IMPORTANT: Employers and authorized preparers must read these general instructions carefully before completing the Form ETA-790A, Agricultural Clearance Order, and all required addendums. These instructions contain explanations of the questions and assurances that make up the Form ETA-790A. If you are not submitting these forms electronically, please complete ALL required fields/items containing an asterisk (*) and any fields/items where a response is conditional as indicated by the section (§) symbol.

It is a federal offense to knowingly and willfully furnish materially false information in the preparation of the Form ETA-790A and any supplement thereto or to aid, abet, or counsel another to do so (18 U.S.C. §§ 2, 1001). Other penalties may also apply to fraud or misuse of this immigration document and to perjury with respect to this form (18 U.S.C. §§ 1546, 1621).

REQUIREMENT TO FILE AN AGRICULTURAL CLEARANCE ORDER (FORM ETA-790/790A)

In accordance with 20 CFR 653.500, all employers seeking U.S. workers to perform agricultural services or labor on a temporary, less than year-round basis through the Agricultural Recruitment System for U.S. Workers must submit a completed job clearance order to the State Workforce Agency (SWA) for placement on its intrastate and interstate job clearance systems. In accordance with 20 CFR 655.121, prior to filing an H-2A Application for Temporary Employment Certification (Form ETA-9142A), the employer must submit a job order to the SWA serving the area of intended employment for intrastate clearance, identifying it as a job order to be placed in connection with a future Form ETA-9142A for H-2A workers. The job order is defined as the document containing the materials terms and conditions of employment that is posted by the SWA on its inter- and intrastate job clearance systems based on the Form ETA-790, 20 CFR 655.103(b). An employer seeking temporary labor certification under the H-2A visa classification must satisfy this regulatory requirement by completing the Form ETA-790/790A.

The Form ETA 790/790A is designed to (1) facilitate the initial receipt and processing of the job order by the SWA, (2) identify the primary employer of the worker(s) sought for the job opportunity, (3) designate that the job order will be used in connection with a future Form ETA-9142A for H-2A workers, and (4) disclose all the material terms and conditions of employment that the employer will offer to H-2A workers and U.S. workers. Except in emergency situations (20 CFR 655.134) or for job opportunities involving herding or production of livestock on the range (20 CFR 655.205), the employer must submit this job order no more than 75 calendar days and no fewer than 60 calendar days before the date of need. If the job opportunity is located in more than one State within the same area of intended employment, the employer may submit a job order to any one of the SWAs having jurisdiction over the anticipated worksites. The job order submitted to the SWA must satisfy the requirements for agricultural clearance orders in 20 CFR part 653, subpart F and the requirements set forth in 20 CFR part 655, subpart B.

Any references to the term “clearance order” on the Form ETA-790/790A and these instructions shall have the same meaning as the “job order.”

FORM ETA-790A COVERSHEET
Section I
Clearance Order Information

This section is to be completed by the SWA ONLY upon initial receipt and processing of the agricultural clearance order.

1. Enter the unique number assigned to the agricultural clearance order that will used by the SWA to facilitate the intrastate and interstate clearance of the employer’s job opportunity and recruitment of U.S. workers.

2. Enter the date on which the agricultural clearance order was placed in intrastate clearance (20 CFR 655.121(c)). Use a month/day/year (mm/dd/yyyy) format.

3. Enter the first date on which the agricultural clearance order will no longer be on the SWA’s active file. In accordance with 20 CFR 655.121(d), the SWA must keep the job order on its active file until the end of the recruitment period, which is generally until 50 percent of the period of the work contract has elapsed, 20 CFR 655.135(d). The start and end of the work contract period shall be based on the Begin Date (Item 3) and End Date (Item 4) entered in Section A of the Form ETA-790A, adjusted based on any modifications to the Begin Date (Item 3) approved by the Certifying Officer (CO). Use a month/day/year (mm/dd/yyyy) format.

4. Enter the six-digit Standard Occupational Classification (SOC) code for the occupation that most clearly describes the agricultural services or labor to be performed, as identified on the Form ETA-790A.

