



Free Legal Aid, Community Education and Advocacy for Workers

990 Spring Garden Street, Suite 300
Philadelphia, PA 19123-2606

E-mail: aread@justiceatworklegalaid.org

Telephone: (215) 733-0878
(800) 729-1607

Fax: (215) 733-0876
Direct: Arthur N. Read (215) 690-5687

November 6, 2018

William W. Thompson II, Administrator,
Office of Foreign Labor Certification,
Employment and Training Administration,
U.S. Department of Labor,
200 Constitution Avenue NW,
Washington, DC 20210.

By Email to ETA.OFLC.Forms@dol.gov

Re: Paperwork Reduction Act Notice, 83 Fed. Reg. 45,469 (September 7, 2018) H-2B Forms

Dear Mr. Thompson:

These comments are submitted by Justice At Work (formerly Friends of Farmworkers, Inc.) on behalf of our client Comité de Apoyo a Los Trabajadores Agrícolas (“CATA”) and on behalf of other advocates for workers within whom we have consulted in preparing these comments. Farmworker Justice and the H-2B Workgroup of the Low Wage Legal Network have specifically joined in these comments.

Overview of Comments

The focus of these comments is on proposed revisions to ETA Form 9142B and its appendices. As a general matter, we support the *additions* to the current ETA Form 9142B and accompanying documents. We have some concerns about items *removed* from the current Form 9142B and are proposing some additions to those forms, including the Employer Assurances under penalty of perjury in Part B of Form 9142B, Appendix B.

Incorporation of Form 9141 Determinations into Form 9142B Labor Certification

We would specifically commend DOL on the direct incorporation of ETA Form 9141 prevailing wage determinations (PWD) into Form 9142B. Based on explanations in the accompanying material in support of the Paperwork Reduction Act Notice, we understand that information from Form 9141 would auto populate some fields in the Form 9142B upon entry of the appropriate PWD Case number(s). As you and other OFLC officials are aware, the linking of prevailing wage determinations from Form 9141 to Form 9142B is a critical change that we have long advocated for DOL to adopt.

Unfortunately, it does not appear to us that you intend to require prospective H-2B employers (and their agents) to directly link the *hourly* Occupational Employment Statistics (OES) minimum prevailing wage rate on Form 9141 to the Form 9142 wage offer. Importantly, where a Form 9141 prevailing wage determination has been made on an *hourly* basis it is critical that the Form ETA-9142B Part F.b.8 “Basic wage rate Paid to Nonimmigrant Worker” is required to be stated as an *hourly* wage rate which cannot be lower than the relevant PWD Form 9141 hourly prevailing wage rate.

However, the Form 9142B instructions appear to allow an employer to report payment of required minimum prevailing wages on a *weekly* basis even where such wages are determined on the PWD to be on an *hourly* basis. This is particularly a problem for the mobile entertainment industry. See SOC Codes:

35-3022	Counter Attendants, Cafeteria, Food Concession
39-3091	Amusement and Recreation Attendants

In FY18 4,418 H-2B positions were authorized in these two SOC Codes with payment on a *weekly* basis rather than an *hourly* basis. Since historically the mobile entertainment industry has not accurately tracked hours worked this is particularly consequential.

We would strongly recommend that all employers should be required to pay minimum wages on the same *hourly* basis as the Form 9141 PWD determination where the PWD determination is on an *hourly* basis.

Adoption of FLSA Recordkeeping Requirements for All H-2B Employers

DOL estimates that 198 certified H-2B employers are not subject to the FLSA. See "Supporting Statement for Request for OMB Approval under the Paperwork Reduction Act of 1995" at p.21. The most significant industry participating in the H-2B program that asserts exemptions from the FLSA (apart from small size employers) is the “Mobile Entertainment Industry.” DOL in its FY2018 statistics report for the H-2B program, states that the fourth largest occupational category of H-2B employers in FY2018 was Amusement and Recreation Attendants (SOC Code 39-3091) and that 7,865 H-2B workers (or 5.3% of all H-2B positions certified by DOL) were in that SOC Code. As noted above, the Mobile Entertainment Industry also employs significant number of workers under SOC Code 35-3022. In FY2018, 2,067 workers were certified for H-2B employment under SOC Code 35-3022.

It is critical that DOL require all H-2B employers to comply with the Recordkeeping Requirements applicable to employers subject to the FLSA at 29 C.F.R. Part 516. This should include the requirements at 29 C.F.R. § 516.6 (a) (1) to preserve “Basic employment and earnings records. ... on which are entered the daily starting and stopping time of individual employees, or of separate work forces, or the amounts of work accomplished by individual employees on a daily, weekly, or pay period basis (for example, units produced) when those amounts determine in whole or in part the pay period earnings or wages of those employees.”

The employer assurances in Form 9142B, Appendix B should reflect this requirement.

