



## **Employment and Training Administration**

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## Calendar Year 2020

- **December 24, 2020. OFLC Announces Updates to Implementation of the H-2A Adverse Effect Wage Rate Methodology for Non-Range Occupations Final Rule; Compliance with District Court Order**

On December 23, 2020, the U.S. District Court for the Eastern District of California issued an order in *United Farm Workers, et al. v. DOL, et al.*, No. 20-cv-01690, enjoining the Department of Labor from implementing the Final Rule, *Adverse Effect Wage Rate Methodology for the Temporary Employment of H-2A Nonimmigrants in Non-Range Occupations in the United States* (H-2A AEW FR), 85 FR 70445 (Nov. 5, 2020). The court's order prevents the Department from further implementing the H-2A AEW FR, which took effect on December 21, 2020, and ordered the Department to use the methodology established by the Department's 2010 H-2A regulation to establish the hourly AEWFRs for all non-

Department's 2010 H-2A regulation to establish the hourly AEWRs for all non-range occupations.

Effective immediately, and until further notice, H-2A job orders filed with the State Workforce Agency serving the area of intended employment, as set forth in [20 CFR 655.121](#), on or after December 21, 2020, including job orders filed concurrently with an *Application for Temporary Employment Certification* to the OFLC National Processing Center for emergency situations under [20 CFR 655.134](#), must use the AEWRs in effect on December 20, 2020.

- **December 16, 2020. OFLC Announces H-2B Application Filing Timelines for 2021 Peak Filing Season**

The Office of Foreign Labor Certification (OFLC) reminds employers and other interested stakeholders that the filing window to submit an H-2B *Application for Temporary Employment Certification* (Form ETA-9142B and appendices) requesting work start dates of April 1, 2021, or later, **will open on January 1, 2021, at 12:00 a.m. Eastern Time.**

Following OFLC's standard operating procedures, H-2B applications requesting an April 1, 2021, work start date **will be denied if they are filed before January 1, 2021, at 12:00 a.m. Eastern Time.**

OFLC will randomly order for processing all H-2B applications requesting a work start date of April 1, 2021, that are filed during the initial three calendar days (January 1-3, 2021) using the [randomization procedures](#) published in the Federal Register on March 4, 2019. Each day, from January 2, 2021 through January 4, 2021, OFLC will publish on the [Foreign Labor Application Gateway System](#) website the number of H-2B applications it has received to date and the total number of requested worker positions on those applications.

- **December 15, 2020. The Department of Labor Publishes New 2021 H-2A Monthly Adverse Effect Wage Rate (AEWR) for Herding or Production of Livestock on the Range**

The Department of Labor (DOL) has published a notice in the *Federal Register* announcing the new AEWR for herding or production of livestock on the range for the H-2A Program. The AEWR is the minimum wage rate DOL has determined must be offered and paid by employers to H-2A workers and workers in corresponding employment, so that the wages of similarly employed U.S. workers will not be adversely affected. The notice announces the new national monthly AEWR for herding or production of livestock on the range.

- [View the Federal Register notice announcing the 2021 AEWR for herding or production of livestock on the range.](#)
- [View the AEWR page for the new rate for herding or production of livestock on the range for 2021.](#)

- **December 10, 2020. OFLC Provides H-2B Webinar Materials and Information to Stakeholders for the 2021 Peak Filing Season**

On December 9, 2020, the Office of Foreign Labor Certification (OFLC) conducted a webinar to update stakeholders on the process for filing H-2B applications requesting a work start date of April 1, 2021, or later.

This webinar also provided best practices and helpful tips for preparing and submitting H-2B *Applications for Temporary Employment Certification* (Form ETA-9142B and appendices) using the [Foreign Labor Application Gateway System](#). The presentation materials are now available at the hyperlink below.