5. Enter the occupational title associated with the chosen six-digit SOC code entered in Item 4.
For Questions 6 – 17, please enter the SWA point of contact information located in the Order Holding Office (OHO) that will process the agricultural clearance order.

6. Enter the last (family) name of the SWA point of contact.
7. Enter the first (given) name of the SWA point of contact.
8. Enter the middle name of the SWA point of contact, if applicable.
9. Enter the job title of the SWA point of contact.
10. Enter the business street address of the SWA point of contact.
11. If additional space is needed for the business street address, use this field to complete the street address of the SWA point of contact. Otherwise, please enter “N/A” or leave blank.
12. Enter the city of the SWA point of contact.
13. Enter the State, District, or Territory of the SWA point of contact.
14. Enter the postal (zip) code of the SWA point of contact.
15. Enter the area code and business telephone number of the SWA point of contact.
16. Enter the extension of the business telephone number of the SWA point of contact.
17. Enter the business e-mail address of the SWA point of contact using a valid format name@emailaddress.top-leveldomain. The e-mail entered in this field must be the same as the one regularly used by the SWA point of contact in processing agricultural clearance orders and capable of sending and receiving electronic communications to and from the CO and the employer or, if applicable, the employer's authorized attorney or agent. The e-mail address may either be the individual one assigned by the SWA to the named point of contact or a generic e-mail address assigned by the SWA for receiving and processing agricultural clearance orders by multiple staff.

Section II
Employer Contact Information

An employer point of contact is an employee of the employer whose position authorizes the employee to provide information and supporting documentation concerning this agricultural clearance order and to communicate with the SWA on behalf of the employer. The employer point of contact should be the individual most familiar with the content of this agricultural clearance order and must not contain the contact information of the authorized attorney or agent, unless the attorney is an employee of the employer.

1. Enter the full legal name of the business, person, association, firm, corporation, or organization, i.e., the employer filing this application. The employer's full legal name is the exact name of the individual, corporation, LLC, partnership, or other organization that is reported to the Internal Revenue Service (IRS). The entry in this field must be the same as the entry in Section B, Item 1 of the Form ETA-9142A.
2. Enter the full trade name or "Doing Business As" (DBA) name, if applicable, of the business, person, association, firm, corporation, or organization. The entry in this field must be the same as the entry in Section B, Item 2 of the Form ETA-9142A.
3. Enter the last (family) name of the employer's point of contact. The entry in this field must be the same as the entry in Section C, Item 1 of the Form ETA-9142A.
4. Enter the first (given) name of the employer's point of contact. The entry in this field must be the same as the entry in Section C, Item 2 of the Form ETA-9142A.
5. Enter the middle name of the employer's point of contact. The entry in this field must be the same as the entry in Section C, Item 3 of the Form ETA-9142A.
6. Enter the job title of the employer's point of contact. The entry in this field must be the same as the entry in Section C, Item 4 of the Form ETA-9142A.
7. Enter the business street address for the employer's point of contact. The address must be a physical location and not a P.O. Box. If no additional space is needed, enter "N/A." The entry in this field must be the same as the entry in Section C, Item 5 of the Form ETA-9142A.

8. If additional space is needed for the street address, use this field to complete the street address. If no additional space is needed, enter "N/A." The entry in this field must be the same as the entry in Section C, Item 6 of the Form ETA-9142A.

9. Enter the city of the employer's point of contact. The entry in this field must be the same as the entry in Section C, Item 7 of the Form ETA-9142A.

10. Enter the State, District or Territory of the employer's point of contact. The entry in this field must be the same as the entry in Section C, Item 8 of the Form ETA-9142A.

11. Enter the postal (zip) code of the employer's point of contact. The entry in this field must be the same as the entry in Section C, Item 9 of the Form ETA-9142A.

12. Enter the area code and business telephone number of the employer's point of contact. Include country code, if the point of contact is located outside of the United States. The entry in this field must be the same as the entry in Section C, Item 12 of the Form ETA-9142A.

13. Enter the extension of the telephone number of the employer's point of contact, if applicable. The entry in this field must be the same as the entry in Section C, Item 13 of the Form ETA-9142A.