Experience Requirements

Both the current Form 9142B and Form 9141 contain “Yes/No” checkoff boxes for prospective H-2B employers to indicate if the H-2B position for which labor certification is sought requires

prior experience in order to qualify for the job. These checkoff boxes have been eliminated from the proposed Form 9142B, Part F.a.9 that simply asks “Work Experience: number of months required. ____”

During the Administrative Procedure Act litigation against DOL’s 2008 H-2B regulations, DOL agreed with CATA that DOL’s O*NET Program had established that a high percentage of H-2B positions were “Job Zone One” positions which required little prior training or experience. *See* “About O*NET” at <https://www.onetcenter.org/overview.html> and “O*NET OnLine Help Job Zones” at <https://www.onetonline.org/help/online/zones>.

DOL’s O*NET program defines Job Zone 1 positions as follows:

Job Zone One: Little or No Preparation Needed

Education Some of these occupations may require a high school diploma or GED certificate.

Related Experience Little or no previous work-related skill, knowledge, or experience is needed for these occupations. For example, a person can become a waiter or waitress even if he/she has never worked before.

Job Training Employees in these occupations need anywhere from a few days to a few months of training. Usually, an experienced worker could show you how to do the job.

Job Zone Examples These occupations involve following instructions and helping others. Examples include counter and rental clerks, dishwashers, sewing machine operators, landscaping and groundskeeping workers, logging equipment operators, and baristas.

See <https://www.onetonline.org/help/online/zones>.

The imposition of unnecessary experience requirements by H-2B employers is an effective mechanism for barring U.S. workers from entry-level employment jobs. This has become an increasing problem for several H-2B industries. FY2018 H-2B data reflects the following for SOC Codes classified as Job Zone One positions:

SOC CODE	Soc Title	NBR WORKERS CERTIFIED	% No Experience	% Experience	No Experience	Experience
37-3011	Landscaping and Groundskeeping Workers	67,112	72.1%	27.9%	48,407	18,705
51-3022	Meat, Poultry, and Fish Cutters and Trimmers	6,011	87.8%	12.2%	5,279	732
39-2021	Nonfarm Animal Caretakers	1,968	21.6%	78.4%	425	1,543
45-3011	Fishers and Related Fishing Workers	1,385	49.2%	50.8%	681	704
47-2051	Cement Masons and Concrete Finishers	1,181	38.0%	62.0%	449	732
35-9011	Dining Room and Cafeteria Attendants and Bartender Helpers	1,104	59.2%	40.8%	654	450

SOC CODE	Soc Title	NBR WORKERS CERTIFIED	% No Experience	% Experience	No Experience	Experience
35-9021	Dishwashers	1,034	52.7%	47.3%	545	489
35-2021	Food Preparation Workers	923	73.6%	26.4%	679	244
51-6011	Laundry and Dry-Cleaning Workers	501	26.7%	73.3%	134	367

Despite the fact that many H-2B jobs are ONET Job Zone One jobs that have been determined to require little or no prior experience or training, U.S. workers are being kept out of entry level jobs because of prior experience requirements. ONET Job Zone One employers should be required to explain why prior experience is a requirement for those jobs. Instructions and form should be changed to require an explanation as to why an ONET Job Zone One SOC code requires prior training or experience.

Form 9142B Part C. Employer Information

Removal of Current Questions

The current Form 9142B includes the following questions that have been removed from the proposed Form 9142B.

14. Number of non-family full-time equivalent employees | 15. Annual gross revenue | 16. Year established

Having answers to these questions would be material for DOL Wage and Hour enforcement including jurisdiction under the FLSA. #16 is disclosed by DOL ETA OFLC on ICERT and helps to verify if the employer is an established business.

Additional Information Suggestions

- During the past five (5) years has the employer been a debtor in bankruptcy proceedings? If so, identify the Bankruptcy Court District and docket number and describe the current or final status of that proceeding. The employer shall notify DOL if it becomes a debtor in bankruptcy proceedings during the period of the requested labor certification.
- For each of the past three years identify the ETA Case number for applications for labor certification which were submitted for the occupation and location covered by this application for labor certification and specify the number of H-2B workers hired pursuant to each prior approved labor certification.
 ETA Case #: _____ Number of H-2B workers Hired: _____
 ETA Case #: _____ Number of H-2B workers Hired: _____
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- Has the employer timely paid all wages due to H-2B workers and U.S. workers similarly employed in each prior year in which the employer received an H-2B labor certification? If no explain.

Additional Employer Assurance

Form ETA 750 at Item 23.a. included the following assurance for the H-2B program that was removed without explanation from the ETA 9142 in 2008.

By virtue of my signature below, I HEREBY CERTIFY the following conditions of employment.

- a. I have enough funds available to pay the wage or salary offered the alien.

This assurance should be added to the Form 9142B, Appendix B Employer Declarations.