- [View the H-2B FY 2020 Best Practices Presentation](#)

**IMPORTANT REMINDER:** Employers are reminded that they should file only one application for the same job opportunity. With limited exception, under [20 CFR 655.15\(f\)](#), only one *Application for Temporary Employment Certification* (Form ETA-9142B and appendices) may be filed for worksite(s) within one area of intended employment for each job opportunity with an employer for each period of employment.

OFLC will review and process only the application that is filed first, according to its timestamp. If OFLC identifies multiple applications that appear to have been filed for the same job opportunity, OFLC will consider the **first application filed in timestamp order** - irrespective of randomization group assignments - as the **official application** submitted by (or on behalf of) the employer. OFLC will issue a Notice of Deficiency on the first application reviewed (i.e., the application that is randomized closest to the top of the processing order) to require the employer to establish a bona fide need for all potentially duplicative applications. Employers that fail to establish a bona fide need for each of the applications will receive a non-acceptance denial for each application identified as a duplicate and received after the application that was filed first.

Any necessary corrections or amendments should be made to the first application filed. For further information on requesting a correction or amendment of an H-2B application before a final determination is issued, please refer to [H-2B Frequently Asked Questions Round 11](#), **regardless of any H-2B visa cap administered by USCIS**.

- **December 3, 2020. OFLC Announces Updates to Implementation of the Wage Protections Interim Final Rule; Compliance with District Court Orders**

On December 1, 2020, the U.S. District Court for the Northern District of California issued an order in *Chamber of Commerce, et al. v. DHS, et al.*, No. 20-cv-7331, finding that the U.S. Department of Labor (the Department) failed to show it had good cause to forgo advance notice and comment under the

Administrative Procedure Act for the Interim Final Rule (IFR), *Strengthening Wage Protections for the Temporary and Permanent Employment of Certain Aliens in the United States*, 85 FR 63872 (Oct. 8, 2020). The court's order sets aside the IFR, which took effect on October 8, 2020 and implemented reforms to the prevailing wage methodology for the Permanent Employment Certification, H-1B, H-1B1, and E-3 visa programs. Similarly, on December 3, 2020, the U.S. District Court for the District of New Jersey issued a preliminary injunction in *ITServe Alliance, Inc., et al. v. Scalia, et al.*, No. 20-cv-14604, applying to the plaintiffs in that case.

The Department is taking necessary steps to comply with the courts' orders, including making required technical changes to the Foreign Labor Application Gateway (FLAG) system, in a manner that minimizes service disruptions for customers and OFLC staff. Specifically, the Department must make changes to the FLAG system modules to replace the 10/8/2020-6/30/2021 wage source year data that was implemented under the IFR with the OES prevailing wage data that was in effect on October 7, 2020. To reduce the risk of unintended system problems or errors while this occurs, employers and their authorized attorneys or agents may experience a brief delay in their ability to use the FLAG system to submit new *Labor Condition Applications for Nonimmigrant Workers* (LCAs), Form ETA-9035/9035E, and receive determinations on *Applications for Prevailing Wage Determination*, Form ETA-9141, where the Occupational Employment Statistics (OES) survey data is the prevailing wage source.

### **Implementation Timeframe for Technical Changes to FLC Online Data Center**

The OES prevailing wage data for each SOC and area of intended

- The OES prevailing wage data for each SOC and area of intended employment that was in effect on October 7, 2020 (*i.e.*, data for 7/1/2020-10/7/2020) has remained publicly accessible at <https://www.flcdatacenter.com/>.
- To limit any confusion for stakeholders, beginning at approximately 12:00PM (Noon) Eastern Time on December 4, 2020, this data source will be updated at <https://www.flcdatacenter.com/> to reflect the correct prevailing wage data for each SOC and area of intended employment through June 30, 2021.