14. Enter the business e-mail address of the employer's point of contact in the format name@emailaddress.top-leveldomain. The e-mail entered in this field must be the same as the one regularly used by the employer's point of contact for its business operations and capable of sending and receiving electronic communications from the SWA with respect to the processing of this agricultural clearance order. If the employer's point of contact does not possess a business e-mail address, please enter "N/A." The entry in this field must be the same as the entry in Section C, Item 14 of the Form ETA-9142A.

15. Enter the nine-digit Federal Employer identification Number (FEIN) as assigned by the IRS. Do not enter a social security number. The entry in this field must be the same as the entry in Section B, Item 12 of the Form ETA-9142A.

   Important Note: All employers, including private households, MUST obtain an FEIN from the IRS before completing this application. Information on obtaining an FEIN can be found at www.IRS.gov.

16. Enter the four-digit North American Industry Classification System (NAICS) code that most closely corresponds to the employer's primary economic or business activity; not the specific job opportunity being requested for temporary labor certification. For example, an employer primarily engaged in a combination of apple, citrus, and berry farming, would select NAICS Code “1113.” The first two digits identifies the major economic sector (e.g., 11 – Agriculture, Forestry, Fishing and Hunting); the third digit identifies the subsector (e.g., 1 – Crop Production); and the fourth digit identifies the industry group (e.g., 3 – Fruit and Tree Nut Farming). Additional information concerning the NAICS can be found at http://www.census.gov/epcd/www/naics.html. The entry in this field must be the same as the entry in Section B, Item 13 of the Form ETA-9142A.

Section III
Type of Clearance Order

1. For agricultural clearance orders that will be used in connection with a future Form ETA-9142A, please select the option entitled "790-A (H-2A clearance order)."

Prior to submitting the job order to the SWA, the employer will need to complete the remainder of the Form ETA-790A containing all material terms and conditions of employment and assurances for H-2A agricultural clearance orders.
Section A
Job Offer Information

1. Enter the job title that most clearly describes the agricultural services or labor to be performed.

2. Enter the workers that need to be employed full-time to perform the agricultural services or labor.
   a. Enter the total number of workers needed.
   b. Of the total number of workers entered in Item 2a, enter the number of H-2A workers that will be requested for temporary labor certification.

3. Enter the begin date for the period of intended employment. Use a month/day/year (mm/dd/yyyy) format.

4. Enter the end date for the period of intended employment. Use a month/day/year (mm/dd/yyyy) format.

5. Use Items 5a through 5h to identify the anticipated days and hours of work per day and per week. Use a numerical (99.99) format for each item below. An entry is required for each box listed in this field.
   a. Enter the total hours of work that will normally be offered to workers per week. The entry in this field must be at least 35.00 hours per week and cannot be less than the sum of the entries in Items 5b through 5h.
   b. Enter the total hours of work that will normally be offered to workers on Sunday.
   c. Enter the total hours of work that will normally be offered to workers on Monday.
   d. Enter the total hours of work that will normally be offered to workers on Tuesday.
   e. Enter the total hours of work that will normally be offered to workers on Wednesday.
   f. Enter the total hours of work that will normally be offered to workers on Thursday.
   g. Enter the total hours of work that will normally be offered to workers on Friday.
   h. Enter the total hours of work that will normally be offered to workers on Saturday.

6. Use Items 6a and 6b to identify the normal daily work schedule for the job opportunity using the standard time in the area where the work is expected to be performed (e.g., 9 a.m. to 5 p.m., 7 a.m. to 11 a.m. and 4 p.m. to 8 p.m.).
   a. Enter the start time of the day that work will normally begin.
   b. Enter the end time of the day that work will normally end.

