returned to the employer if the petition is denied. See 8 CFR 103.7. In the rare instances when certification is granted but the petition is denied, the fees would not be returned.

IV. Fee Structure

The proposed rule provides that the consolidated labor certification and H–2A petition application must be accompanied by a check or money order sufficient to cover the fee for the labor certification and the fee for the H–2A petition as specified by INS regulations at 8 CFR 103.7. The Department is proposing a three-tiered labor certification fee. Employers that file applications for 10 or fewer H–2A temporary workers would be charged $150.00 per certification issued, employers that file applications for more than 10 H–2A workers up to and including 99 workers would be charged $250.00 per certification issued, and employers that apply for 100 workers or more would be charged $1,000.00 per certification issued. The petition fee would be set at whatever fee is specified in INS regulation at 8 CFR 103.7. The petition fee is reviewed by INS every 2 years and currently is set at $110.00. 63 FR 43604 (Aug. 14, 1998). Consistent with current INS requirements, a joint employer association would pay one petition fee and, consistent with current DOL requirements, pay the appropriate labor certification fee for *each* of its members listed in the association's application.

The Department estimates that the proposed three-tiered fee structure for issuance of a labor certification would likely yield about the same revenue for a given number of employers as the current DOL fee structure, which requires employers to pay a fee of $100.00 for the issued certification plus $10.00 per H–2A job opportunity certified. In Fiscal Year 1998, ETA collected $775,380.00 in fees.

The Department is authorized by the INA, as amended by the Immigration Reform and Control Act of 1986, to require as a condition of certification a fee to recover the reasonable costs of processing applications for certification. 8 U.S.C. 1188(a)(2). The monies collected under the proposed certification fee structure will continue, like the current fee structure, to fall substantially short of the monies expended by ETA to administer the H–2A labor certification program.

ETA has not conducted a study to establish fees since the 1987 study referred to in the preamble to the 1987 rule. That study did not include all costs that could be attributed to the H–2A labor certification program. Specifically, the study did not include the cost of activities of State employment service agencies, post-certification activities and post-denial activities at all levels, ETA national office activities, DOL Office of the Solicitor activities, and DOL Office of Administrative Law Judges activities. 52 FR at 20499 (June 1, 1987). ETA plans to conduct a study to determine what it expends to administer the H–2A labor certification program at the same time INS will review its petition fee early in calendar year 2002.

As indicated above, fees for H–2A petitions are established by INS through notice and comment rulemaking. See 63 FR 1775 (Jan. 12, 1998) and 63 FR 43604 (Aug. 14, 1998). INS reviews the petition fee every two years, and, accordingly, the proposed rule would require that the fee collected for the H–2A petition be the amount specified in the INS regulations that are current at the time the *Application for Temporary Agricultural Labor Certification and H–2A Petition* is filed with the Department. It is contemplated that under the administrative procedures arrived at by INS and ETA to implement the delegation of H–2A petition authority from INS to the Department, DOL will collect the petition fee on behalf of INS and will be reimbursed by INS for the costs involved in processing the H–2A petition.

Consistent with INS' proposed rule, the Department's proposed rule would also provide that if the H–2A petition is approved, DOL will forward to INS for action any requests for change of status or extension of stay pertaining to H–2A petitions for named aliens made on Form ETA 9079W, Named Alien Addendum.

INS has also delegated to the Department the authority to process applications to change the Consulate or port of entry on an approved petitions when DOL has previously processed a request for temporary agricultural workers on INS' behalf, and to respond to requests for duplicate approval notices issued by DOL. Such applications shall be made on the ETA 9079M, Visa Issuance Change Addendum, and accompanied by a check or money order made payable to the ''U.S. Department of Labor'' in the amount specified by INS regulations at 8 CFR 103.7 for the I–824, Application for Action on an Approved Application or Petition—currently $120.00. The ETA 9079M is functionally equivalent to the I–824.

INS has also proposed to authorize DOL to accept on INS' behalf any Forms I–102, Application for Replacement/Initial Nonimmigrant Arrival-Departure Document, and Forms I–539, Application to Extend/Change Nonimmigrant status, that are filed concurrently with DOL's form ETA–9079. The I–102 is used to obtain a replacement for a lost or mutilated arrival-departure document and the I–539 is used to extend or change the nonimmigrant status of dependents (H–4's) of the H–2A nonimmigrant. The submission of any Forms I–102 or I–539 must be accompanied by a check made payable to the ''U.S. Department of Labor'' in the amount specified by INS regulations at 8 CFR 103.7. The forms and fees will be forwarded to INS for adjudication after the ETA–9079 decision is made.

V. Short-term Extensions of Employment

INS is proposing to add automatically to every H–2A employer's petition a 14-day extension grace ''period,'' and to discontinue charging a separate fee for such short-term extensions. Thus, an employer's H–2A petition for any requested/certified period of employment, if approved, would be granted for the requested/certified period plus an additional 14 days (or the length of the labor certification if issued for less than 14 days). Should this proposal be included in INS' final rule, DOL would add corresponding implementing regulations to Part 655. Comments are requested on such a change. Should this proposal not be included in the INS final rule, the current procedures (as described below) would continue, although a rule of agency procedure would be promulgated to delegate from INS to DOL the INS functions under the existing process.

Under the existing regulations and procedures, an employer seeking to extend the authorized period of employment by two weeks or less applies to INS for the short-term

extension. 8 CFR 214.2(h)(5)(x) (1999); and 20 CFR 655.106(c)(3)(i) (1999); see also 214.2(h)(15)(ii)(C) (1999). INS charges a fee of $120.00 for this service. In such circumstances, the employer is not required to apply for extension of the labor certification granted by DOL and is granted a 14 day grace period. It is the agency's experience that a small minority of employers seek short-term extensions and that INS rarely disapproves such requests. Thus, the proposed change would further streamline the H–2A process for those employers that seek short-term extensions.

An automatic 14-day ''grace period'' extension, as proposed, may encourage some H–2A employers to understate the offered period of employment disclosed on their labor certification application(s) and H–2A petition(s), thereby affecting recruitment of U.S. workers and such existing rights under the H–2A program as the ''50 percent rule,'' the ''three-quarter guarantee,'' and reimbursement of in-bound and return transportation. U.S. workers must be offered employment during the first half (50 percent) of the work contract, which is ordinarily the work period specified by the employer on the job offer (see 20 CFR 655.103(e) (1999); 29 CFR 501.10(d)); covered workers are guaranteed pay for three-quarters of the workdays offered by the employer under the work contract (see 20 CFR 655.102(b)(6)(i) (1999)), and reimbursement for in-bound transportation costs on completion and payment for return transportation on completion of the offered employment under the work contract (see 20 CFR 655.102(b)(5)(i) and (ii) (1999)). If adopted DOL would evaluate whether the proposed automatic 14-day ''grace period'' extension is treated as offered employment for these various purposes and the consequences which occur if a worker declines to continue employment during the 14-day ''grace period'' extension.

The agency requests comments on the extent, if any, to which the addition of the 14-day ''grace period'' automatic extension, as proposed, impacts U.S. and foreign workers' rights, including their rights under the underlying work contract, as well as employers' responsibilities and obligations.

Executive Order 12866

The Department has determined that this proposed rule should be treated as a ''significant regulatory action,'' within the meaning of Executive Order 12866, because of the inter-agency coordination with INS. However, this rule is not an ''economically significant regulatory action.'' because it would not have an economic effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities.

Regulatory Flexibility Act

The Department of Labor has notified the Chief Counsel for Advocacy, Small Business Administration, and made the certification pursuant to the Regulatory Flexibility Act at 5 U.S.C. 605(b), that the proposed rule would not have a significant economic impact on a substantial number of small entities. The proposed amendments would enhance the administrative efficiency and convenience to employers by having them file a combined *Application for Temporary Agricultural Labor Certification and H–2A Petition* with one agency, as opposed to two forms filed with two agencies as at present. The total number of employers utilizing H–2A workers is only approximately 4,400.

Therefore, the proposed amendments would not have a significant economic impact on a substantial number of small entities.

Unfunded Mandates Reform Act of 1995

This proposed rule would not result in the expenditure by State, local and tribal governments, in the aggregate, or by the private sector, of $100 million or more in any 1 year, and it will not significantly or uniquely affect small governments. Therefore, no actions are necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

Small Business Regulatory Enforcement Fairness Act of 1996

This proposed rule is not a major rule as defined by section 804 of the Small Business Regulatory Enforcement Act of 1996. It would not result in an annual effect on the economy of $100 million or more; a major increase in costs or prices; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based companies to compete with foreign-based companies in domestic and export markets.

Paperwork Reduction Act

Title: Form ETA 9079 Application for Temporary Agricultural Labor Certification and H–2A Petition.

Summary: Section 218 of the Immigration and Nationality Act (Act) provides that an H–2A petition to import an H–2A worker may not be approved by the Attorney General unless the petitioner has applied to the Secretary of Labor for a certification that: (1) There are not sufficient workers who are able, willing and qualified, and who will not be available at the time and place needed to perform the labor or services involved in the petition; and (2) the employment of the alien in such labor or services will not adversely affect the wages and working conditions of workers in the United States similarly employed.

Section 214(c) of the Act provides the Attorney General with the authority to determine the admission of an alien for such and under such conditions as the attorney general may prescribe by regulation. The Attorney general has delegated her responsibilities under section 214(c) of the Act to the Commissioner, Immigration and Naturalization Service.

Currently, employers file an ETA Form 750 with the Department to obtain a labor certification and they file the labor certification in support of the I–129 to obtain a petition from INS.

Need: The current process has been criticized by some employers as complicated hard to understand, and too time consuming. In some instances the result has been that foreign workers have not arrived by the first date of the employer's need. In an effort to reduce the number of steps, paperwork and time necessary to obtain foreign workers necessary to perform critical agricultural functions the Department of Labor and INS issued final rules simultaneously with this proposed rule transferring the function of adjudicating H–2A petitions to the Department of Labor.

