

TECHNICAL ASSISTANCE

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Contact: policy@dwd.in.gov

Program: Wagner-Peyser Act Employment Service System, Employment Service and Employment Related-Law Complaint System

Subject: DWD Technical Assistance 2022-21
Step-by-Step Process for Intrastate Clearance Orders

Purpose

To provide local areas with guidance on the process for Intrastate Clearance Orders. This guidance is intended to supplement DWD Policy 2022-19.

References

20 CFR 653.500-503

Content

Intrastate Clearance Orders are agriculture employer job orders placed within DWD's labor exchange system that have been expanded beyond the local area. The local job order may be changed into an Intrastate Clearance Order when these conditions are met:

- The WorkOne and employer have attempted local recruitment but have not been able to obtain sufficient workers within the local labor market area to meet the employer's needs; or
- The WorkOne anticipates a shortage of local workers (with guidance from the State Monitor Advocate (SMA)).

Process

1. When the employer and WorkOne representative are unable to obtain sufficient workers or anticipate a shortage of workers within the local area, the WorkOne, with assistance from the SMA and the agreement of the employer, may decide to prepare the Intrastate Clearance Order.
2. The WorkOne representative will work with the SMA to complete the ETA Form 790¹ and its attachments to place an Intrastate Clearance Order. The employer must assist by providing all required information.

¹ This form can be accessed at <https://foreignlaborcert.doleta.gov/pdfs/ETA-790-instructions-addendums.pdf>.

3. Employers will enter the required information on ETA Form 790 and its attachments as well as provide supplementary information if necessary. The WorkOne representative will then review the ETA Form 790 and its attachments and advise the SMA.
4. All clearance orders must be posted in accordance with applicable ETA guidance. The local WorkOne office must suppress the employer information in the job order.
5. Pre-occupancy housing inspections are initiated by DWD but conducted by Indiana Department of Health (IDOH) on housing that is employer owned or rented to determine if the housing is available and meets the applicable housing standards or has been approved for conditional access to the clearance system as set forth in 20 CFR 653.502. (Note: IDOH has responsibility for licensing and permitting agricultural labor camps, or farmworker housing in general).
 - a. The SMA or a DWD appointee must schedule the pre-occupancy housing inspections.
 - b. If housing approval has been obtained prior to placing the clearance order, the approval should accompany it. In the absence of housing approval, the employer submits a written request for conditional access into the Agricultural Recruitment System to the WorkOne.
 - c. If a request for conditional access has been submitted by the employer and accompanies the Intrastate Clearance Order, then the inspection of housing must be scheduled accordingly.
 - d. If the proposed housing does not meet the applicable housing standards at least 20 calendar days prior to the date of occupancy, the DWD and the WorkOne informs the employer it has five (5) more days to bring their housing into full compliance. If the housing still does not comply, DWD then cancels the Intrastate Clearance Order after notifying ETA.²
6. The SMA reviews the Intrastate Clearance Order for adherence to federal and state regulations and standards.³
7. Recruitment may be directed primarily to areas within the state where there is a labor surplus.
8. DWD and the WorkOne (SMA, MSFW Outreach Staff, and WorkOne representative) coordinate recruitment of workers from within the state.
9. If the intrastate clearance order does not fulfill the demand for workers, the SMA begins the Interstate Clearance Order process in partnership with the ETA regional office.

Additional Information

Questions regarding the content of this publication should be directed to policy@dwd.in.gov.

² See 20 CFR 653.502(e).

³ Labor shortfalls or surplus within the state are determined by the DWD based on these regulations and standards.