7. Use Items 7a through 7f to identify the specific crop or agricultural activity; describe the duties or services to be performed by the workers and the wage(s) that will be offered, advertised, and paid to the workers for performing the agricultural services or labor.
   a. Enter the name of the crop or agricultural activity.
   b. Enter a description of the job duties or services to be performed in each crop or agricultural activity. Describe the work tasks that make up the job, summarizing each step as appropriate, and avoid using technical terms without properly defining or explaining them where usage is necessary.
   c. Enter the wage that will be offered, advertised, and paid to workers performing the job duties or services in the crop or agricultural activity.
   d. Enter the unit of pay for the wage offer entered in Item 6c using one of the following two entries: "HOUR" or "MONTH." See 20 CFR 655.120(a).
e. If applicable, enter the piece rate that will be offered, advertised, and paid to workers performing the job duties or services in the crop or agricultural activity.

f. If applicable, enter the piece rate units (e.g., tree size/spacing, weight/size/number of boxes picked/packed, dimensions of bags or boxes filled) and/or any other special pay information such as performance bonuses or incentives associated with performing the job duties or services in the crop or agricultural activity. Examples of piece rate units include 5/8 bushel, 90 pound bag or box, 10 box bin. Examples of other special pay information are additional pay per acre or based on crop yield.

8. Select “YES” or “NO” to indicate whether a completed Addendum A is attached to this agricultural clearance order identifying additional job duties or services to be performed and/or wage offer(s) covering all identified crops or agricultural activities.

9. Select one of the available options to specify the frequency with which workers will be paid under this agricultural clearance order. In accordance with 20 CFR 655.122(m), the employer must state in the job offer the frequency with which the worker(s) will be paid, which must be at least twice monthly or according to the prevailing practice in the area of intended employment, whichever is more frequent. Workers may be paid once per month only under certain circumstances. See 20 CFR 655.102.

10. Describe any other conditions about the wages that will be offered, advertised, and paid to workers performing the job duties or services in the crop or agricultural activity. Include any minimum productivity standards and any bonus or work incentive payments (other than those disclosed in 7(f) or Addendum A) or other expenses which will be paid by the employer in addition to the basic wage rate, including the anticipated time period(s) within which such payments will be made and any parameters or metrics upon which commission, bonuses, or other incentives will be based. All bonuses or work incentive payments that are not based on a particular crop (and therefore listed in 7(f) or Addendum A), including but not limited to bonuses based on time on the job or calendar based/holiday bonuses, must be included here. If no additional conditions on the wage offer(s) are required, enter “NONE” in the space provided.

11. State all deduction(s) from the worker’s paycheck the employer is required to make by law and all other deductions not required by law that the employer will make from the worker’s paycheck and, if known, the amount(s) for each deduction.

Section B
Minimum Job Qualifications/Requirements

1. Select the option that identifies the minimum U.S. diploma or degree required to perform the agricultural services or labor. Only mark one box. If no minimum U.S. diploma or degree is required, select “NONE”.

2. Enter the number of months of experience required to perform the agricultural services or labor. If no minimum experience is required, enter “0” (zero).

3. Enter number of months of training required to perform the agricultural services or labor. If no minimum training is required, enter “0” (zero). When answering this item, do not duplicate time requirements — the training time required should not be counted as (added to) education or experience time required.

4. Select the list of work tasks and requirements that are normally required to perform the agricultural services or labor. Check all that apply.

5. Use Items 5a and 5b to identify whether the worker(s) employed under the job opportunity will be required to perform supervision of other employees.
   a. Mark “Yes” or “No” as to whether the job opportunity supervises the work of other employees.
   b. If “Yes” is marked in question 5a, enter the total number of employees the job opportunity will supervise.

6. Describe any other qualifications or requirements to perform the agricultural services or labor. Examples are quantifiable lifting requirements, level of supervision and number of workers to supervise, and types of licenses or permits. This item may also be used as additional space to describe any performance or production standards that will be equally applied to workers. If no additional qualifications or requirements are needed, enter “NONE” in the space provided.
Section C
Worksite Information

It is important for the employer to define the area of intended employment with as much geographic specificity as possible. This information is used for purposes of reviewing and verifying regulatory compliance with advertising, positive recruitment requirements, and prevailing wage determinations.

1. Enter the street address of the location where work will be performed. The worksite address must be a physical location and cannot be a P.O. Box.

2. Enter the city in which the worksite is located.

3. Enter the State/District/Territory in which the worksite is located.

4. Enter the postal (zip) code in which the worksite is located.

5. Enter the county in which the worksite is located.

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

7. In circumstances where work needs to be performed at additional worksites other than the address listed in items 1 through 5 above, submit a completed Addendum B identifying all additional worksites and, where required, the agricultural business that will employ workers, or to whom the employer will be providing workers.