To streamline the process of obtaining certifications and petitions, the INS and DOL have developed the form ETA 9079 which includes all the information necessary to INS and DOL to administer and monitor the certification and petition process. The new form ETA 9079, and addendums thereto, will replace Form ETA 750 and INS Form I–129 for all H–2A filings. It is envisaged that the process will enable employers to obtain foreign agricultural workers by implementation of a one stop filing whereby all forms and supporting documentation are submitted to DOL. Currently employers have to complete a two step process to obtain a labor certification and petition which necessitates the filing of different forms with the Department and the Immigration and Naturalization Service. The final rule when it becomes effective and the Form ETA 9079 when it is approved will result in employers being able to obtain both the labor

certification and petition for aliens outside the United States from the Department. The Department of Justice estimates that transferring the authority to adjudicate petitions to DOL will result in a combined reduction of 18 to 27 days in the time now taken from initial filing with DOL to completion of the petition processing by INS.

In cases involving named aliens, employers would file with the Department an ETA 9079W, Named Alien Addendum. The proposed rule issued by INS would require the alien to sign the form if an extension of stay or change of status is requested. If the petition is approved, this form will be sent to INS for a determination on any extension of stay or change of status requested for the alien.

INS has also in the interests of further simplifying the petition process delegated to DOL the responsibility of processing the small number of requests involving changes in the Consulate or port of entry designated on the petition when it was approved, and issue duplicate approval notices it has issued. To make such requests the employer will be required to file form ETA 9079M, Visa Issuance Change Addendum, with the fee specified by INS regulations at 8 CFR 103.7 for the I–824, Application for Action on an Approved Application or Petition. The 9079M is functionally equivalent to the I–824.

Respondents and proposed frequency of response: ETA estimates that 2,270 sole employers and joint-employer associations filing on behalf of member employers will submit about 1.3 Forms ETA 9079 each year, for a total of 2,950 forms filed annually. The actual number filed will depend upon the needs of the employers, which are dependent in part upon agricultural conditions, such as crop maturation.

Estimated total annual burden for filing: ETA estimates that approximately 2,950 Forms ETA 9079 will be submitted each year. The reporting burden is estimated to average 1½ hours. This estimate includes the time for reviewing instructions, searching existing information/data sources, gathering and maintaining information and completing and reviewing the application.

The preparation of the application form may be done by a company employee, official, proprietor, or chief executive officer. Therefore, the salaries could range from about $5.15 an hour for an employee to $300.00 for a proprietor or chief executive officer of a large farming enterprise. The average hourly remuneration is estimated to be $25.00. This results in the estimated annual cost to respondents (employers) for filing the ETA 9079, ''Application for Temporary Agricultural Labor Certification and H–2A Petition'' of $110,625 (2,950 × 1½ × $25.00).

The public is invited to provide comments on this information collection requirement so that the Department of Labor may:

(1) Evaluate whether the proposed collections of information are necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimates of the burdens of the collections of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility and clarity of the information to be collected; and

(4) Minimize the burden of the collections of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses. Written comments should be sent to the Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for Employment and Training Administration, U.S. Department of Labor, Washington, D.C. 20503.

Catalogue of Federal Domestic Assistance Number

This program is listed in the Catalogue of Federal Domestic Assistance as Number 17.202, ''Certification of Foreign Workers for Agricultural and Logging Employment.''

List of Subjects:

Administrative practice and procedure, Agriculture, Aliens, Crewmembers, Employment, Enforcement, Forest and forest products, Guam, Health professions, Immigration, Labor, Longshore work, Migrant labor, Nurse, Penalties, Registered nurse, Reporting and record keeping requirements, Specialty occupation, Students, Wages.

Proposed Rule

Accordingly, part 655 of Chapter V of title 20, code of Federal Regulations is amended as follows:

PART 655—[AMENDED]

1. The authority citation for part 655 continues to read as follows:

Authority: Section 655.0 issued under 8 U.S.C. 1101(a)(15)(H)(i) and (ii), 1182(m) and (n), 1184, 1188, and 1288(c) and (d); 29 U.S.C. 49 *et seq.*; sec. 3(c)(1), Pub. L. 101–238, 103 Stat. 2099, 2103 (8 U.S.C. 1182 note); sec. 221(a), Pub. L. 101–649, 104 Stat. 4978, 5027 (8 U.S.C. 1184 note); P.L. 103–206, 107 Stat 2419; and 8 CFR 214.2(h)(4)(i).

Section 655.00 issued under 8 U.S.C. 1101(a)(15)(H)(ii), 1184, and 1188; 29 U.S.C. 49 *et seq.*; and 8 CFR 214.2(h)(4)(i).

Subparts A and C issued under 8 U.S.C. 1101(a)(15)(H)(ii)(b) and 1184; 29 U.S.C. 49 *et seq.*; and 8 CFR 214.2(h)(4)(i).

Subpart B issued under 8 U.S.C. 1101(a)(15)(H)(ii)(a), 1184, and 1188; and 29 U.S.C. 49 *et seq.* , and 8 CFR 103.1(f)(iii)(J), (W), 214.2(h)(5), (11) and (12).

Subparts D and E issued under 8 U.S.C. 1101(a)(15) (H)(i)(a), 1182(m), and 1184; 29 U.S.C. 49 *et seq.*; and sec. 3(c)(1), Pub. L. 101–238, 103 Stat. 2099, 2103 (8 U.S.C. 1182 note).

Subparts F and G issued under 8 U.S.C. 1184 and 1288(c) and (d); and 29 U.S.C. 49 *et seq.*; and P.L. 103–206, 107 Stat 2419.

Subparts H and I issued under 8 U.S.C. 1101(a)(15)(H)(i)(b), 1182(n), and 1184; 29 U.S.C. 49 *et seq.*; and sec. 303(a)(8), Pub. L. 102–232, 105 Stat. 1733, 1748 (8 U.S.C. 1182 note).

Subparts J and K issued under 29 U.S.C. 49 *et seq.*; and sec. 221(a), Pub. L. 101–649, 104 Stat. 4978, 5027 (8 U.S.C. 1184 note).

§ 655.100 [Amended]

2. Section 655.100 is amended by revising paragraph (a)(4)(iii) to read as follows:

§ 655.100 Overview of this subpart and definition of terms.

(a) * * *

(4) * * *

(iii) *Fees*—(A) *General.* Fees must be submitted with the Form ETA 9079 *Application for Temporary Agricultural Labor Certification and H–2A Petition.* The fees which must accompany the form must include the fee for the issuance of the labor certification, and the fee required for the H–2A petition as specified by INS regulations at 8 CFR 103.7. The amount of the labor certification fee is dependent upon the number of job openings for which the employer requests certification. The labor certification fee for applications for 10 job openings or fewer is $150.00, the certification fee for applications for more than 10 job openings up to and including 99 job openings is $250.00, and the certification fee is $1,000 when the application is for 100 job openings or more. The INS fee was set at $110.00 as of October 13, 1998 and is subject to revision by INS every two years. Requests for changes in the Consulate or

port of entry designated on the petition when it was approved or to request a duplicate of a lost approval notice shall be made by filing an ETA 9079M, which is functionally equivalent to INS Form I–824 (Application for Action on an Approved Application or Petition), and the fee specified in INS regulations at 8 CFR 103.7 with DOL. As of October 13, 1998, the INS fee for the Form I–824 was set at $120.00. INS has authorized DOL to accept on behalf of INS any Forms I–102, Application for Replacement/Initial Nonimmigrant Arrival-Departure Document, and Forms I–539, Application to Extend/Change Nonimmigrant Status, which are filed concurrently with the DOL's new form ETA 9079. The submission of any Forms I–102 or I–539 must be accompanied by a check made payable to the ''U.S. Department of Labor'' in the amount specified by INS regulations at 8 CFR 103.7. Fees will be deposited in a special account while the application is being processed and adjudicated. If the labor certification is denied, all fees will be refunded. If certification is granted, but the petition is denied, the fees will not be refunded.

(B) *Payment.* Payment must be made by check or money drawn on a financial institution in the United States and payable to the ''U.S. Department of Labor'' in United States currency. A charge of $30.00 will be imposed if a check in payment of a fee is not honored by the financial institution on which it is drawn and, if a certification has not been issued, processing of the application will be suspended until a certified check or money order made payable to the U.S. Department of Labor is received by the Department.

(C) *Application and Petition.* Fees must be paid at the time the application is filed as follows:

(*1*) Sole employers filing a Form ETA 9079—*Application for Temporary Agricultural Labor Certification and H–2A Petition* shall submit with their application a single check or money order made payable to the ''U.S. Department of Labor'' for the total amount of the required fees to include:

(*i*) A certification fee of $150.00 when the application is for 10 job openings or fewer, $250.00 when the application is for more than 10 openings up to and including 99 job openings, or $1,000 when the application is for 100 job openings or more;

(*ii*) The fee required to pay for the processing of the H–2A petition as specified in INS regulations at 8 CFR 103.7.

(*2*) In the case of a joint employer association filing a single Form ETA 9079—*Application for Temporary Agricultural Labor Certification and H–2A Petition* on behalf of its members, the application shall be accompanied by a single check or money order made payable to the ''U.S. Department of Labor'' for the total amount of required fees. The amount of the check or money order must include:

(*i*) A certification fee of $150.00 for each member applying for 10 job openings or fewer, $250.00 for each member applying for more than 10 job openings up to and including 99 job openings, and $1000.00 for each member applying for 100 or more job openings. The joint employer association shall not be charged a separate fee; and

(*ii*) The fee required for the H–2A petition filed by the joint employer association as specified by the INS regulations at 8 CFR 103.7.

(*3*) In the case of an employer association acting as an agent for its employer-members in filing of individual applications by its members, each Form ETA 9079—*Application for Temporary Agricultural Labor Certification and H–2A Petition* shall be accompanied by a single check or money order made payable to the ''U.S. Department of Labor'' for an amount sufficient to include:

(*i*) A certification fee of $150.00 from each member applying for 10 job openings or fewer, $250.00 from each member applying for more than 10 job openings up to and including 99 job openings, and $1,000.00 from each member applying for 100 or more job openings;

(*ii*) The fee required for the processing of the H–2A petition from each member as specified by INS regulations at 8 CFR 103.7.

(D) *INS Forms I–102 and I–539.* Forms I–102, Application for Replacement/Initial Nonimmigrant Arrival-Departure Document, and Forms I–539, Application to Extend/Change Nonimmigrant Status, which are filed concurrently with the DOL's form ETA 9079 must be accompanied by a check made payable to the ''U.S. Department of Labor'' in the amount specified by INS regulations at 8 CFR 103.7.