Similarly, the assurance that the employer has paid all wages due to H-2B workers and U.S. workers similarly employed in past years should be included in the employer declarations. DOL has to prioritize its enforcement resources and should be able to rely upon such returning employer assurances. A false certification about such payments would appropriately be a basis for DOL to obtain unpaid wages due for past years if subsequently discovered by DOL.

Form 9142B Part F Employment and Wage Information

The current Form 9142B includes the following questions that have been inappropriately removed from the proposed Form 9142B.

4. Does this position supervise the work of other employees? *	4a. If yes, number of employees worker will supervise (if applicable) \$ _____
<input type="checkbox"/> Yes <input type="checkbox"/> No	

There is currently a problem with individuals performing supervisory duties not being classified as such, and omitting this question could increase that problem.

Part F.a.5 and F.a.6. Hours of Work and Work Schedule

Both the current Form 9142B and the proposed Form 9142B include the following questions.

5. Number of hours of work per week *		6. Hourly work schedule *	
Basic: <input type="text"/>	Overtime: <input type="text"/>	A.M. (h:mm): <input type="text"/> : <input type="text"/>	P.M. (h:mm): <input type="text"/> : <input type="text"/>

A significant number of employers report only the required minimum of 35 hours of work per week, despite actually requiring H-2B workers and similarly employed U.S. workers to work significantly more hours per week. Neither the current, nor the proposed form, specifies numbers of days per week of work or schedule per day. See however, the current ETA 790 Job order for Agricultural workers. Employers have an incentive to understate hours of work to avoid payment of $\frac{3}{4}$ guarantee. The ETA 9142B should include the following information from the ETA 790. Instructions should specify that a worker cannot be penalized for refusing to work more hours in a day or in a week than the number of hours specified on the Form 9142B.

11. Anticipated Hours of Work per Week / Horas Anticipadas/Previstas de Trabajo por Semana. Total:

Sunday / Domingo _____	Thursday / Jueves _____
Monday / Lunes _____	Friday / Viernes _____
Tuesday / Martes _____	Saturday / Sábado _____
Wednesday / Miércoles _____	

Form ETA-9142B – Appendix C

Foreign Labor Recruiter Information

This form is appropriate to DOL's implementation of the requirement to maintain a foreign labor recruiter registry as are the employer assurances related to it.

F. Employment and Wage Information
New Proposed F.a.1-3

F. Employment and Wage Information

a. Job Opportunity and Minimum Requirements

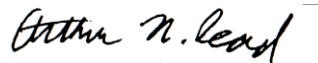
1. Indicate whether a copy of the job order submitted to the State Workforce Agency (SWA) satisfying the requirements at 20 CFR 655.18 is attached to this application. *	<input type="checkbox"/> Yes <input type="checkbox"/> No
2. Name of the State *	3. Date Job Order Submitted *

The inclusion of these new questions is appropriate. However, it would be appropriate for OFLC to develop a standardized job order format (including one that could be completed on line) containing information for workers about the job. *See* ETA-790

Further Comments

Annexed hereto is a discussion of the above issues and several additional points based on references to comparisons between the new and proposed forms.

Very truly yours,



Arthur N. Read
General Counsel
Justice at Work

ETA Form 9142B

Proposed A.1. New Section A.

A. Nature of H-2B Application

1. Is the employer seeking to employ H-2B workers under this application who will be exempt from the statutory numerical limit, or "cap," on the total number of foreign nationals who may be issued an H-2B visa or otherwise granted H-2B status? *

☐ Yes ☐ No

B. Temporary Need Information

Current B.4 has no equivalent in proposed form, although hours per week are in both forms and employer assurances state this.

4. Is this a full-time position? *

☐ Yes ☐ No

Current B.7 Total Worker Positions. Subparts should continue to be helpful if instructions clearly explain how to complete the form.

7. Worker positions needed/basis for the visa classification supported by this application

Total Worker Positions Being Requested for Certification *

Basis for the visa classification supported by this application

(indicate the total workers in each applicable category based on the total workers identified above)

a. New employment *

d. New concurrent employment *

b. Continuation of previously approved employment *
without change with the same employer

e. Change in employer *

c. Change in previously approved employment *

f. Amended petition *

b.4 Proposed. Omits all of above subcategories.

4. Number of
Workers *

ETA Form 9142B

C. Employer Information

Proposed form is missing current C.14-17. No equivalent question for C. 14, 15, 16.

- Having answers to these questions would be material for DOL Wage and Hour enforcement including jurisdiction under the FLSA. #16 is disclosed by DOL ETA OFLC on ICERT and helps to verify if this is an established operation.