Section D
Housing Information

1. Enter the street address of the location where the housing for workers is located. Use commonly understood street or highway numbers and names.

2. Enter the city in which the housing is located.

3. Enter the State/District/Territory in which the housing is located.

4. Enter the postal (zip) code in which the housing is located.

5. Enter the county in which the housing is located.

6. Identify the type of housing that will be provided to workers at this location. Examples include camp, cabin, barracks, or two-story house (private, rental, public accommodation).

7. Enter the total number of housing units available to house workers at this location.

8. Enter the total occupancy capacity for all of the housing units identified in item 7 above.

9. Select whether the housing units provided to workers complies or will comply with local, State, or Federal standards.

10. Enter any additional information about the housing. Examples may include more specific directions on how workers can reach the housing, especially in very rural and isolated geographic areas, availability of family units and/or single rooms, utilities (e.g., gas, electricity, and heat) and/or arrangements for utility hookups. If no additional information concerning the housing is needed, enter “NONE” in the space provided.
11. In circumstances where workers will be provided housing at additional locations and/or additional space is needed to identify all available housing units for workers at the address listed in items 1 through 5 above, submit a completed Addendum B identifying all additional housing that will be provided to workers.

Section E
Provision of Meals

1. Describe how the employer will provide each worker with 3 meals a day or furnish free and convenient cooking and kitchen facilities so that workers can prepare their own meals. Where the employer provides facilities for workers to prepare their own meals, please explain how the workers will have access to stores where they can purchase groceries.

2. Select the option designating whether the employer will charge workers for the provision of meals. If the employer intends to charge workers for the provision of meals, the daily charge per worker must be entered in currency format ($99.99).

Section F
Transportation and Daily Subsistence

1. Describe how the employer will provide workers with transportation each day from the housing to the worksite(s).

2. Describe how the employer will provide workers with transportation (a) to the place of employment (i.e., inbound) and (b) from the place of employment (i.e., outbound).

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

Section G
Referral and Hiring Instructions

1. Explain how prospective applicants may be considered for employment under this job order, including verifiable contact information for the employer or the employer’s authorized hiring representative and the methods of contact (e.g., email, phone) that prospective U.S. applicants may use to be considered for the job opportunity. Summarize how applicants are to be considered, referred, and hired. For example, indicate the days and hours that the employer or the employer’s authorized hiring representative will be available to interview workers by telephone and/or in-person and whether anybody different from the employer has hiring authority.

Section H
Other Material Terms and Conditions of the Job Offer

1. Use the space provided to disclose any other material terms, conditions, and benefits (monetary and non-monetary) that will be provided by the employer under this job opportunity. This space may also be used to elaborate or further explain material terms or conditions of the job offer (e.g., wage offer(s) and deductions, job qualifications or requirements, meals, transportation) previously disclosed on this clearance order.

   If no additional material terms and conditions of employment need to be disclosed, enter “NONE” in the space provided.

Section I
Conditions of Employment and Assurances for H-2A Agricultural Clearance Orders

The employer must carefully read and agree to compliance with all the conditions of employment, including but not limited to those conditions listed in this section, for the positions covered by the agricultural clearance order, including any approved modifications or extensions thereof.
1. Enter the last (family) name of the person with authority to sign on behalf of the employer.

2. Enter the first (given) name of the person with authority to sign on behalf of the employer.

3. Enter the middle name of the person with authority to sign on behalf of the employer, if applicable.

4. Enter the job title of the person with authority to sign on behalf of the employer.

5. The person with authority to sign on behalf of the employer must sign the agricultural clearance order. An electronic or digital signature is acceptable. Read the entire application and verify all contained information prior to signing.

6. The person with authority to sign on behalf of the employer must date the agricultural clearance order. An electronic or digital date is acceptable. Use a month/day/full year (mm/dd/yyyy) format.

Employment Service Statement

Please read this disclosure. No entries are required.

Public Burden Statement (OMB Control Number 1205-0466)

Please read this disclosure. No entries are required.