(E) *Refunds. (1)* If a labor certification is denied, all fees will be refunded to the employer or association as appropriate. If a labor certification is partially denied a refund shall be made, if appropriate, in accordance with the fee schedule in paragraph (a)(4)(iii)(C) of this section. If the certification is granted whole or in part, but the petition is denied, no refund will be made of the petition fee.

(*2*) If an amendment to decrease the number workers is made prior to an RA certification, a refund shall be made, if appropriate, in accordance with the fee schedule in paragraph (a)(4)(iii)(C) of this section.

(F) *Increase in Number of Workers.* Amendments to applications to increase the number of workers requested made prior to an RA certification determination shall be accompanied by an increase in fees that are in accordance with the fee schedule in paragraph (a)(4)(iii)(B) of this section. Amendments to increase the number of workers requested shall not be processed if they are not accompanied by a check made out to the ''U.S. Department of Labor'' sufficient to cover any increase in fees required due to the increase in workers requested.

(G) *Applications for Change in Consulate or to Obtain Duplicate Approval Notice.* Applications requesting changes in the notification to the Consulate or port of entry designated on an approved petition, or to request a duplicate approval notice, shall be filed on ETA Form 9079M, Visa Issuance Change Addendum, with the RA who originally processed the case, and must be accompanied by a check or money order made payable to the ''U.S. Department of Labor'' in the amount specified by INS regulations at 8 CFR 103.7.

* * * * *

3. Section 655.101 is amended by removing the period at the end of paragraph (b)(3) and adding in lieu thereof the phrase ''; and'', and by adding new paragraphs (b)(4) and (i) to read as follows:

§ 655.101 Temporary alien labor certification applications and petitions.

* * * * *

(b) * * *

(4) A check or money order for the fee in accordance with § 655.100(a)(4)(iii).

* * * * *

(i) *Changes of status and extensions of stay.* If the H–2A petition is granted, any requests to change nonimmigrant status or for extension of stay for named beneficiaries made on the Form ETA 9079W will be sent by ETA to INS, which will make determinations about the named beneficiaries' eligibility to change nonimmigrant status or eligibility for extension of stay.

§ 655.103 [Amended]

4. Section 655.103 is amended by removing paragraph (h).

§ 655.106 [Amended]

5. Section 655.106 is amended by removing paragraph (b)(2).

Signed at Washington, DC, this 7th day of July, 2000.

Raymond L. Bramucci,

Assistant Secretary of Labor for Employment and Training.

Appendix 1 (Not to be codified in the CFR): Form ETA 9079

Printed below is a copy of Form ETA 9079.

BILLING CODE 4510–30–P

Instructions for Completing ETA FORM 9079 PACKET

Application for Temporary Agricultural Labor Certification and H-2A Petition

Developed by the
Division of Foreign Labor Certification
United States Department of Labor

DRAFT

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I. INSTRUCTIONS FOR COMPLETING ETA FORM 9079 PACKET

Application for Temporary Agricultural Labor Certification and H-2A Petition

IMPORTANT: READ ALL INSTRUCTIONS!!
These instructions will help Applicants understand the information that is being requested. Please read the instructions carefully and follow them to minimize the chances of an application package being returned due to incomplete information.

The following forms, attachments, and statements must be submitted by an Applicant:

FORM/ PART	PURPOSE/DESCRIPTION	WHO USES THIS FORM	WHEN AND HOW SUBMITTED
Mandatory Forms for ALL Applicants:			
9079	Base form, replaces ETA-750 and I-129 for unnamed alien workers.	All Applicants	Submit by regular and overnight mail only.
790	Agricultural and Food Processing Clearance Order. This is the job order portion of the application package. Information on form ETA 790 must be comprehensive and precise because form ETA 790, in effect, will constitute a contract between the employer and the worker, and can be the basis for enforcement. Includes all attachments and explanations.	All Applicants	Submit by regular and overnight mail only with ETA Form 9079.
ETA 9079 Addenda which may be used by any Applicant if needed:			
9079-W (I-539)	Named alien Workers for both new visas and modifications.	Any Applicants with named workers	Submit by regular or overnight mail or fax any time after acceptance and 5 days prior to certification.
9079-C	Allows for additional visa issuance locations (Consulates, port of entry, pre-flight issuance).	Applicants with more than one visa issuance location	Submit by regular or overnight mail or fax any time after acceptance letter and 5 days prior to certification.
ETA 9079 Addenda for Sole-Employer, including Associations as Sole-Employer (An Association filing an application on their own behalf):			
9079-S	Allows for additional Work-Site locations.	Sole-Employer Applicants with more than one work-site	Submit by regular or overnight mail or fax any time after acceptance letter and 5 days prior to certification.

ETA 9079 Addenda for Joint-Employer (Two or more employers sharing workers and responsibility) & Joint-Employer Association (An Association and its members sharing employees and responsibility):			
FORM/ PART	**PURPOSE/DESCRIPTION**	**WHO USES THIS FORM**	**WHEN AND HOW SUBMITTED**
9079-A	Register a Joint-Employer Association.	Associations	Submit by regular or overnight mail or fax prior to submission of any applications.
9079-E	Register an Employer as a member of an Association.	Associations	Submit by regular or overnight mail or fax prior to submission of any applications.
9079-L	Listing of employer information (member's EIN, City or County of work-site, number of workers requested, work hours, worker housing, and guaranteed wage for each crop activity) for an Association application.	Associations	Submit by regular or overnight mail or fax any time after acceptance letter and 5 days prior to certification.
ETA 9079 Addenda to be used AFTER CERTIFICATION:			
9079-M (I-824)	Move worker(s) from one Consulate to another.	Applicants who need to change the location where workers will apply for visas AFTER CERTIFICATION	Submit by regular or overnight mail after certification.
9079-X	Request for eXtension of the Labor Certification and H-2A Visas	Applicants meeting the criteria for an extension per the regulations	Submit by regular or overnight mail or fax.

BASIC PROCEDURE FOR FILING A LABOR CERTIFICATION AND H-2A VISA PETITION

There are four distinct types of Applicants:

1. **Sole-Employer**,
2. **Association as Sole-Employer** - an Association filing an application on their own behalf,
3. **Joint-Employer** - two or more employers sharing workers and responsibility,
4. **Joint-Employer Association** - an Association and its members sharing employees and responsibility.

In the steps below those which apply to *Associations only will be in italics*. Each of the other steps apply to all applicants.

1. *Submit form ETA 9079-A to register the Association.* ***This needs to be done only once per fiscal year.*** *The Association may complete form ETA 9079-A prior to filing the application or along with the application. Form ETA 9079-A goes to the Philadelphia or San Francisco Servicing Office (see page 6).*

2. *Submit form ETA 9079-E to register each of the member employers.* ***This needs to be done only once per fiscal year.*** *To change an employer's information, submit a corrected form ETA 9079-E. Form ETA 9079-E goes to the Philadelphia or San Francisco Servicing Office (see page 6).*

3. Complete forms ETA 9079 and ETA 790 with all of the required attachments and explanations. Please proof read the forms to avoid confusion. NOTE on form ETA 9079: There is an Employer's Control

Number (ECN) on each page. The ECN is used by the computer to make sure that the correct pages are kept together. Make sure that the ECN is the same on all pages.

4. Calculate the correct fee: Each application has a base charge of $110 for the Visa petition. Each employer on an application has a charge of $150 for 10 or fewer workers, $250 for 11 to 99 workers, and $1,000 for 100+ workers. This is indicated in the following tables. Associations will have the $110 charge plus a charge of $150, $250 or $1,000 for each employer based on the numbers of workers that each employer requests. Example: A Joint-Employer Association submits an application for 3 employers who wish to hire 3 workers each and 2 employers who wish to hire 12 workers each, for a total of five employers. The fee will be $(110 + (3x150)+ (2x250)) = $1060.

	Cost
Each Application	$110.00

# of Workers	Cost
0-10	$150.00
11-99	$250.00
100+	$1000.00

5. Submit forms ETA 9079 and ETA 790 with all required attachments and explanations and a check for the correct fee to the appropriate Servicing Office (see page 6) at least 45 days prior to the date of need. **A copy of forms ETA 9079 and ETA 790 with all of the required attachments and explanations must be sent to the appropriate State Employment Security Agency at the same time as filing with the appropriate Servicing Office.**

6. The Servicing Office will check the application for completeness and correct fee upon receipt. If an application is incomplete, it will be returned. Otherwise, the application will be sent to the appropriate Regional Office for processing. The Regional Office will send an Acceptance Letter with the required recruitment efforts if the application package has been accepted for processing. If the package has not been accepted, a Modification Letter with the modifications needed for the application to be acceptable will be sent.

7. *Associations must submit form ETA 9079-L pages which support the initial application and the fee submitted with it to the appropriate Servicing Office.*

8. *Associations can now submit any needed changes to the application's employer list by sending an additional ETA 9079-L and a check for any fee change to the appropriate Servicing Office. The final changes must be received no later than 5 days prior to the certification date. Another way of saying this is 35 days before the date of need. This will ensure that all information has been updated and the certification granted is correct.*

9. If more than two consulates are to be used for the workers requested, submit form ETA 9079-C to the appropriate Servicing Office. If you wish to change where or how many workers will apply at the consulate, use form ETA 9079-C. Use zero in the number of workers section and that consulate will not be notified. The final changes must be received no later than 5 days prior to the certification date. Another way of saying this is 35 days before the date of need. This will ensure that all information has been updated.

10. If any of the workers covered by this application are already in the U.S., submit form ETA 9079-W for each worker to the appropriate Servicing Office. Each named worker will reduce the number requested from the last listed consulate. The final changes must be received no later than 5 days prior to the certification date. Another way of saying this is 35 days before the date of need. This will ensure that all information has been updated and the certification granted is correct.

11. Recruitment by the employer or Association should begin only upon instruction from the appropriate

Regional Office through the acceptance letter.

12. Obtain the appropriate Workers' Compensation insurance. Proof of the Workers' Compensation insurance may be submitted to the appropriate Regional Office at the time of the initial application. However, if not available at that time, it may be submitted to the appropriate Regional Office at any time during the processing of the application prior to certification.

13. Schedule a housing inspection by the State. A housing inspection may be submitted to the appropriate Regional Office at the time of the initial application. However, if it has not been completed at that time, it can be submitted at any time during the processing of the application prior to certification.