14. Number of non-family full-time equivalent employees	15. Annual gross revenue	16. Year established
17. Type of employer application (choose only one box below) * <div style="display: flex; justify-content: space-between;"> <div style="width: 45%;"> <input type="checkbox"/> Individual Employer <input type="checkbox"/> H-2A Labor Contractor or Job Contractor </div> <div style="width: 45%;"> <input type="checkbox"/> Association – Sole Employer (H-2A only) <input type="checkbox"/> Association – Joint Employer (H-2A only) <input type="checkbox"/> Association – Filing as Agent (H-2A only) </div> </div>		

Proposed Additional questions to add to Part C:

- 1. During the past five (5) years has the employer been a debtor in bankruptcy proceedings?**

☐ Yes ☐ No

If so, identify the Bankruptcy Court District and docket number and describe the current or final status of that proceeding. The employer shall notify DOL if it becomes a debtor in bankruptcy proceedings during the period of the requested labor certification.

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- 2. For each of the past three years identify the ETA Case number for applications for labor certification which were submitted for the occupation and location covered by this application for labor certification and specify the number of H-2B workers hired pursuant to each prior approved labor certification.**

ETA Case #:

Number of H-2B workers Hired:

ETA Case #:_____

Number of H-2B workers Hired:_____

ETA Case #:

Number of H-2B workers Hired:

ETA Form 9142B

Proposed Additional questions to add to Part C (continued)

3. Has the employer timely paid all wages due to H-2B workers and U.S. workers similarly employed in each prior year in which the employer received an H-2B labor certification?

☐ Yes ☐ No

If no explain.

Proposed Part G. 1 and G.2 are the closest equivalent to current Part C.17.

The wording of proposed G.2 omits clearly specifying if the employer or job contractor is licensed under the Migrant and Seasonal Agricultural Worker Protection Act even if the license is not attached.

G. Other Supporting Documentation

1. Type of Employer Application (Choose only one) *	<input type="checkbox"/> Individual Employer <input type="checkbox"/> Job Contractor – Joint Employer
2. Is a copy of the employer's current MSPA Certificate of Registration identifying the farm labor contracting activities the employer is authorized to perform attached to this application? *	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A

F. Employment and Wage Information

New Proposed F.a.1-3

F. Employment and Wage Information

a. Job Opportunity and Minimum Requirements

1. Indicate whether a copy of the job order submitted to the State Workforce Agency (SWA) satisfying the requirements at 20 CFR 655.18 is attached to this application. *	<input type="checkbox"/> Yes <input type="checkbox"/> No
2. Name of the State *	3. Date Job Order Submitted *

The inclusion of these new questions is appropriate. However, it would be appropriate for OFLC to develop a standardized job order format (including one that could be completed on line) containing information for workers about the job. See ETA-790

ETA Form 9142B

Current F. Job Offer Information. a. Job Description

- No equivalent to F.a.4, F.a.4a. **There is currently a problem with individuals performing supervisory duties not being classified as such and omitting this question could increase that problem.**

F. Job Offer Information

a. Job Description

1. Job Title *	
2. Number of hours of work per week Basic *: _____ Overtime: _____	3. Hourly Work Schedule * A.M. (h:mm): ____ : ____ P.M. (h:mm): ____ : ____
4. Does this position supervise the work of other employees? * <input type="checkbox"/> Yes <input type="checkbox"/> No	4a. If yes, number of employees worker will supervise (if applicable) \$ _____
5. Job duties – A description of the duties to be performed MUST begin in this space. If necessary, add attachment to <u>continue and complete</u> description. *	

- **Neither the current, nor the proposed form, specifies numbers of days per week of work or schedule per day. See ETA 790 Job order for Agricultural workers. Employers have an incentive to understate hours of work to avoid payment of $\frac{3}{4}$ guarantee. The ETA 9142B should include the following information from the ETA 790. Instructions should specify that a worker cannot be penalized for refusing to work more hours in a day or in a week than the number of hours specified on the Form 9142B.**

11. Anticipated Hours of Work per Week / Horas Anticipadas/Previstas de Trabajo por Semana. Total:

Sunday / Domingo _____	Thursday / Jueves _____
Monday / Lunes _____	Friday / Viernes _____
Tuesday / Martes _____	Saturday / Sábado _____
Wednesday / Miércoles _____	

Current form tracks F.a.1 of proposed at

B.1 Temporary Need Information

1. Job Title *

ETA Form 9142B

F. Job Offer Information. b. Minimum Job Requirements

Current form does not assume that training or employment experience are required.

F. Job Offer Information (continued)

b. Minimum Job Requirements

1. Education: minimum U.S. diploma/degree required *	
<input type="checkbox"/> None <input type="checkbox"/> High School/GED <input type="checkbox"/> Associate's <input type="checkbox"/> Bachelor's <input type="checkbox"/> Master's <input type="checkbox"/> Doctorate (PhD) <input type="checkbox"/> Other degree (JD, MD, etc.)	
1a. If "Other degree" in question 1, specify the diploma/degree required §	1b. Indicate the major(s) and/or field(s) of study required § (May list more than one related major and more than one field)
2. Does the employer require a second U.S. diploma/degree? *	
<input type="checkbox"/> Yes <input type="checkbox"/> No	
2a. If "Yes" in question 2, indicate the second U.S. diploma/degree and the major(s) and/or field(s) of study required §	
3. Is training for the job opportunity required? *	
<input type="checkbox"/> Yes <input type="checkbox"/> No	
3a. If "Yes" in question 3, specify the number of months of training required §	3b. Indicate the field(s)/name(s) of training required § (May list more than one related field and more than one type)
4. Is employment experience required? *	
<input type="checkbox"/> Yes <input type="checkbox"/> No	
4a. If "Yes" in question 4, specify the number of months of experience required §	4b. Indicate the occupation required §
5. Special Requirements - List specific skills, licenses/certifications, and requirements of the job opportunity. *	