ADDENDUM A

For Disclosure of Additional Temporary Agricultural Services and Wage Offer Information (Section A, Item 6)

This Addendum must be fully completed and submitted with the Form ETA-790A when the employer needs to disclose additional duties or services to be performed and/or wages that will be offered, advertised, and paid to workers in the crops or agricultural activities. The employer must disclose all the crops or agricultural activities that workers will need to perform under the agricultural clearance order. Because each of the initial two (2) crop or agricultural activity information sections is identical, the instructions for completing the collection elements are only described one time below. If the employer needs to disclose more than 2 additional information sections, the employer must complete as many additional information sections as are necessary in order to disclose all the crop or agricultural activities workers will perform under this clearance order.

a. Crop or Agricultural Activity Information 1

1. Enter the name of the crop or agricultural activity.

2. Enter a description of the job duties or services to be performed in each crop or agricultural activity. Describe the work tasks which make up the job, summarizing each step as appropriate, and avoid using technical terms without properly defining or explaining them where usage is necessary.

3. Use this section to enter up to five (5) different crops varieties or agricultural activities. For each crop variety or agricultural activity, enter the following information:
   - Name of the crop or agricultural activity;
   - Wage that will be offered, advertised, and paid to workers performing the job duties or services each crop variety or agricultural activity;
   - Unit of pay (“HOUR”, “MONTH”, “PIECE RATE”); and
   - The piece rate units and/or any other special pay information such as performance bonuses or incentives associated with performing the job duties or services in the crop or agricultural activity.
ADDENDUM B

For Disclosure of Additional Worksites (Section C) and/or Housing Information (Section D)

This Addendum must be fully completed and submitted with the Form ETA-790A when one or both of the following circumstances arise:

1. The employer needs the workers to perform the services or labor required in the agricultural clearance order at additional worksites other than the address disclosed in Section C, Items 1 through 5; or

2. The employer will be providing housing at the additional worksites and/or additional space if needed to identify all available housing units for workers at the addressed disclosed in Section C, Items 1 through 5.

Because each part of this Addendum contains an initial set of four (4) identical worksite information and four (4) identical housing information sections, the instructions for completing the collection elements are only described one time below. If the employer needs to disclose more than 4 additional worksite and/or 4 additional housing information sections, the employer must complete as many additional information sections as are necessary in order to disclose all the worksites where work will be performed and housing that will be provided to the workers.

Section C. Worksite Information

a. Worksite Information 1

1. Enter the name of the agricultural business who will employ workers, or to whom the agricultural business will be provided workers at this worksite location.

2. Enter the total number of workers that will be employed at this worksite location.

3. Enter the begin date for the period of intended employment at this worksite location. Use a month/day/year (mm/dd/yyyy) format.

4. Enter the end date for the period of intended employment at this worksite location. Use a month/day/year (mm/dd/yyyy) format.

5. Enter the street address of the location where work will be performed. The worksite address must be a physical location and cannot be a P.O. Box.

6. Enter the city in which the worksite is located.

7. Enter the State/District/Territory in which the worksite is located.

8. Enter the postal (zip) code in which the worksite is located.

9. Enter the county in which the worksite is located.

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

Section D. Housing Information

a. Housing Information 1

1. Enter the street address of the location where the housing for workers is located. Use commonly understood street or highway numbers and names.

2. Enter the city in which the housing is located.
3. Enter the State/District/Territory in which the housing is located.

4. Enter the postal (zip) code in which the housing is located.

5. Enter the county in which the housing is located.

6. Identify the type of housing that will be provided to workers at this location. Examples may camp, cabin, barracks, or two-story house (private, rental, public accommodation)

7. Enter the total number of housing units available to house workers at this location.

8. Enter the total occupancy capacity for all of the housing units identified in item 7 above.

9. Select whether the housing units provided to workers complies or will comply with local, State, or Federal standards.

10. Enter any additional information about the housing. Examples may include more specific directions on how workers can reach the housing, especially in very rural and isolated geographic areas, availability of family units and/or single rooms available, utilities (e.g., gas, electricity, and heat) and/or arrangements for utility hookups. If no additional information concerning the housing is needed, enter "NONE" in the space provided.