14. Recruitment results should be submitted to the appropriate Regional Office 24 hours prior to the certification date.

15. A final determination will be made 30 days prior to the date of need.

What is the difference between a Servicing Office and a Regional Office?

A Serving Office is a data entry and computer service facility. No decision making occurs at this site.

A Regional Office is where the review of the application will occur and where the technical expertise resides. The Regional Office coordinates processing of the application with the appropriate State agencies.

SERVICING OFFICE LOCATIONS

The Philadelphia Servicing Office processes applications from the following locations:

Alabama, Connecticut, Delaware, District of Columbia, Florida, Georgia, Kentucky, Maine, Maryland, Massachusetts, Missouri, New Hampshire, New Jersey, New York, North Carolina, Pennsylvania, Puerto Rico, Rhode Island, South Carolina, Tennessee, Vermont, Virginia, West Virginia.

The Philadelphia Servicing Office mailing address for applications is:

Department of Labor
Employment and Training Administration
3535 Market St., #13300
Philadelphia, PA 19104

The San Francisco Servicing Office processes applications from the following locations:

Alaska, Arizona, Arkansas, California, Colorado, Guam, Hawaii, Illinois, Indiana, Iowa, Kansas, Louisiana, Michigan, Minnesota, Montana, Nebraska, Nevada, New Mexico, North Dakota, Ohio, Oklahoma, Oregon, South Dakota, Texas, Utah, Washington, Wisconsin, Wyoming.

The San Francisco Servicing Office mailing address for applications is:

Department of Labor
Employment and Training Administration
71 Stevens St., #715
San Francisco, CA 94105

II. INSTRUCTIONS FOR COMPLETION OF ETA FORM 9079

Application for Temporary Agricultural Labor Certification and H-2A Petition

These instructions will help employers understand the information that is being requested on the ETA FORM 9079. Please read the instructions carefully and follow them to minimize the chances of an application being returned due to incomplete information.

NOTE: Mark the box with an X to indicate that this is either a New Application or a Response to a Modification Letter. If it is a response to a Modification Letter, enter the DOL case number. This will ensure that the application is credited correctly and will not be returned due to not having a check for the fee attached.

SECTION I: APPLICANT'S INFORMATION (Page 1 of 5 of form ETA 9079)

1. Applicant Type:
Fill in the circle that indicates the appropriate applicant type. Fill in only one circle.

2. Full Legal Name of Applicant:
Enter the full name of the individual employer or Association. Associations will use the same information as entered on form ETA 9079-A.

3. Federal Employer ID Number:
Enter Applicant's nine digit Federal Employer identification Number (EIN) that has been assigned by the Internal Revenue Service. This is the EIN that will be used on subsequent Addenda for this application.

4. Applicant's Telephone Number:
Enter a ten digit telephone number (include the area code) for the Applicant. If applicable, use the four digits after the slash for the extension.

5. Return Fax Number:
Enter a ten digit fax number (include the area code) for the Applicant.

6. Contact's Telephone Number (Optional):
Enter a ten digit telephone number (include the area code) for the contact person for the individual employer or Association. If applicable, use the four digits after the slash for the extension.

7. Applicant's Address:
Enter the complete mailing address of the Applicant including number/street, city, state and postal (zip) code.

8. Contact's Name (Optional):
Enter the complete name of the person to which correspondence should be sent. Provide the family (last) name on the first line and the given (first) name and initial on the second line.

9. Correspondence Address:
Enter the complete mailing address where correspondence should be sent. Include number/street, city, state and postal (zip) code.

10. E-Mail Address:
Enter the complete e-mail address that matches the Correspondence Address if you would like notification via e-mail.

SECTION II: JOINT-EMPLOYERS AND JOINT-EMPLOYER ASSOCIATIONS ONLY

If you are an ASSOCIATION: The next item applies only to Associations.

1. **Number of Employers Requesting**:
Enter the number of employers for each category (less than 10 workers, 11 to 99 workers or 100+ workers) who will be initially included in the application using form ETA 9079-L which must be completed immediately after receipt of the Acceptance Letter.

SECTION III: SOLE-EMPLOYERS ONLY

If you are a SOLE-EMPLOYER: The next four items are for Sole-Employers only – Associations will fill out forms ETA 9079-E and ETA 9079-L.

1. Total Number of Alien Workers Requested:

Enter the number of workers requested and include those who are already in the U.S.

2. Total Work Hours per Week:

Enter the number of normal hours per worker to be worked each week.

3. Number of Workers Which can be housed:

Enter the total number of employees which can be housed at the work-site.

4. Location of Work:

Enter the city or county where the alien workers will work.

EMPLOYER CONTROL NUMBER:

The Employer Control Number (ECN) must be completed by the Applicant and must be the same number on each page. The ECN can be any sequence of digits and is used to keep all pages together during processing. Failure to do so can delay the processing of the application.

SECTION IV: DATES OF NEED (Page 2 of 5 of form ETA 9079)

Dates of Need:

Enter the begin and end dates for the period of employment. The dates should be entered in an **MM/DD/YYYY** format and have a 0 in front of any number less than 10 (for example: February 5, 2002 is entered as 02/05/2002).

SECTION V: JOB OPENING INFORMATION

1. Job Title:

Enter the payroll title/common name of the job being offered.

2. Education:

Fill in the appropriate circle that indicates the highest diploma or degree required for the job. Fill in only one circle. **NOTE: If 'None' or 'High School' is selected, do not fill in items 3 and 4.**

3. Foreign equivalent acceptable:

Mark the box with an X if a foreign equivalent is acceptable for this job.

4. Field of Study:

Enter the field of study that is needed to be successful in this job.

5. Field of Training:

Enter the type of training that is needed to be successful in this job. This training is above and beyond the training provided by the employer.

6. Months of Training:

Enter the minimum number of months of training necessary for the worker to carry out the described duties.

7. Field of Experience:

Enter the minimum experience necessary for the worker to carry out the described duties.

8. Months of Experience:

Enter the minimum number of months of experience necessary for the worker to carry out the described duties.

9. Job Description:

PLEASE PRINT CLEARLY. In step-by-step detail, describe the duties (work tasks) which make up the job. Avoid technical terms as much as possible. If they must be used, define them. The job description needs to include: equipment that will be used, worker performance standards, training (if provided), required experience, licenses or permits that are necessary, level of supervision that will be provided, and the provision of tools and equipment.

SECTION VI: CROP AND WAGE INFORMATION (Page 3 of 5 of form ETA 9079)

1. Crop Activity:

Enter the type of activity for each crop (e.g., Apple Picking Drops, Apple Picking Fresh Market, Apple Picking Processing, Blueberry, Mechanical Harvest Operator). If crop activity is more than 58 letters, use appropriate abbreviation. For example: Use the abbreviation "Oper." for the word "Operator."

2. Proposed Minimum Guaranteed Wage:

Enter the higher of the Adverse Effect Wage Rate (AEWR), Prevailing, Federal, State or Local hourly minimum wage (see ETA Form 790). Indicate the pay unit (hour, day, week, month). Note: If activity is a "Special Processing" activity, refer to those instructions for wage information. For example: Refer to special Sheep herding/Goat herding and Custom Combine procedures and prevailing wage memoranda.

SECTION VII: DESIGNATION OF AGENT (Page 4 of 5 of form ETA 9079)

1. Full Legal Name of Agent's Organization or Company:

Enter the full name of the agent's organization or company representing the employer.

2. Contact Name:

Enter the full name of the contact person from the agent's organization. Provide the family (last) name on the first line and the given (first) name and initial on the second line.

3. Federal Employer ID Number:

Enter employer's nine digit Federal Employer Identification Number (EIN) that has been assigned by the Internal Revenue Service.

4. Agent's Telephone Number:

Enter a ten digit telephone number (include the area code) for the Agent. If applicable, use the four digits after the slash for the extension.

5. Agent's Correspondence Address:

Enter the complete mailing address where all materials should be sent. Include number/street, city, state and postal (zip) code.

6. Agent's E-Mail Address:

Enter the complete e-mail address if you would like notification sent via e-mail.

7. Agent's Signature and Date:

After the agent reads the statement, they must sign the form with their full legal name. Do not let the signature extend beyond the box. The date of signing should be entered in the block to the right. The date should be entered in an **MM/DD/YYYY** format and have a 0 in front of any number less than 10 (for example: February 5, 2002 is entered as 02/05/2002).

8. Applicant's Signature and Date:

The Applicant's designated official that has hiring authority must sign the form with their full legal name. Do not let the signature extend beyond the box. The date of signing should be entered in the block to the right of the signature. The date should be entered in an **MM/DD/YYYY** format and have a 0 in front of any number less than 10 (for example: February 5, 2002 is entered as 02/05/2002).

SECTION VIII: VISA REQUEST INFORMATION

1. Number of Individuals who will apply at this site:

Enter the total number of alien workers who will apply at the location indicated in item 2.

2. City and Country of the Consulate/Port of Entry or Pre-flight Inspection:

Enter the location where non-immigrants will be applying for their Visas. If more than one location, you will need to fill out form ETA 9079-C after receiving the Acceptance Letter from the appropriate Regional Office and no more than 5 days prior to the scheduled certification date.

SECTION IX: STATE AGENCY JOB ORDER INFORMATION

This information must be filled out. Enter the city and state where you sent the duplicate application.

SECTION X: DECLARATION OF EMPLOYER (Page 5 of 5 of form ETA 9079)

NOTE: By signing this form, the employer agrees to comply with all of the requirements of 20 CAR 655.90 et seq.

1. Hiring Official's Name:

Enter the hiring official's name. Provide the family (last) name on the first line and the given (first) name and initial on the second line.

2. Title of Hiring or Other Designated Official:

Enter the title of the person whose name appears above.

3. Applicant's Signature:

The Applicant must sign the form with their full legal name. Do not let the signature extend beyond the box. The date of signing should be entered in the block to the right of the signature. The date should be entered in an **MM/DD/YYYY** format and have a 0 in front of any number less than 10 (for example: February 5, 2002 is entered as 02/05/2002).