Proposed form does not require yes/no answers to training and work experience questions. Despite the fact that many jobs are ONET Job Zone One jobs have been determined to require little or no prior experience or training, U.S. workers are being kept out of entry level jobs by prior experience requirements. ONET Job Zone One employers should be required to explain why prior experience is a requirement for those jobs

Instructions and form should be changed to require an explanation as to why an ONET Job Zone One SOC code requires prior training or experience.

{See attached analysis of FY2018 ONET Job Zone One experience requirements}

Proposed Form

F.a.4. Job Duties – Description of the specific services or labor to be performed. *

(All job duties must be disclosed on this form. Separate attachments will not be accepted)

5. Number of hours of work per week *		6. Hourly work schedule *	
Basic:	<input type="text"/>	Overtime:	<input type="text"/>
		A.M. (h:mm):	<input type="text"/> : <input type="text"/>
		P.M. (h:mm):	<input type="text"/> : <input type="text"/>
7. Education: minimum U.S. diploma/degree required. *			
<input type="checkbox"/> None <input type="checkbox"/> High School/GED <input type="checkbox"/> Associate's <input type="checkbox"/> Bachelor's <input type="checkbox"/> Master's <input type="checkbox"/> Doctorate (PhD) <input type="checkbox"/> Other degree (JD, MD, etc.)			
8. Training: number of months required. *		9. Work Experience: number of months required. *	
<input type="text"/>		<input type="text"/>	
10. Special Requirements - List specific skills, licenses/certifications, field(s) of training, and requirements of the job. *			

ETA Form 9142B

Current Form Place of Employment. F.c.

c. Place of Employment Information

1. Worksite address 1 *	
2. Address 2	
3. City *	4. County *
5. State/District/Territory *	6. Postal code *
7. Will work be performed in multiple worksites within an area of intended employment or at location(s) other than the address listed above? *	<input type="checkbox"/> Yes <input type="checkbox"/> No
7a. If Yes in question 7, identify the geographic place(s) of employment with as much specificity as possible. If necessary, submit an attachment to <u>continue and complete</u> a listing of all anticipated worksites. §	

The proposed form and Form ETA-9142B – Appendix A, appropriately tie wage and place of employment information to the approved ETA 9141 and requires identification of each related PWD Case number.

However, the instructions appear to allow an employer to report payment of required minimum prevailing wages on a weekly basis even where such wages are determined on the PWD to be on an hourly basis. This is particularly a problem for the mobile entertainment industry.

See SOC Codes:

35-3022

Counter Attendants, Cafeteria, Food Concession

39-3091

Amusement and Recreation Attendants

In FY18 4,418 H-2B positions were authorized in these two SOC Codes with payment on a weekly basis rather than an hourly basis. Since historically the mobile entertainment industry has not accurately tracked hours worked this is particularly consequential.

All employers should be required to pay minimum wages on the same hourly basis as the PWD determination where the PWD determination is on an hourly basis.

b. Place of Employment and Wage Information

1. Worksite Address 1 *		
2. Worksite Address 2 § (apartment/suite/floor and number)		
3. City *	4. State *	5. Postal Code *
6. County *	7. Metropolitan Statistical Area (MSA) Name *	
8. Basic Wage Rate Paid to Nonimmigrant Workers *		8a. Overtime Wage Rate Paid §
From: \$ ____ . ____ * To: \$ ____ . ____		From: \$ ____ . ____ To: \$ ____ . ____
9. Per (Choose only one) *		9a. Additional conditions about the wage rate to be paid. §
<input type="checkbox"/> Hour <input type="checkbox"/> Week <input type="checkbox"/> Bi-Weekly <input type="checkbox"/> Month <input type="checkbox"/> Year <input type="checkbox"/> Piece Rate		
DOL Prevailing Wage Determination (PWD) Information		
10. 1st PWD Case Number *	10a. 2nd PWD Case Number §	10b. 3rd PWD Case Number §
11. If a valid PWD has <u>not</u> been obtained due to an emergency situation under 20 CFR 655.17, indicate whether a completed Form ETA-9141 is attached to this application. §		<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A

ETA Form 9142B Appendices

See also Appendix A

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



a. Additional Worksite and Wage Information 1									
1. PWD Case Number *	2. City *		3. State *	4. County *		5. MSA Name/OES Area Title *			
6. Total Workers *	7. Begin Date *	8. End Date *	9. Basic Wage Rate *		9a. Overtime Wage Rate \$		10. Per (Choose only one) *		
			From: \$	To: \$	From: \$	To: \$	<input type="checkbox"/> Hour	<input type="checkbox"/> Week	<input type="checkbox"/> Bi-Weekly
							<input type="checkbox"/> Month	<input type="checkbox"/> Year	<input type="checkbox"/> Piece Rate

Form 9142B Appendix B Employer Declaration

This form has been appropriately modified to include appropriate additional employer assurances.

