



December 24, 2018

William W. Thompson II, Administrator
Office of Foreign Labor Certification
Box PPII 12-200
Employment and Training Administration
U.S. Department of Labor
200 Constitution Avenue NW
Washington, DC 20210
Email: ETA.OFLC.Forms@dol.gov

RE: H-2A Temporary Agricultural Labor Certification Program Forms (OMB Control Number 1205-0466)

Dear Mr. Thompson,

Thank you for requesting information in attempt to reduce paperwork and respondent burden as related to the H-2A Temporary Agricultural Labor Certification Program Forms (OMB Control Number 1205-0466). Western Range Association currently operates under the H-2A Range Production of Livestock regulations.

Form ETA 790 General Instructions

Requirement to File an Agricultural Clearance Order (Form ETA-790/790A)

In the first paragraph, it states “the employer must submit a job order to the SWA serving the area of intended employment for intrastate clearance.” 20 CFR 655.220 (b) indicates that the CO will transmit a copy of the Form ETA-790 to the SWA not the employer.

The second paragraph states “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.” According to 20 CFR 655.205, applications for range jobs are not required to follow this same standard.

Form ETA 790A Coversheet

Section II Employer Contact Information

#14 Business e-mail address

This is a required entry. There are some small agricultural businesses that still do not have e-mail addresses or utilize the internet. In some cases they have limited access to the internet.

Form ETA 790A

Section A Job Offer Information

#5 Anticipated days and hours of work per week and #6 Hours work schedule

The work activities of a Range Livestock Herder generally require workers to be on call 24 hours per day, 7 days a week 20 CFR 655.200(b)(3). There is no room for us to state this on section 5 or 6. Perhaps a box could be added that could be checked indicating a range worker who is on call 24 hours per day, 7 days a week or a box that we could fill in to indicate the work schedule.

Form ETA 790A

Section A Job Offer Information

7b. Description of the job duties or services to be performed.

This box should be bigger. The page break should be between #8 and #9 on the application allowing for more entry into the job description.

Form ETA 790A Addendum A

Section A.6. Temporary Agricultural Services and Wage Offer Information

#2 Description of Job Duties

This section should be larger to complete.

Form ETA 790A

Section B Minimum Job Qualifications/Requirements

#2 Work Experience: number of months required.

We need room for the type of experience the worker has. In our case, we need to specify the quantity of animals they have looked after. There is a big difference between working with 5 sheep at a small farm flock and working with 800 sheep on a range. An example of our Work Experience requirement is “3 months experience with 800-1000 head flocks.”

Form ETA 790A

Section C Worksite Information

#1 Worksite Address/Location and #2 City

The range does not have an address and consists of multiple locations within a single county to multiple counties and sometimes states. Most times it is difficult to identify specific locations of workers because it can involve wide expanses of land such as thousands of acres and located in remote, isolated areas. Workers tend to move throughout a county or forest based on the location of feed and the requirements of proper range management of the governing public lands authority (BLM & Forrest Service) of the land that is being grazed.

Form ETA 790 General Instructions
Section C Worksite Information
#1 and #2

For the same reasons stated above on the Form ETA 790A, locations and cities are difficult to identify on the range. It would be a tremendous amount of work, time and money for ranchers to identify each city they operate on.

Form ETA -790A Addendum B

This document is not suited for the multiple county locations and multiple state locations of range herding livestock as stated above on the Form ETA 790A and the General Instructions for Section C Worksite Information.

Form ETA 790A
Section D Housing Information

#1 Housing Address/Location, #2 City, #3 State, #4 Postal Code, #5 County

Range rules allow for mobile housing which can be in multiple locations. Please add a check box to state “same as worksite locations” to help accommodate mobile housing situations on the range.

Form ETA 790A Addendum B
Section D Housing Information

#1 Housing Address/Location, #2 City, #3 State, #4 Postal Code, #5 County

We have the same concerns we have on the actual Form for Housing. Range rules allow for mobile housing which can be in multiple locations. Please add a check box to state “same as worksite locations” to help accommodate mobile housing situations on the range.

ETA 790 A
Section H. Other Material Terms and Conditions of the Job Offer
#1 Specify other material terms, conditions, and benefits.

Requesting clarification in the Instructions if this is an extension of Section A # 10 and #11 of the ETA 790A?

ETA 790 A

On the current 790 form, page 7 #28 was utilized for more information about the job. 20 CFR 655.210 d (2)(i)-(ii) requires identification of how the employer provides effective means of communicating, which we currently place in section #28 of the current 790 application. It is unclear where to place that information on the proposed ETA 790 A Form.

ETA-9142A

Section C. Employer Point of Contact Information

#14 Business Email Address

This is a required entry. There are some small agricultural businesses that still do not have e-mail addresses or utilize the internet.

ETA's proposal to eliminate the issuance of the paper-based labor certification decisions and issue the Final Determination: H-2A Temporary Labor Certification Approvals electronically.

This is a very welcomed change for Western Range Association and we look forward to this change being implemented. We request that there is also a back-up procedures for those small producers who do not have access to receive the electronic approvals. Some of the ranchers we work with have very limited access to the internet or have not invested time and efforts to be on the internet or with e-mail addresses.

Thank you again for requesting comments and working to make the application process for H-2A employment more efficient.

Sincerely,

Monica Youree
Executive Director