III. INSTRUCTIONS FOR COMPLETING ETA FORM 9079-W

Named Worker Addendum

General: This form is completed for each worker that is located within the United States at the time of filing form ETA 9079 with the DOL. A single form ETA 9079-W is used for each worker in the United States that is included on the ETA 9079. There is no additional fee required for form ETA 9079W. Upon approval of form ETA 9079, DOL will forward all ETA 9079-W's to the Immigration and Naturalization Service (INS) for adjudication. The employer and the workers will be contacted directly by INS with the results.

This Addendum to the application can be submitted at the time of filing form ETA 9079 or up to 5 days prior to certification.

SECTION I: DEPARTMENT OF LABOR CASE TRACKING INFORMATION

1. Applicant's Federal Employer ID Number:

Enter Applicant's nine digit Federal Employer identification Number (EIN) that has been assigned by the Internal Revenue Service. This must the same as the EIN from Section I, page 1 of 5 of form ETA 9079.

2. Department of Labor Case Number:

If form ETA 9079-W is submitted after form ETA 9079, enter the case number from the Acceptance Letter.

SECTION II: ALIEN BENEFICIARY INFORMATION

1. Full Legal Name of Alien:

Provide the alien's family (last) name on the first line and the given (first) name and initial on the second line.

2. Alien's Current U.S. Address:

Enter the complete mailing address of the Alien including number/street, city, state and postal (zip) code.

3. SSN:

Enter the alien's social security number if applicable.

4. Date of Birth:

Enter the alien's date of birth. The date should be entered in an **MM/DD/YYYY** format and have a 0 in front of any number less than 10 (for example: February 5, 2002 is entered as 02/05/2002).

5. Country where alien was born:

Enter the Country where the alien was born.

6. Country where alien's passport was issued:

Enter the Country where the alien's passport was issued.

7. City and Country of the Consulate/Port of Entry or Pre-flight Inspection:

Enter the location where non-immigrants will be applying for their visas.

8. Change of Status or Extension of Stay:

Mark an X in the appropriate box(s) to indicate if the alien requires a change of status and/or an extension of stay.

9. Date Passport Expires:

Enter the date when the alien's passport expires. The date should be entered in an **MM/DD/YYYY** format and have a 0 in front of any number less than 10 (for example: February 5, 2002 is entered as 02/05/2002).

10. Alien Registration Number:

Enter the Alien's Registration Number.

11. Is Alien already in the USA?

Indicate whether the alien is already in the USA.

12. Fill in the appropriate circle:

Fill in the appropriate circle to indicate whether this is new employment, continuation of employment or change in Employment Conditions. Fill in only one circle.

13. From I-94:

Provide the alien registration number (if any); I-94 number; date of arrival/admission (from I-94); date of expiration of stay (from I-94); visa/non-immigrant status (from I-94). Enter worker's current non-immigrant status (examples: H-2A, B-2, H-2B). All dates should be entered in an **MM/DD/YYYY** format and have a 0 in front of any number less than 10 (for example: February 5, 2002 is entered as 02/05/2002).

14. Fill the appropriate circle for each questions below:

Fill in the appropriate yes or no circle as it pertains to the worker. Assure that the alien has provided any additional forms for replacement of I-94s or to seek changes for dependents (I-539 or I-102).

15. Alien's Signature:

The alien must sign the form with their full legal name. Their signature indicates that all of the above information is accurate and true. Do not let the signature extend beyond the box. The date of signing should be entered in the block to the right of the signature. The date should be entered in an **MM/DD/YYYY** format and have a 0 in front of any number less than 10 (for example: February 5, 2002 is entered as 02/05/2002).

IV. INSTRUCTIONS FOR COMPLETING ETA FORM 9079-C

Visa Issuance Location Addendum

General: Form ETA 9079-C is a continuation form for form ETA 9079, **SECTION C:** "Visa Request Information". This form can be used to change where or how many workers will apply at a Consulate.

This Addendum to the application can be submitted at the time of filing form ETA 9079 or up to 5 days prior to certification.

SECTION I: DEPARTMENT OF LABOR CASE TRACKING INFORMATION

1. Applicant's Federal Employer ID Number:

Enter Applicant's nine digit Federal Employer identification Number (EIN) that has been assigned by the Internal Revenue Service. This must the same as the EIN from Section I, page 1 of 5 of form ETA 9079.

2. Department of Labor Case Number:

If form ETA 9079-C is submitted after form ETA 9079, enter the case number from the Acceptance Letter.

SECTION II: VISA ISSUANCE LOCATIONS AND NUMBERS

Repeat the information for items 1 and 2 for each location. The number of individuals at each location should add up to the total number of unnamed workers requested.

1. City and Country of the Consulate, Port of Entry or Pre-flight inspection:

Enter location where non-immigrants will be applying for their visas.

2. Number of Individuals Who Will Apply At This Site:

Enter the number of H-2A non-immigrants that will apply. To remove a Consulate from the list, enter zero in this section.

V. INSTRUCTIONS FOR COMPLETING ETA FORM 9079-S

Additional Work-Sites for a Sole-Employer Application Addendum

General: Only Sole-Employers or Associations as Sole-Employers should fill out this form. Complete a form for all additions, removal or updates of work-sites from the application (ETA Form 9079).

This Addendum to the application can be submitted at the time of filing form ETA 9079 or up to 5 days prior to certification.

SECTION I: DEPARTMENT OF LABOR CASE TRACKING INFORMATION

1. Applicant's Federal Employer ID Number:

Enter Applicant's nine digit Federal Employer identification Number (EIN) that has been assigned by the Internal Revenue Service. This must the same as the EIN from Section I, page 1 of 5 of form ETA 9079.

2. Department of Labor Case Number:

If form ETA 9079-S is submitted after form ETA 9079, enter the case number from the Acceptance Letter.

SECTION II: WORK-SITE INFORMATION

Action for 9079-S:

Fill in the appropriate circle: ADD to include work-site(s) on this application if they have not already been added; REMOVE to remove previously included work-site(s) from this application; UPDATE to change the information for a previously included work-site. Fill in only one circle.

1. City or County of Work Site:

Enter the City or County where the work will be performed.

2. H-2A Workers:

Enter the number of H-2A workers requested for each member. If two employers expect to be sharing the same workers, either split them number between them or enter them all for the first one and '0000' for the second. If only one employer has housing, list the total number of workers residing with the employer that has housing. Put '0000' for the number of workers residing with the employers that has no housing.

3. Work Hours Per Week:

Enter the number of hours workers will be expected to work per week.

4. Worker Housing:

Enter the number of workers which will be housed at the specific work site.

Crops A through E

Minimum Guaranteed Wage:

Enter the wage offered at the specific work site for the specific crop activity listed on form ETA 9079, page 3 of 5.

VI. INSTRUCTIONS FOR COMPLETING ETA FORM 9079-A

Joint-Employer & Joint-Employer Association Registration Addendum

General: Form ETA 9079-A is used to provide information regarding an Association.

This Addendum to the application must be filed before or at the same time as form ETA 9079 is filed.

SECTION I: APPLICANT'S INFORMATION

1. Applicant Type:
Fill in the appropriate circle to indicate if form ETA 9079-E is for a Joint-Employer or a Joint-Employer Association. Fill in only one circle.

2. Full Legal Name of Association:
Enter full name of the Association or primary employer's information.

3. Federal Employer I.D. Number:
Enter employer's nine digit Federal Employer identification Number (EIN) that has been assigned by the Internal Revenue Service.

4. Applicant's Telephone Number:
Enter a ten digit telephone number (include the area code) for the Applicant. If applicable, use the four digits after the slash for the extension.

5. Return Fax Number:
Enter a ten digit fax number (include the area code) for the Applicant.

6. Contact's Telephone Number (Optional):
Enter a ten digit telephone number (include the area code) of the person to call if there are questions regarding this application. If applicable, use the four digits after the slash for the extension.

7. Applicant's Address:
Enter the complete mailing address of the Applicant including number/street, city, state and postal (zip) code.

8. Contact's Name (Optional):
Enter the name of the person in the Association who will contacted concerning an application. This may be other than the hiring official. Provide the family (last) name on the first line and the given (first) name and initial on the second line.

9. E-Mail Address:
Enter an e-mail address if you would like to receive notification via e-mail.

VII. INSTRUCTIONS FOR COMPLETING ETA FORM 9079-E

Employer Membership in an Association Registration Addendum

General: This addendum is used in conjunction with form ETA 9079-A (Joint-Employer Association Registration) and ETA 9079-L (Listing of Members for an Association Application). This is used to declare membership in an Association and to authorize the Association to act on behalf of the employer on appropriate applications.

This Addendum to the application must be submitted before or at the same time as form ETA 9079 is filed.

SECTION I: EMPLOYER'S INFORMATION

1. Full Legal Of Employer:
Enter the business name as it is on record with the IRS.

2. Federal Employer I.D. Number:
Enter employer's nine digit Federal Employer identification Number (EIN) that has been assigned by the Internal Revenue Service.

3. Employer's Telephone Number:
Enter a ten digit telephone number (include the area code) for the employer. If applicable, use the four digits after the slash for the extension.

4. Return Fax Number:
Enter a ten digit fax number (include the area code) for the Applicant.

5. Contact Telephone Number:
Enter a ten digit telephone number (include the area code) for the contact. If applicable, use the four digits after the slash for the extension.

6. Employer's Address:
Enter the complete mailing address of the employer including number/street, city, state and postal (zip) code.

SECTION II: ASSOCIATION'S INFORMATION

1. Association's Federal Employer I.D. Number:
Use the Association's EIN from Section I of form ETA 9079-A

2. Name of Association:
Enter full legal name of the Association as it appears in Section I of form ETA 9079-A.

SECTION III: ASSOCIATION AUTHORIZATION

1. Hiring Official's Name:
Provide the family (last) name on the first line and the given (first) name and initial on the second line.

2. Title of Hiring Official or Other Designated Official:
Enter the title of the person whose name appears above.

3. Employer's Signature:
The Employer must sign the form with their full legal name. Do not let the signature extend beyond the box. The date of signing should be entered in the block to the right of the signature. The date should be entered in an **MM/DD/YYYY** format and have a 0 in front of any number less than 10 (for example: February 5, 2002 is entered as 02/05/2002).

VIII. INSTRUCTIONS FOR COMPLETING ETA FORM 9079-L

Listing of Members for an Association Application Addendum

General: Only Joint-Employer Associations should fill out this form. Complete a form for all additions, removals or updates of members from the application (form ETA 9079). This addendum is used in conjunction with ETA 9079-A (Registration of Association) and ETA 9079-E (Registration of Employer Membership in an Association)

This Addendum to the application can be submitted at the time of filing form ETA 9079 or up to 5 days prior to certification.