However, several additional assurances should also be added.

Form ETA 750 at Item 23.a. included the following assurance for the H-2B program which was removed without explanation from the ETA 9142 in 2008.

By virtue of my signature below, I HEREBY CERTIFY the following conditions of employment.

- a. I have enough funds available to pay the wage or salary offered the alien.

This assurance should be added to the Appendix B Employer Declarations,

Similarly, the assurance that the employer has paid all wages due to H-2B workers and U.S. workers similarly employed in past years should be included in the employer declarations. DOL has to prioritize its enforcement resources and should be able to rely upon such returning employer assurances. A false certification about such payments would appropriately be a basis for DOL to obtain unpaid wages due for past years if subsequently discovered by DOL.

Form ETA-9142B – Appendix C

Foreign Labor Recruiter Information

This form is appropriate to DOL's implementation of the requirement to maintain a foreign labor recruiter registry as are the employer assurances related to it.

Analysis of FY2018 ONET Job Zone 1 Experience Requirements

The imposition of unnecessary experience requirements by H-2B employers is an effective mechanism for barring U.S. workers from entry level employment jobs. This has become an increasing problem for several H-2B industries,

FY2018 H-2B data reflects the following:

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51-6011	Laundry and Dry-Cleaning Workers	501	26.7%	73.3%	134	367

ONET

Job Zone One: Little or No Preparation Needed

Education Some of these occupations may require a high school diploma or GED certificate.

Related Experience Little or no previous work-related skill, knowledge, or experience is needed for these occupations. For example, a person can become a waiter or waitress even if he/she has never worked before.

Job Training Employees in these occupations need anywhere from a few days to a few months of training. Usually, an experienced worker could show you how to do the job.

Job Zone Examples These occupations involve following instructions and helping others. Examples include counter and rental clerks, dishwashers, sewing machine operators, landscaping and groundskeeping workers, logging equipment operators, and baristas.

SVP Range (Below 4.0)

Analysis of FY2018 ONET Job Zone 1 Experience Requirements

Rank	SOC CODE	Soc Title	NBR WORKERS CERTIFIED	% No Experience	% Experience	No Experience	Experience	Months of Experience							
								1	2	3	4	6	12	18	24
1	37-3011	Landscaping and Groundskeeping Workers	67,112	72.1%	27.9%	48,407	18,705	3,572	1,443	13,024	10	634	20	2	
2	39-3091	Amusement and Recreation Attendants	7,865	98.1%	1.9%	7,715	150	15	15	98		22			
3	51-3022	Meat, Poultry, and Fish Cutters and Trimmers	6,011	87.8%	12.2%	5,279	732	400	17	311					4
4	35-3022	Counter Attendants, Cafeteria, Food Concession, and Coffee Shop	2,067	94.9%	5.1%	1,961	106	14		87		5			
5	39-2021	Nonfarm Animal Caretakers	1,968	21.6%	78.4%	425	1,543	1,329		210		4			
6	45-3011	Fishers and Related Fishing Workers	1,385	49.2%	50.8%	681	704	683	3	18					
7	47-2051	Cement Masons and Concrete Finishers	1,181	38.0%	62.0%	449	732	36		67		35	594		
8	35-9011	Dining Room and Cafeteria Attendants and Bartender Helpers	1,104	59.2%	40.8%	654	450	195		232	6	17			
9	35-9021	Dishwashers	1,034	52.7%	47.3%	545	489	146	30	306		7			
10	35-2021	Food Preparation Workers	923	73.6%	26.4%	679	244	96	40	100		8			
11	51-6011	Laundry and Dry-Cleaning Workers	501	26.7%	73.3%	134	367	81	4	282					
12	47-3014	Helpers--Painters, Paperhangers, Plasterers, and Stucco Masons	470	87.0%	13.0%	409	61	24		37					
13	47-5051	Rock Splitters, Quarry	444	78.2%	21.8%	347	97	60		14		23			
14	35-3021	Combined Food Preparation and Serving Workers, Including Fast Food	429	57.6%	42.4%	247	182	61		121					
15	41-9091	Door-To-Door Sales Workers, News and Street Vendors, and Related Workers	185	100.0%	0.0%	185	0								
16	47-2161	Plasterers and Stucco Masons	166	53.0%	47.0%	88	78		30	48					
17	35-2011	Cooks, Fast Food	50	100.0%	0.0%	50	0								
18	35-3041	Food Servers, Nonrestaurant	48	29.2%	70.8%	14	34			34					
19	41-2021	Counter and Rental Clerks	37	100.0%	0.0%	37	0								
20	45-2041	Graders and Sorters, Agricultural Products	25	100.0%	0.0%	25	0								
21	51-9022	Grinding and Polishing Workers, Hand	25	60.0%	40.0%	15	10			10					
22	51-6031	Sewing Machine Operators	4	0.0%	100.0%	0	4	4							