### Implementation Timeframe for Filing LCAs

- All Form ETA-9035/9035Es submitted using the FLAG system through 5:59AM Eastern Time on December 4, 2020, where the OES survey data is the prevailing wage source, will continue to be processed and issued a final determination without delay.
- Beginning around 6:00AM Eastern Time on December 4, 2020, the FLAG system will be temporarily unavailable to deploy necessary code changes to temporarily **disable** the OES prevailing wage calculator, which uses the 10/8/2020-6/30/2021 wage source year data to prepare Form ETA-9035/9035Es.
- Around 8:30AM Eastern Time on December 4, 2020, the FLAG system will be back online; however, employers and their authorized attorneys or agents will temporarily not be able to submit applications for processing where OES survey data is the prevailing wage source.
- Beginning around 8:30AM Eastern Time on December 9, 2020, employers and their authorized attorneys or agents will be able to submit new LCAs, Form ETA-9035/9035E, using the OES survey data that was in effect on October 7, 2020.

### Implementation Timeframe for Processing Prevailing Wage Determinations

- OFLC's National Prevailing Wage Center (NPWC) has temporarily paused processing pending Form ETA-9141s for use in filing LCA and PERM applications. However, employers and their authorized attorneys or agents may continue to file new requests for a prevailing wage determination at any time.
- Beginning around 8:30AM Eastern Time on December 15, 2020, OFLC's NPWC will resume processing all pending and new Form ETA-9141s for use in filing LCA and PERM applications, and will use the OES survey data that was in effect on October 7, 2020 for prevailing wage determinations where the OES survey data is the prevailing wage source.

### Opportunity to Request NPWC Review of a PWD Issued Under the IFR

Any employer desiring review of a PWD issued using the 10/8/2020-6/30/2021 wage source year data that was implemented under the IFR may make a request for review by the NPWC Director under 20 CFR 656.41 on or before January 4, 2021, and the Director will consider such request timely under 20 CFR 656.41(a).

Please use one of the following methods to submit a timely request for NPWC Director review:

- Online (preferred): Please access your [Foreign Labor Application Gateway](#) (FLAG) System account to request review of a prevailing wage determination issued by the NPWC Director. In the Historical Cases table, search for the case number, then open the case details. In the Actions tab, select Request Redetermination. You will be prompted to add a case note and may upload a document if needed. Upon submission, your request will be routed to an analyst for review. You will receive an email confirmation that your request submitted successfully.

Email: [FLC.PWD@dol.gov](mailto:FLC.PWD@dol.gov)

In the email subject line, please include the phrase “IFR Request for Review” **followed by** the full case number and the Form ETA-9141.

Mail: Employment and Training Administration  
Office of Foreign Labor Certification  
National Prevailing Wage Center  
200 Constitution Ave NW  
Room N-5311  
Washington, DC 20210

Attn: IFR Request for Review

Please include either the full case number in the cover letter of the request for NPWC Director review **or** a hard copy of the Form ETA-9141 issued under the IFR methodology.

- **November 23, 2020. OFLC Announces Webinar on December 9, 2020, to Update Stakeholders on the Process for Filing H-2B Applications With a Start Date of April 1, 2021, or Later**

The Office of Foreign Labor Certification (OFLC) invites stakeholders to participate in a webinar that provides best practices and helpful tips for preparing H-2B Applications for Temporary Employment Certification (Form ETA-9142B and appendices). The webinar will discuss:

- Regulatory timeframes for filing applications with a start date of need of April 1, 2021, or later;
- Procedures OFLC uses to randomly select H-2B applications for review and processing; and
- Actions the Department is taking to prepare the [Foreign Labor Application Gateway \(FLAG\) System](#) to support the submission of applications beginning January 1, 2021.