SECTION I: DEPARTMENT OF LABOR CASE TRACKING INFORMATION

1. Applicant's Federal Employer ID Number:

Enter Applicant's nine digit Federal Employer identification Number (EIN) that has been assigned by the Internal Revenue Service. This must the same as the EIN from Section I, page 1 of 5 of form ETA 9079.

2. Department of Labor Case Number:

If form ETA 9079-W is submitted after form ETA 9079, enter the case number from the Acceptance Letter.

SECTION II: MEMBER INFORMATION

Action for 9079-L:

Fill in the appropriate circle: ADD to include employer(s) on this application if they have not already been added; REMOVE to remove previously included employer(s) from this application, UPDATE to change the information for previously included employer(s). Fill in only one circle.

1. Member's EIN:

Enter each member's nine digit Federal Employer identification Number (EIN) that has been assigned by the Internal Revenue Service.

2. City or County of Work Site:

Enter the City or County where the work will be performed.

3. H-2A Workers:

Enter the number of H-2A workers requested for each member. If two employers expect to share the same workers, either split the workers between the employers or enter all workers for the first employer and '0000' for the second. If only one employer has housing, list the total number of workers residing with the employer that has housing. Put '0000' for the number of workers residing with the employer that has no housing.

4. Work Hours Per week:

Enter the number of hours workers will be expected to work per week.

5. Worker Housing:

Enter the number of workers which will be housed at the specific work site.

Crops A through E

Minimum Guaranteed Wage:

Enter the wage offered at the specific work site for the specific crop activity listed on form ETA 9079, page 3 of 5.

IX. INSTRUCTIONS FOR COMPLETING ETA FORM 9079-M

Post Certification Visa Issuance Location Change Addendum

General: This Addendum is used after certification and is equivalent to INS form I-824. A separate fee is required for this addendum to be processed. The current fee is $120. A check for this amount must be included with the form or the form will be returned. Use form ETA 9079-C to change Consulates before certification.

This Addendum to the application should be filed after the application has been certified.

SECTION I: DEPARTMENT OF LABOR CASE TRACKING INFORMATION

1. Applicant's Federal Employer ID Number:

Enter Applicant's nine digit Federal Employer identification Number (EIN) that has been assigned by the Internal Revenue Service. This must the same as the EIN from Section I, page 1 of 5 of form ETA 9079.

2. Department of Labor Case Number:

If form ETA 9079-W is submitted after form ETA 9079, enter the case number from the Acceptance Letter.

SECTION II: APPLICANT'S INFORMATION

1. Full Legal Name of Applicant:

Enter the full name of the individual employer or Association. Associations will use the same information as entered on form ETA 9079-A.

2. Applicant's Telephone Number:

Enter a ten digit telephone number (include the area code) for the Applicant.

3. Return Fax Number:

Enter a ten digit fax number (include the area code) for the Applicant.

4. Contact's Telephone Number:

This information is optional but recommended. Enter a ten digit telephone number (include the area code) for the contact person from the individual employer or Association.

5. Applicants's Address:

Enter the complete mailing address of the Applicant including number/street, city, state and postal (zip) code.

6. Contact's Name:

Enter the name of the contact.

7. Correspondence Address:

Enter the complete mailing address where correspondence is to be sent. Include number/street, city, state and postal (zip) code.

SECTION III: ACTION REQUEST

Fill in the appropriate circle to indicate the action requested. Fill in only one circle.

SECTION IV: CONSULATE CHANGE INFORMATION

Enter the new information for the two locations below. If you wish all of the H-2A visas to be moved from one location to the other enter '0000' where appropriate.

1. City and Country of the Consulate, Port of Entry or Pre-flight inspection:

Enter location where non-immigrants will be applying for their visas.

2. Number of individuals who will apply at this site:

Enter the number of H-2A non-immigrants that will apply.

SECTION IV: AUTHORIZATION FOR CHANGE

1. Hiring Official's Name:

Enter the hiring official's name. Provide the family (last) name on the first line and the given (first) name and initial on the second line.

2. Title of Hiring or Other Designated Official:

Enter the title of the person whose name appears above.

3. Applicant's Signature:

Applicant must sign the form with their full legal name. Do not let the signature extend beyond the box. The date of signing should be entered in the block to the right of the signature. The date should be entered in an **MM/DD/YYYY** format and have a 0 in front of any number less than 10 (for example: February 5, 2002 is entered as 02/05/2002).

X. INSTRUCTIONS FOR COMPLETING ETA FORM 9079-X

Request for Extension of Labor Certification and H-2AVisas Petition

This Addendum to the application should be filed after the application has been certified.

SECTION I: DEPARTMENT OF LABOR CASE TRACKING INFORMATION

1. Federal Employer I.D. Number:

Enter Applicant's nine digit Federal Employer identification Number (EIN) that has been assigned by the Internal Revenue Service. This must the same as the EIN from Section I, page 1 of 5 of form ETA 9079.

2. Department of Labor Case Number from Acceptance Letter

Enter the case number from the Acceptance Letter.

3. Full Legal Name of Applicant:

Enter the full name of the individual employer or Association. Associations will use the same information as entered on form ETA 9079-A.

4. Applicant's Telephone Number:

Enter a ten digit telephone number (include the area code) for the Applicant. If applicable, use the four digits after the slash for the extension.

5. Requested End Date:

Enter the new ending date you are requesting to be certified. The date should be entered in an **MM/DD/YYYY** format and have a 0 in front of any number less than 10 (for example: February 5, 2002 is entered as 02/05/2002).

SECTION II: REASON FOR REQUESTING EXTENSION

Enter the reason why an extension to the certified period is being requested.

SECTION III: AUTHORIZATION

1. Hiring Official's Name:

Enter the hiring official's name. Provide the family (last) name on the first line and the given (first) name and initial on the second line.

2. Title of Hiring or Other Designated Official:

Enter the title of the person whose name appears above.

3. Applicant's Signature:

Applicant must sign the form with their full legal name. Do not let the signature extend beyond the box. The date of signing should be entered in the block to the right of the signature. The date should be entered in an **MM/DD/YYYY** format and have a 0 in front of any number less than 10 (for example: February 5, 2002 is entered as 02/05/2002).

NOTE: Falsification of any statements on this form may subject the employer to civil or criminal prosecution (see 18 U.S.C. 1001), as well as to civil money penalties and debarment.

U.S. Department of Labor

Application for Temporary Agricultural Labor Certification and H-2A Petition

ETA Form 9079
OMB Approval:
Expiration Date:

Fill only one circle — New ◯ — Response to a Modification letter for DoL case number: ___ - ___ - ___

I. Applicant's Information

(1) Applicant Type: *Fill only one circle* — Sole-Employer ◯ — Association as a Sole-Employer ◯ — Joint-Employer ◯ — Joint-Employer Association ◯

(2) Full Legal Name of Applicant

(3) Federal Employer I.D. Number (9 digits) (EIN from IRS) ___ - ___

(4) Applicant's Telephone Number ___ ___ - ___ / ___

(5) Return FAX Number ___ ___ - ___

(6) Contact's Telephone Number (Optional) ___ ___ - ___ / ___

(7) Applicant's Address (Number / Street)(always use first line - use the second line when needed, otherwise leave it blank.)

City — State — Postal Code

(8) Contact's Name (Optional) (This may be any contact other than hiring official.) - Family name on the first line, Given name then initial on the second line.

(9) Correspondence Address (only use this area if correspondence should be sent to a location other than the Applicant or Agent)
Number / Street (always use first line - use the second line when needed, otherwise leave it blank.)

City — State — Postal Code

(10)E-mail Address

@

II. Joint-Employers & Joint-Employer Associations Only: *Sole employers go to the next section.*

(1) Number of employers requesting: 10 or fewer workers ___ 11 to 99 workers ___ 100 or more workers ___

III. Sole Employers Only (includes Associations as sole-employers)- Complete this section.

(1) Total Number of Alien Workers Requested (includes those already in the U.S.) ___

(2) Total Work Hours per Week ___ (3) Number of workers which can be housed ___

(4) Location of Work - City or County - use the 9079-S for additional Work-Sites

NOTE: See OMB notice on page 4 of this form.

Employer's Control Number ___

Employer's Control Number must be the same on all five (5) pages, including the last page

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U.S. Department of Labor
Application for Temporary Agricultural Labor Certification and H-2A Petition

ETA Form 9079
OMB Approval:
Expiration Date:

IV. Dates of Need:
Begin Date M M / D D / Y Y Y Y End Date M M / D D / Y Y Y Y

V. Job Opening Information

(1) Job Title

(2) Education: Highest Diploma or Degree Required

Fill Only ONE Circle None ○ High School ○ Associate ○ Bachelor ○ Master ○ Doctorate ○

(3) Foreign Equivalent Acceptable ☐

Field of Study

Field of Training

Months of Training

(3) Field of Experience

Months of Experience

(4) Job Description

NOTE: See OMB notice on page 4 of this form.

Employer's Control Number

Page - 2 of 5

Employer's Control Number must be the same on all five (5) pages, including the last page

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U.S. Department of Labor
Application for Temporary Agricultural Labor Certification and H-2A Petition

ETA Form 9079
OMB Approval:
Expiration Date:

VI. Crop and Wage

(1) Crop Activity

(A)

(2) Proposed Minimum Guaranteed

$. PER Fill Only ONE Circle: Month ○ Week ○ Day ○ Hour ○

Any piece rate/ wage listed on the ETA 790 will be the required payment, subject to DoL approval. See form instructions for details.

Crop Activity

(B)

Proposed Minimum Guaranteed Wage

$. PER Fill Only ONE Circle: Month ○ Week ○ Day ○ Hour ○

Any piece rate/ wage listed on the ETA 790 will be the required payment, subject to DoL approval. See form instructions for details.

Crop Activity

(C)

Proposed Minimum Guaranteed Wage

$. PER Fill Only ONE Circle: Month ○ Week ○ Day ○ Hour ○

Any piece rate/ wage listed on the ETA 790 will be the required payment, subject to DoL approval. See form instructions for details.

