

H2A Program Clearance Orders

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Purpose

The H2A Program is a process by which employers recruit foreign workers for temporary or seasonal employment when there are insufficient U.S. workers to meet labor demands. The program assures an adequate labor force while it protects the jobs and wages of U.S. workers.

guaranteed commercial delivery. It must include the following items:

1. *Application for Alien Employment Certification* (Form ETA 750, Part A);
2. *Agricultural and Food Processing Clearance Order* (Form ETA 790);
3. attachments necessary to supplement information requested on above forms; and
4. statement of authorization of agent or association, if applicable.

Who may apply

Agricultural employers who need or anticipate a need for workers for temporary or seasonal labor may apply. Employers may be individuals, associations, partnerships, or corporations. An authorized agent may also apply on behalf of an employer.

An authorized agent is any individual or entity authorized by an employer to assist in the application process, and may include farm labor contractors, lawyers, or grower associations, among others.

Conditions to be satisfied

The benefits and conditions that must be satisfied will depend on the prevailing practices that exist in the occupation, crop, and area. Prevailing wage and practice surveys are conducted by the State Employment Service when labor trends indicate potential labor shortages for the following season. Employers may also request prevailing surveys if they anticipate a shortage of qualified U.S. workers.

Certification fee

A fee of \$100.00 plus \$10.00 for each job opportunity certified, up to a maximum fee of \$1000.00, will be charged for each certification granted.

For example, an employer certified to hire 50 pickers would pay a \$600 certification fee ($\$100 + \10×50 pickers = \$600).

In addition, specific conditions must be met in the areas of:

- Housing
- Recruitment
- Wages
- Meals
- Tools
- Transportation

Application process

The application must be filed with the Regional Administrator of the Employment and Training Administration and the local office of the State Employment Service at least *sixty (60) calendar days* before the date on which the workers are needed. The application may be filed in person, by certified mail, or by

The employer must also provide assurances and guarantees aimed at protecting U.S. workers. A temporary labor certification will not be granted

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until it can be demonstrated that there are not sufficient U.S. workers available for the job and that the employment of aliens will not adversely affect U.S. workers.

When a labor certification is granted, it is the employer's responsibility to arrange for admission of aliens into the United States by filing a visa petition with the Immigration and Naturalization Service (INS). Actual recruitment of foreign workers is also done by the employer or an authorized agent.

Intrastate/ interstate clearance option

The H2A program is a complicated process that requires several "time-metered" steps. In addition, there are four principals that interact to complete the process:

- The employer
- The State Employment Service
- The Department of Labor,
Employment and Training
Administration
- The Immigration and Naturalization Service

Therefore, employers anticipating worker shortages should consider whether their labor needs could be met by using the *simpler* Intrastate/Interstate Clearance System (see EC 1353). This system allows recruitment of U.S. workers from labor supply areas in this and other states. There is *no certification fee* for these clearance orders. In addition, the conditions, assurances, and guarantees needed are a fraction of those required by H2A.

For more information

The Oregon State Employment Division can provide staff to explain the requirements and procedures for H2A certification. At the employer's request, the division can also assist with planning, preparing, and modifying the H2A order.

Employers interested in obtaining more information should contact:

Oregon State Employment Division
H2A/Clearance Specialist
875 Union Street NE
Salem, OR 97311
(503) 378-8122

Employment and Training
Administration
U.S. Department of Labor
H2A Specialist
1145 Federal Office Building
909 First Avenue
Seattle, WA 98174
(206) 442-7700



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EMPLOYMENT DIVISION
DEPARTMENT OF HUMAN RESOURCES

The mission of the Oregon Employment Division is to improve the quality of life of Oregonians by (1) providing qualified applicants for employers; (2) assisting workers in finding suitable jobs; (3) providing unemployment insurance benefits to eligible claimants; (4) supplying labor market information, and; (5) participating in the economic development of Oregon.