Details of the webinars are as follows:

**Date:** December 9, 2020

**Start Time:** 2:30 EST

**Link:** <https://usdol.webex.com/usdol/j.php?MTID=m7935686fca176037f113697ee0501664>

**Meeting password:** hfGmm4EkT36

**Call-in information: \*Due to the size of the call, please use the following toll-free number for audio:**

- Conference Number: 800-779-2595
- Participant Passcode: 7995398

*Please note: Webinars are limited to 1,000 participants.*

- **November 19, 2020. OFLC Posts New Adverse Effect Wage Rates Webpage**

On November 5, 2020, the Department of Labor (Department) published a final rule updating the methodology for determining hourly Adverse Effect Wage Rates (AEWR) for non-range agricultural occupations in the H-2A visa program. See Final Rule, *Adverse Effect Wage Rate Methodology for the Temporary Employment of H-2A Nonimmigrants in Non-Range Occupations in the United States*, 85 FR 70445 (Nov. 5, 2020) (“2020 AEWR Final Rule”). The AEWR is the minimum wage rate the Department has determined must be offered and paid by employers to H-2A workers and workers in corresponding employment to ensure that the employment of H-2A workers does not adversely affect the wages of agricultural workers in the U.S. Beginning on December 21, 2020, H-2A

job orders submitted for non-range occupations must comply with the new methodology.

The Office of Foreign Labor Certification (OFLC) has created a new webpage that consolidates AEW information for the H-2A program. This webpage contains the monthly AEW for range occupations, as well as the hourly AEWs for non-range occupations. The hourly AEWs for non-range occupations on the new webpage will apply to H-2A job orders submitted on or after December 21, 2020, when the 2020 AEW Final Rule becomes effective. During the transition to the new methodology, OFLC will also maintain a separate webpage that displays the hourly AEWs in effect for job orders submitted before December 21, 2020.

- [View the AEW page for current rates in effect through December 20, 2020](#)
- [View the AEW page for rates that will go into effect starting December 21, 2020](#)
- [View the published 2020 AEW Final Rule](#)
- [View the FAQs on the 2020 H-2A AEW Final Rule](#)

- **November 18, 2020. OFLC Releases the H-2B Foreign Labor Recruiter List for Fiscal Year 2020**

The Office of Foreign Labor Certification (OFLC) has published an updated list of the names of foreign labor recruiters for the H-2B program as required by [20 CFR 655.9\(c\)](#).

The list contains the name and location of persons or entities identified on Appendix C of the Form ETA-9142B that were hired by, or working for, the recruiter that employers have indicated they engaged, or planned to engage, in the recruitment of prospective H-2B workers to perform the work described on their H-2B application.

The H-2B Foreign Labor Recruiter List includes only those names and locations associated with H-2B applications that were processed or issued a final decision during the October 1, 2019, through September 30, 2020, reporting period of FY 2020.

By publishing the foreign labor recruiter list, OFLC is ensuring greater transparency for the H-2B worker recruitment process and facilitating information sharing between the U.S. Department of Labor and other agencies.

- [View the foreign labor recruiter list](#)
- [View FAQs regarding the foreign labor recruiting list](#)

- **November 18, 2020. OFLC Releases Public Disclosure Data and Selected Program Statistics for Fiscal Year 2020**

The Office of Foreign Labor Certification (OFLC) has released a comprehensive set of public disclosure data (through the fourth quarter of fiscal year 2020) drawn from employer applications requesting prevailing wage determinations and labor certifications for the PERM, LCA (H-1B, H-1B1, E-3), H-2A, H-2B, CW-1, and Prevailing Wage programs.

The public disclosure files include all final determinations OFLC issued for these programs during the October 1, 2019, through September 30, 2020, reporting period of fiscal year 2020.

OFLC has also released selected program statistics for the fourth quarter of fiscal year 2020 for the PERM, LCA (H-1B, H-1B1, E-3), H-2A, H-2B, CW-1, and Prevailing Wage programs.

- View the [public disclosure files](#) and corresponding record layouts containing detailed descriptions of each available data element.
- View the [selected program statistics](#) containing key program information.

- **November 2, 2020. U.S. Department of Labor Issues Final Rule to Update Adverse Effect Wage Rate Methodology To Protect American Workers and Help American Farmers**

The U.S. Department of Labor today announced a final rule that updates the methodology for determining the annual Adverse Effect Wage Rates (AEWRs) in the H-2A visa program.