Crop Activity

(D)

Proposed Minimum Guaranteed Wage

$. PER Fill Only ONE Circle: Month ○ Week ○ Day ○ Hour ○

Any piece rate/ wage listed on the ETA 790 will be the required payment, subject to DoL approval. See form instructions for details.

Crop Activity

(E)

Proposed Minimum Guaranteed Wage

$. PER Fill Only ONE Circle: Month ○ Week ○ Day ○ Hour ○

Any piece rate/ wage listed on the ETA 790 will be the required payment, subject to DoL approval. See form instructions for details.

NOTE: See OMB notice on page 4 of this form.

Employer's Control Number

Employer's Control Number must be the same on all five (5) pages, including the last page

Draft

U.S. Department of Labor
Application for Temporary Agricultural Labor Certification and H-2A Petition

ETA Form 9079
OMB Approval:
Expiration Date:

VII. Designation of Agent

(1) Full Legal Name of Agent's Organization or Company

(2) Contact's Name (Optional) - Family name on the first line, Given name then initial on the second line.

(3) Federal Employer I.D. Number (9 digits) (EIN from IRS) -

(4) Agent's Telephone Number - /

(5) Agent's Correspondence Address (Number / Street)

City

State

Zip Code

(6) E-mail Address

@

I hereby agree to act as the agent for the applicant listed on page 1 of this application.

M M / D D / Y Y Y Y

(7) Agent's Signature -- *DO NOT let signature extend beyond the box.*

I hereby designate the above as my agent.

M M / D D / Y Y Y Y

(8) Applicant's Signature -- *DO NOT let signature extend beyond the*

VIII. Visa Request

(1) Number of Individuals who will apply at this site.

(2) City and Country of the Consulate, Port of Entry or Preflight

City

Country

IX. State Agency Job Order

City

State

Persons are not required to respond to this collection of information unless it displays a currently valid OMB control number. Respondents obligation to reply to these reporting requirements are mandatory (INA Act, Section 205). Public reporting burden for this collection of information is estimated to average 1 1/4 hour per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Division of Foreign Labor Certification, U.S. Department of Labor, Room N-4456, 200 Constitution Avenue, NW., Washington, DC 20210. (Paperwork Reduction Project 1205-0310). **DO NOT SEND THE COMPLETED FORM TO THIS OFFICE.**

Employer's Control Number

Employer's Control Number must be the same on all five (5) pages, including the last page

Draft

U.S. Department of Labor

Application for Temporary Agricultural Labor Certification and H-2A Petition

ETA Form 9079
OMB Approval:
Expiration Date:

x. Declaration Of Employer

By signing this form, the employer agrees to comply with all of the requirements of 20 C.F.R. § 655.90 et seq. including, but not limited to:

The obligation to engage in independent positive recruitment of U.S. workers.

The obligation to hire any qualified U.S. worker who applies for the position until 50% of the contract period has elapsed. U.S. workers may be rejected only for lawful job-related reasons.

The obligation to provide free housing meeting applicable standards for all workers who cannot reasonably return to their residence on the same day.

The obligation to provide three meals a day to each worker or furnish cooking facilities for workers to prepare their own meals. The employer's charge for such meals may not exceed the maximum amount permitted by the regulations.

The obligation to provide free transportation between the employer's housing the actual worksite.

The obligation to reimburse the worker's in-bound and home-bound transportation expenses under the terms described in the regulations.

The obligation to provide worker's compensation insurance. Where such insurance is not required by state law, the employer must provide insurance equivalent to that provided to covered workers.

The obligation to provide the tools and supplies necessary to carry out the work except as otherwise permitted by the regulations.

The obligation to guarantee each worker employment for at least three-fourths of the workdays in the contract under the conditions provided for in the regulations.

The obligation to keep accurate records with respect to worker's earnings.

The employer assures that the job opportunity for which H-2A certification is being sought is not vacant because the former occupant is on strike or being locked out in the course of a labor dispute.

To knowingly furnish any false information in the preperation of this form and any supplement therto or to aid, abet or counsel another to do so is a felony punishable by $10,000 or 5 years in the penitentiary or both (18 U.S.C. 1001). Pursuant to 28 U.S.C. 1746, I declare under penalty of perjury the foregoing is true and correct.

(1) Hiring Official's Name - Family name on the first line, Given name then initial on the second line.

(2) Title of Hiring or Other Designated Official

M M / D D / Y Y Y Y

(3) Applicant's Signature -- *DO NOT let signature extend beyond the box.*

FOR U.S. GOVERNMENT AGENCY USE ONLY:

Date Received	Case Number	Fiscal Control Number

NOTE: See OMB notice on page 4 of this form.

Employer's Control Number

Employer's Control Number must be the same on all five (5) pages, including this page

Draft

Named Worker
Addendum.
equivilent to I-539

U.S. Department of Labor

Application for Temporary Agricultural
Labor Certification and H-2A Petition

ETA Form 9079-W
OMB Approval:
Expiration Date:

I. Department of Labor Case Tracking Information

(1) Applicant's Federal Employer I.D. Number from Section A of ETA-9079 main form. -

(2) Department of Labor Case Number from Acceptance Letter - -

II. Alien Beneficiary Information

(1) Full Legal Name of Alien - Family name on the first line, Given name then initial on the second line.

(2) Alien's Current U.S. Address (Number / Street)

City

State

Postal Code

(3) SSN - -

(4) Date of Birth / / (M M / D D / Y Y Y Y)

(5) Country where alien was born:

(6) Country where alien's passport was issued:

(7) City and Country of the Consulate, Port of Entry or Preflight Inspection where alien will apply for a visa if change of status is

City

Country

(8) *Mark X in the appropriate box(s).*
☐ Change of Status ☐ Extension of Stay

(9) Date Passport Expires: / / (M M / D D / Y Y Y Y)

(10) Alien Registration Number A

(11) *Fill the one appropriate circle*

	Yes	No
Is alien already in the USA?	◯	◯

(12) *Fill the one appropriate circle* ◯ New Employment ◯ Continuation ◯ Change in Employment Conditions

From I-94

(13) I-94 Number

Date of Arrival: / / (M M / D D / Y Y Y Y)

Date of Expiration of I-94: / / (M M / D D / Y Y Y Y)

Current Status -

(14) *Fill the one appropriate circle for each question below.*

Yes	No	
◯	◯	Have you filed a permanent petition for this worker?
◯	◯	Does the worker have dependents in the U.S. that need COS/EOS? (If yes include I-539)
◯	◯	Has worker ever been in exclusion/removal/deportation proceedings?
◯	◯	Are replacement I-94s needed? (If yes, include I-102 for each person needing new I-94)

(15)

/ / (M M / D D / Y Y Y Y)

Alien'sSignature -- *DO NOT let signature extend beyond the box.*

NOTE: Falsification of any statements on this form may subject the violator to civil or criminal prosecution (see 18 U.S.C. 1001), as well as to civil money penalties.

Contains PRIVACY ACT INFORMATION Full stament should be inserted here to include reason for collection and ramifications of failure to provide the requested info and the required protections.

Page - 1 of 1

Contains PRIVACY ACT INFORMATION Full stament should be inserted here to include reason for collection and ramifications of failure to provide the requested info and the required

Draft

Visa Issuance Location Addendum

U.S. Department of Labor

Application for Temporary Agricultural Labor Certification and H-2A Petition

ETA Form 9079-C
OMB Approval:
Expiration Date:

I. Department of Labor Case Tracking Information

(1) Applicant's Federal Employer I.D. Number from Section A of ETA-9079 main form. -

(2) Department of Labor Case Number from Acceptance Letter - -

II. Visa Issuance Locations and Numbers (the nubers on this page should add up to the total number of un-named workers

(1) City and Country of the Consulate, Port of Entry or Preflight — (2) Number of Individuals who will apply at this site.

City

Country

(1) City and Country of the Consulate, Port of Entry or Preflight — (2) Number of Individuals who will apply at this site.

City

Country

(1) City and Country of the Consulate, Port of Entry or Preflight — (2) Number of Individuals who will apply at this site.

City

Country

(1) City and Country of the Consulate, Port of Entry or Preflight — (2) Number of Individuals who will apply at this site.

City

Country

(1) City and Country of the Consulate, Port of Entry or Preflight — (2) Number of Individuals who will apply at this site.

City

Country

(1) City and Country of the Consulate, Port of Entry or Preflight — (2) Number of Individuals who will apply at this site.

City

Country

(1) City and Country of the Consulate, Port of Entry or Preflight — (2) Number of Individuals who will apply at this site.

City

Country

Draft

Additional Work-Sites for a Sole-Employer Application Addendum

U.S. Department of Labor

Application for Temporary Agricultural Labor Certification and H-2A Petition

ETA Form 9079-S
OMB Approval:
Expiration Date:

I. Department of Labor Case Tracking Information

(1) Applicant's Federal Employer I.D. Number from Section A of ETA-9079 main form. ___ - _____

(2) Department of Labor Case Number from Acceptance Letter ___ - _____ - _____

II. Work-Site Information

Fill Only ONE Circle Add ○ Remove ○ Update ○ the following work-sites for this Application

(1) City or County of Work-Site

(2) H-2A Workers (3) Work Hrs/Wk (4) Worker Housing. For the crop activities listed on the ETA9079 main form.

Crop A - Proposed Minimum Guaranteed Wage $ ____ . __ PER Month ○ Week ○ Day ○ Hour ○ **Fill Only ONE Circle**

Crop B - Proposed Minimum Guaranteed Wage $ ____ . __ PER Month ○ Week ○ Day ○ Hour ○ **Fill Only ONE Circle**

Crop C - Proposed Minimum Guaranteed Wage $ ____ . __ PER Month ○ Week ○ Day ○ Hour ○ **Fill Only ONE Circle**

Crop D - Proposed Minimum Guaranteed Wage $ ____ . __ PER Month ○ Week ○ Day ○ Hour ○ **Fill Only ONE Circle**

Crop E - Proposed Minimum Guaranteed Wage $ ____ . __ PER Month ○ Week ○ Day ○ Hour ○ **Fill Only ONE Circle**

(1) City or County of Work-Site

(2) H-2A Workers (3) Work Hrs/Wk (4) Worker Housing. For the crop activities listed on the ETA9079 main form.