O*NET Resource Center

About O*NET

The O*NET Program is the nation's primary source of occupational information. Valid data are essential to understanding the rapidly changing nature of work and how it impacts the workforce and U.S. economy. From this information, applications are developed to facilitate the development and maintenance of a skilled workforce.

Central to the project is the O*NET database, containing hundreds of standardized and occupation-specific descriptors on almost 1,000 occupations covering the entire U.S. economy. The database, which is available to the public at no cost, is continually updated from input by a broad range of workers in each occupation.

O*NET information is used by millions of individuals every year, including those taking advantage of O*NET Online, My Next Move, and other publicly and privately developed applications. The data have proven vital in helping people find the training and jobs they need, and employers the skilled workers necessary to be competitive in the marketplace.

The Occupational Information Network (O*NET) is developed under the sponsorship of the **U.S. Department of Labor/Employment and Training Administration** (USDOL/ETA) through a grant to the North Carolina Department of Commerce.

[About O*NET Data](#)[O*NET Applications](#)[Starting Points](#)

Content Model: Anatomy of an occupation

Every occupation requires a different mix of knowledge, skills, and abilities, and is performed using a variety of activities and tasks. These distinguishing characteristics of an occupation are described by the [O*NET Content Model](#).

Explore the [interactive Content Model](#) to see the range of occupational descriptors in the O*NET database.

O*NET-SOC Taxonomy: A spectrum of occupations

While the Content Model defines the information structure for a single occupation, the [O*NET-SOC taxonomy](#) defines the set of occupations across the world of work. Based on the [Standard Occupational Classification](#), the O*NET-SOC taxonomy currently includes [974 occupations](#) which currently have, or are scheduled to have, data collected from job incumbents or occupation experts. To keep up with the changing occupational landscape, the taxonomy is periodically revised; the last revision was in 2010.

Data Collection: Real-world information

The O*NET-SOC taxonomy defines the occupations, and the Content Model outlines which information is collected; the [Data Collection program](#) brings these frameworks to life with results from the working public.

For more about the data collection, view [sample questionnaires](#) based on the O*NET surveys, or visit [RTI's O*NET site](#) for information from the survey conductors.

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O*NET OnLine Help

Job Zones

Overview

A Job Zone is a group of occupations that are similar in:

- how much education people need to do the work,
- how much related experience people need to do the work, and
- how much on-the-job training people need to do the work.

The five Job Zones are:

- [Job Zone 1](#) - occupations that need little or no preparation
- [Job Zone 2](#) - occupations that need some preparation
- [Job Zone 3](#) - occupations that need medium preparation
- [Job Zone 4](#) - occupations that need considerable preparation
- [Job Zone 5](#) - occupations that need extensive preparation

Job Zone One: Little or No Preparation Needed

Education Some of these occupations may require a high school diploma or GED certificate.

Related Experience Little or no previous work-related skill, knowledge, or experience is needed for these occupations. For example, a person can become a waiter or waitress even if he/she has never worked before.

Job Training Employees in these occupations need anywhere from a few days to a few months of training. Usually, an experienced worker could show you how to do the job.

Job Zone Examples These occupations involve following instructions and helping others. Examples include counter and rental clerks, dishwashers, sewing machine operators, landscaping and groundskeeping workers, logging equipment operators, and baristas.

SVP Range (Below 4.0)

Job Zone Two: Some Preparation Needed

Education These occupations usually require a high school diploma.

Related Experience Some previous work-related skill, knowledge, or experience is usually needed. For example, a teller would benefit from experience working directly with the public.

Job Training Employees in these occupations need anywhere from a few months to one year of working with experienced employees. A recognized apprenticeship program may be associated with these occupations.

Job Zone Examples These occupations often involve using your knowledge and skills to help others. Examples include orderlies, forest firefighters, customer service representatives, security guards, upholsterers, and tellers.

SVP Range (4.0 to < 6.0)

Job Zone Three: Medium Preparation Needed

Education Most occupations in this zone require training in vocational schools, related on-the-job experience, or an associate's degree.

Related Experience Previous work-related skill, knowledge, or experience is required for these occupations. For example, an electrician must have completed three or four years of apprenticeship or several years of vocational training, and often must have passed a licensing exam, in order to perform the job.