The AEWR is a minimum wage rate that provides a floor below which the wages of agricultural workers cannot be negotiated. Requiring employers to pay the AEWR when it is the highest applicable wage is the primary way the Department meets its statutory obligation to certify that the employment of foreign workers will not adversely affect workers in the United States similarly employed. The new rule improves the consistency of the AEWRs, provides stronger protections for workers, and establishes better stability and predictability for employers in complying with their wage obligations.

For the vast majority of agricultural jobs, the rule uses the average hourly wages for field and livestock workers (combined), as reported by the U.S. Department of Agriculture's Farm Labor Survey published in November 2019, as the AEWRs for field and livestock worker occupations through calendar year 2022. Beginning in 2023, and annually thereafter, the Department will adjust these AEWRs by the percentage change in the Bureau of Labor Statistics' (BLS) Employment Cost Index for wages and salaries for the preceding 12-month period.

For all other agricultural jobs, the Department will set and annually adjust the AEWRs using the average hourly wages for the occupational classification reported by the BLS Occupational Employment Statistics (OES) Survey program. These agricultural jobs are often supervisory or higher skilled/uniquely skilled, such as construction jobs, which pay higher wages than typical farming occupations. Using the OES survey to establish AEWRs for these higher-skilled jobs will allow the Department to consistently establish occupation-specific AEWRs that better reflect the wages paid for such jobs and better protect against adverse effect on similarly employed United States workers.

The changes implemented in this rule also address stakeholder concerns about the potential for significant and unpredictable wage changes from year-to-year associated with the Department's prior AEWR methodology, while ensuring better wage protections for United States workers similarly employed in higher-skilled agricultural jobs. More predictable wage adjustments in the H-2A program will help American farmers plan and budget for their workforce needs, and ensure that wages in the H-2A program keep pace with steadily increasing wages in the wider economy. By taking this action, the Department is protecting U.S. workers and helping farmers keep food on America's tables.

The Department intends to issue a second final rule to finalize the remainder of the July 29, 2019, proposed rule that will govern other aspects of the certification of agricultural labor or services performed by H-2A workers, and enforcement of the contractual obligations applicable to employers of such nonimmigrant workers.

A copy of the final rule is available on the Office of Foreign Labor Certification's

A copy of the final rule is available on the OFFICE OF FOREIGN LABOR CERTIFICATION'S (OFLC) website. The final rule will publish in the *Federal Register* at a later date.

- [View the final rule to be published in the \*Federal Register\*](#)

Although the Office of the Federal Register may make minor technical edits to the version of the final rule posted with today's announcement, the substance of the final rule will remain the same. The version to be published in the *Federal Register* will be the official version that amends the current regulations.

OFLC has also prepared Frequently Asked Questions (FAQ) to help stakeholders better understand the H-2A AEWR final rule:

- [View the FAQs on the H-2A AEWR final rule](#)

- **October 29, 2020. OFLC Releases Round 2 of Frequently Asked Questions for the Wage Protections Interim Final Rule**

The Office of Foreign Labor Certification (OFLC) has released Round 2 of frequently asked questions (FAQs) addressing issues related to the [wage protections interim final rule](#).

- [View the Round 2 FAQs regarding the wage protections interim final rule](#)

- **October 6, 2020. U.S. Department of Labor Updates Regulations for Wages Paid to Certain Immigrant and Nonimmigrant Foreign Workers and Better Protect the Wages and Job Opportunities of United States Workers**

The U.S. Department of Labor announced an Interim Final Rule (IFR) that will help America's workers remain competitive by reforming the prevailing wage methodology for several foreign worker programs.

After a significant review of the Permanent Employment Certification, H-1B, H-1B1, and E-3 visa programs, the Department has determined that the existing wage structure leads to potential abuses of these programs that can cause wage deflation and stagnation for U.S. workers.