Crop A - Proposed Minimum Guaranteed Wage $ ____ . __ PER Month ○ Week ○ Day ○ Hour ○ **Fill Only ONE Circle**

Crop B - Proposed Minimum Guaranteed Wage $ ____ . __ PER Month ○ Week ○ Day ○ Hour ○ **Fill Only ONE Circle**

Crop C - Proposed Minimum Guaranteed Wage $ ____ . __ PER Month ○ Week ○ Day ○ Hour ○ **Fill Only ONE Circle**

Crop D - Proposed Minimum Guaranteed Wage $ ____ . __ PER Month ○ Week ○ Day ○ Hour ○ **Fill Only ONE Circle**

Crop E - Proposed Minimum Guaranteed Wage $ ____ . __ PER Month ○ Week ○ Day ○ Hour ○ **Fill Only ONE Circle**

(1) City or County of Work-Site

(2) H-2A Workers (3) Work Hrs/Wk (4) Worker Housing. For the crop activities listed on the ETA9079 main form.

Crop A - Proposed Minimum Guaranteed Wage $ ____ . __ PER Month ○ Week ○ Day ○ Hour ○ **Fill Only ONE Circle**

Crop B - Proposed Minimum Guaranteed Wage $ ____ . __ PER Month ○ Week ○ Day ○ Hour ○ **Fill Only ONE Circle**

Crop C - Proposed Minimum Guaranteed Wage $ ____ . __ PER Month ○ Week ○ Day ○ Hour ○ **Fill Only ONE Circle**

Crop D - Proposed Minimum Guaranteed Wage $ ____ . __ PER Month ○ Week ○ Day ○ Hour ○ **Fill Only ONE Circle**

Crop E - Proposed Minimum Guaranteed Wage $ ____ . __ PER Month ○ Week ○ Day ○ Hour ○ **Fill Only ONE Circle**

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Joint-Employer & Joint-Employer Association Registration Addendum

U.S. Department of Labor
Application for Temporary Agricultural Labor Certification and H-2A Petition

ETA Form 9079-A
OMB Approval:
Expiration Date:

I. Applicant's Information

(1) Applicant Type: *Fill only one circle*

Joint-Employer (Lead Employer)	Joint-Employer Association
○	○

When a group of employers who will be applying as a Joint-Employer does not incorperate the group into an Association, one the employers must act as the lead employer. This is an administrative funtion, only used for correspondence and tracking the application.

(2) Full Legal Name of Association

(3) Federal Employer I.D. Number (9 digits) (EIN from IRS) -

(4) Applicant's Telephone Number - /

(5) Return FAX Number -

(6) Contact's Telephone Number (Optional) - /

(7) Applicant's Address (Number / Street) (always use first line - use the second line when needed, otherwise leave it blank.)

City

State

Postal Code

(8) Contact's Name (Optional) (This may be any contact other than hiring official.) - Family name on the first line, Given name then initial on the second line.

(9) E-mail Address

@

Draft

Employer Membership in an Association Registration Addendum

U.S. Department of Labor

Application for Temporary Agricultural Labor Certification and H-2A Petition

ETA Form 9079-E
OMB Approval:
Expiration Date:

I. Employer's Information

(1) Full Legal Name of Employer

(2) Federal Employer I.D. Number (9 digits) (EIN from IRS) -

(3) Employer's Telephone Number - /

(4) Return FAX Number -

(5) Contact Telephone Number (Optional) - /

(6) Employer's Address (Number / Street)(always use first line - use the second line when needed, otherwise leave it blank.)

City

State

Postal Code

II. Association's Information

(1) Association's Federal Employer I.D. Number (9 digits) (EIN from IRS) -

(2) Name of Association

III. Authorization

I hereby authorize the above Association to act on my half on appropriate ETA-9079 applications.

(1) Responsible Official's Name - Family name on the first line, Given name then initial on the second line.

Title of Responsible Official

M M / D D / Y Y Y Y

Employer's Signature -- *DO NOT let signature extend beyond the box.*

Draft

Listing of Members for an Association Application Addendum

U.S. Department of Labor

Application for Temporary Agricultural Labor Certification and H-2A Petition

ETA Form 9079-L
OMB Approval:
Expiration Date:

I. Department of Labor Case Tracking Information

(1) Applicant's Federal Employer I.D. Number from Section A of ETA-9079 main form. __ - _____

(2) Department of Labor Case Number from Acceptance Letter __ - _____ - _____

II. Member Information

Fill Only ONE Circle: Add ○ Remove ○ Update ○ the following members for this Application

(1) Member's EIN __ - _____ (2) City or County of Work-Site

(3) H-2A Workers (4) Work Hrs/Wk (5) Worker Housing. For the crop activities listed on the ETA9079 main form.

Crop A - Proposed Minimum Guaranteed Wage $ ____ . __ PER Month ○ Week ○ Day ○ Hour ○ Fill Only ONE Circle

Crop B - Proposed Minimum Guaranteed Wage $ ____ . __ PER Month ○ Week ○ Day ○ Hour ○ Fill Only ONE Circle

Crop C - Proposed Minimum Guaranteed Wage $ ____ . __ PER Month ○ Week ○ Day ○ Hour ○ Fill Only ONE Circle

Crop D - Proposed Minimum Guaranteed Wage $ ____ . __ PER Month ○ Week ○ Day ○ Hour ○ Fill Only ONE Circle

Crop E - Proposed Minimum Guaranteed Wage $ ____ . __ PER Month ○ Week ○ Day ○ Hour ○ Fill Only ONE Circle

(1) Member's EIN __ - _____ (2) City or County of Work-Site

(3) H-2A Workers (4) Work Hrs/Wk (5) Worker Housing. For the crop activities listed on the ETA9079 main form.

Crop A - Proposed Minimum Guaranteed Wage $ ____ . __ PER Month ○ Week ○ Day ○ Hour ○ Fill Only ONE Circle

Crop B - Proposed Minimum Guaranteed Wage $ ____ . __ PER Month ○ Week ○ Day ○ Hour ○ Fill Only ONE Circle

Crop C - Proposed Minimum Guaranteed Wage $ ____ . __ PER Month ○ Week ○ Day ○ Hour ○ Fill Only ONE Circle

Crop D - Proposed Minimum Guaranteed Wage $ ____ . __ PER Month ○ Week ○ Day ○ Hour ○ Fill Only ONE Circle

Crop E - Proposed Minimum Guaranteed Wage $ ____ . __ PER Month ○ Week ○ Day ○ Hour ○ Fill Only ONE Circle

(1) Member's EIN __ - _____ (2) City or County of Work-Site

(3) H-2A Workers (4) Work Hrs/Wk (5) Worker Housing. For the crop activities listed on the ETA9079 main form.

Crop A - Proposed Minimum Guaranteed Wage $ ____ . __ PER Month ○ Week ○ Day ○ Hour ○ Fill Only ONE Circle

Crop B - Proposed Minimum Guaranteed Wage $ ____ . __ PER Month ○ Week ○ Day ○ Hour ○ Fill Only ONE Circle

Crop C - Proposed Minimum Guaranteed Wage $ ____ . __ PER Month ○ Week ○ Day ○ Hour ○ Fill Only ONE Circle

Crop D - Proposed Minimum Guaranteed Wage $ ____ . __ PER Month ○ Week ○ Day ○ Hour ○ Fill Only ONE Circle

Crop E - Proposed Minimum Guaranteed Wage $ ____ . __ PER Month ○ Week ○ Day ○ Hour ○ Fill Only ONE Circle

FOR U.S. GOVERNMENT AGENCY USE ONLY: Fiscal Control Number

Draft

Post Certification Visa Issuance
Location Adjustment
Addendum *Equivilent to I-824*

U.S. Department of Labor

Application for Temporary Agricultural Labor Certification and H-2A Petition

ETA Form 9079-M
OMB Approval:
Expiration Date:

I. Department of Labor Case Tracking Information

(1) Applicant's Federal Employer I.D. Number from Section A of ETA-9079 main form. -

(2) Department of Labor Case Number from Acceptance Letter - -

II. Applicant Information (This should be the same as the original application)

(1) Full Legal Name of Applicant

(2) Applicant's Federal Employer I.D. Number from Section A of ETA-9079 main form. -

(3) Applicant's Telephone Number - \

(4) Return FAX Number -

(5) Contact's Telephone Number (Optional) - \

(6) Applicant's Address (Number / Street)

City

State

Postal Code

III. Action Requested Fill only one circle

Duplicate Approval Notice ○

Change of Consulate ○

IV. Consolate Change Information. Enter the locations and final numbers below (adding the two values should give the original)

(1) City and Country of the Consulate, Port of Entry or Preflight Inspection

(2) Number of Individuals who will apply at this site.

City

Country

(3) City and Country of the Consulate, Port of Entry or Preflight

(4) Number of Individuals who will apply at this site.

City

Country

V. Authorization for Change

(1) Hiring Official's Name - Family name on the first line, Given name then initial on the second line.

(2) Title of Hiring or Other Designated Official

M M / D D / Y Y Y Y

(3) **Applicant's Signature** -- *DO NOT let signature extend beyond the box.*

NOTE: Falsification of any statements on this form may subject the employer to civil or criminal prosecution (see 18 U.S.C. 1001), as well as to civil money penalties and debarment.

Draft

Request for Extension of Labor Certification and H-2A Visas Addendum

U.S. Department of Labor

Application for Temporary Agricultural Labor Certification and H-2A Petition

ETA Form 9079-X
OMB Approval:
Expiration Date:

I. Department of Labor Case Tracking Information

(1) Applicant's Federal Employer I.D. Number from Section A of ETA-9079 main form. -

(2) Department of Labor Case Number from Acceptance Letter - -

(3) Full Legal Name of Applicant

(4) Applicant's Telephone Number - /

(5) Requested End Date: / / (M M D D Y Y Y Y)

II. Reason for Requesting Extension:

III. Authorization to Request Extension:

Pursuant to 28 U.S.C. 1746, I declare under penalty of perjury the foregoing is true and correct.

(1) Hiring Official's Name - Family name on the first line, Given name then initial on the second line.

(2) Title of Hiring or Other Designated Official

(3) / / (M M D D Y Y Y Y)

Applicant's Signature -- *DO NOT let signature extend beyond the box.*

NOTE: Falsification of any statements on this form may subject the employer to civil or criminal prosecution (see 18 U.S.C. 1001), as well as to civil money penalties and debarment.

Draft

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