Job Training Employees in these occupations usually need one or two years of training involving both on-the-job experience and informal training with experienced workers. A recognized apprenticeship program may be associated with these occupations.

Job Zone Examples These occupations usually involve using communication and organizational skills to coordinate, supervise, manage, or train others to accomplish goals. Examples include hydroelectric production managers, travel guides, electricians, agricultural technicians, barbers, court reporters, and medical assistants.

SVP Range (6.0 to < 7.0)

Job Zone Four: Considerable Preparation Needed

Education Most of these occupations require a four-year bachelor's degree, but some do not.

Related Experience A considerable amount of work-related skill, knowledge, or experience is needed for these occupations. For example, an accountant must complete four years of college and work for several years in accounting to be considered qualified.

Job Training Employees in these occupations usually need several years of work-related experience, on-the-job training, and/or vocational training.

Job Zone Examples Many of these occupations involve coordinating, supervising, managing, or training others. Examples include accountants, sales managers, database administrators, graphic designers, chemists, art directors, and cost estimators.

SVP Range (7.0 to < 8.0)

Job Zone Five: Extensive Preparation Needed

Education Most of these occupations require graduate school. For example, they may require a master's degree, and some require a Ph.D., M.D., or J.D. (law degree).

Related Experience Extensive skill, knowledge, and experience are needed for these occupations. Many require more than five years of experience. For example, surgeons must complete four years of college and an additional five to seven years of specialized medical training to be able to do their job.

Job Training Employees may need some on-the-job training, but most of these occupations assume that the person will already have the required skills, knowledge, work-related experience, and/or training.

Job Zone Examples These occupations often involve coordinating, training, supervising, or managing the activities of others to accomplish goals. Very advanced communication and organizational skills are required. Examples include librarians, lawyers, astronomers, biologists, clergy, surgeons, and veterinarians.

SVP Range (8.0 and above)

Previous: [Scales, Ratings, and Standardized Scores](#)

Next: [Specific Vocational Preparation \(SVP\)](#)

[back to OnLine Help table of contents](#)


O*NET OnLine

Browse by Job Zone

Job Zones group occupations into one of five categories based on levels of education, experience, and training necessary to perform the occupation.

One: Little or No Preparation Needed ▼

Go

Job Zone One: Little or No Preparation Needed [Save Table \(XLS/CSV\)](#)

Learn more about this Job Zone's level of experience, training, and education in [OnLine Help](#).

36 occupations displayed.

Sort by:	Code	Occupation ▲
	39-3091.00	Amusement and Recreation Attendants
	35-3022.01	Baristas ☀ Bright Outlook
	53-6011.00	Bridge and Lock Tenders
	47-2051.00	Cement Masons and Concrete Finishers ☀ 🌿 Green
	35-3021.00	Combined Food Preparation and Serving Workers, Including Fast Food ☀
	53-7011.00	Conveyor Operators and Tenders
	35-2011.00	Cooks, Fast Food
	41-2021.00	Counter and Rental Clerks
	35-3022.00	Counter Attendants, Cafeteria, Food Concession, and Coffee Shop ☀
	47-5011.00	Derrick Operators, Oil and Gas ☀
	35-9011.00	Dining Room and Cafeteria Attendants and Bartender Helpers
	35-9021.00	Dishwashers
	41-9091.00	Door-To-Door Sales Workers, News and Street Vendors, and Related Workers
	49-9093.00	Fabric Menders, Except Garment
	45-4021.00	Fallers
	45-2092.02	Farmworkers and Laborers, Crop
	45-2093.00	Farmworkers, Farm, Ranch, and Aquacultural Animals
	45-3011.00	Fishers and Related Fishing Workers ☀
	35-2021.00	Food Preparation Workers ☀
	35-3041.00	Food Servers, Nonrestaurant ☀
	45-2041.00	Graders and Sorters, Agricultural Products
	51-9022.00	Grinding and Polishing Workers, Hand
	47-3014.00	Helpers—Painters, Paperhangers, Plasterers, and Stucco Masons
	45-3021.00	Hunters and Trappers ☀
	37-3011.00	Landscaping and Groundskeeping Workers ☀

- 51-6011.00 [Laundry and Dry-Cleaning Workers](#)
- 45-4022.00 [Logging Equipment Operators](#)
- 51-3022.00 [Meat, Poultry, and Fish Cutters and Trimmers](#)
- 41-9012.00 [Models](#)
- 39-2021.00 [Nonfarm Animal Caretakers](#) 🌟
- 47-2161.00 [Plasterers and Stucco Masons](#)
- 51-6021.00 [Pressers, Textile, Garment, and Related Materials](#)
- 47-5051.00 [Rock Splitters, Quarry](#)
- 47-5071.00 [Roustabouts, Oil and Gas](#) 🌟
- 47-4071.00 [Septic Tank Servicers and Sewer Pipe Cleaners](#) 🌟
- 51-6031.00 [Sewing Machine Operators](#)