The IFR will improve the accuracy of prevailing wages and more effectively protect the recruitment and wages of America's workers by eliminating any economic incentive or advantage in hiring foreign workers on a permanent or temporary basis in the U.S.

The IFR amends the Department's regulations governing certain labor certifications at 20 CFR Parts 655 and 656, to incorporate changes to the methodology for computing prevailing wage levels under the Department's four-tiered wage structure. The Department believes these changes to the wage structure based on the Occupational Employment Statistics (OES) wage survey administered by the Bureau of Labor Statistics better reflect the actual wages earned by U.S. workers similarly employed to foreign workers. The IFR does not change OFLC's standard procedures for reviewing employers' job opportunities and determining prevailing wage levels for the assigned Standard Occupational Classification (SOC) code.

On October 6, 2020, the Department's IFR, *Strengthening Wage Protections for the Temporary and Permanent Employment of Certain Aliens in the United States*, will be placed on public inspection at the *Federal Register*. In advance of the IFR's publication in the *Federal Register*, a copy of the IFR submitted to the Office of the Federal Register (OFR) is also available on the Office of Foreign Labor Certification's (OFLC) website.



- [View the Interim Final Rule submitted to OFR for publication in the \*Federal Register\*.](#)

The Department expects the IFR will be published, with an immediate effective date, in the *Federal Register* on October 8, 2020. The Department will be accepting public comments on the IFR for 30 days from the date of publication in the *Federal Register*.

Although the OFR may make minor technical edits to the version of the IFR posted with today's announcement, the substance of the IFR will remain the same. The version to be published in the Federal Register will be the official version that amends the current regulations.

OFLC has prepared Frequently Asked Questions to help stakeholders better understand the Wage Protections IFR.

- [View the Frequently Asked Questions on the Wage Protections IFR](#)

### **Effect of the Interim Final Rule:**

The IFR will only apply to the following:

- An *Application for Prevailing Wage Determination*, Form ETA-9141, pending with OFLC's National Prevailing Wage Center (NPWC) as of the effective date of the regulation;
- An *Application for Prevailing Wage Determination*, Form ETA-9141, filed with the NPWC on or after the effective date of the regulation; and
- A *Labor Condition Application for Nonimmigrant Workers* (LCA), Form ETA-9035/9035E, filed with OFLC on or after the effective date of the regulation where the OES survey data is the prevailing wage source, and where the employer did not obtain the prevailing wage determination from the NPWC prior to the effective date of the regulation.

### **Implementation Schedule:**

- On **October 8, 2020**, employers and their authorized attorneys or agents will be able to:
  - Access revised OES prevailing wage data for each SOC and area of intended employment at <https://www.flcdatacenter.com/>;
  - Use the Foreign Labor Application Gateway (FLAG) system to submit LCAs at <https://flag.dol.gov/>; and
  - Continue to submit requests for prevailing wage determinations using the FLAG system.
- On **October 13, 2020**, the NPWC will begin issuing prevailing wage determinations using the revised OES prevailing wage data computed for the Interim Final Rule. This brief delay in issuing wage determinations is necessary to complete the required technical changes to the FLAG system's internal prevailing wage determination module and reduce the risk of unintended system problems or errors that may impact customers and OFLC staff.
- OFLC will continue to issue non-OES based prevailing wages (e.g. employer-provided surveys or collective bargaining agreements) without delay.

- **September 30, 2020. OFLC Publishes Updated Wage Data for the Commonwealth of Northern Mariana Islands.**

The Office of Foreign Labor Certification (OFLC) received an updated wage survey from the Governor of the Commonwealth of Northern Mariana Islands

(CNMI) for the CW-1 program. OFLC has approved the Governor's survey for 402 occupations and will issue updated CW-1 prevailing wages using this data from September 30, 2020, through June 30, 2021. The updated wage table includes prevailing wage data for a total of 820 occupations.

- [View the Updated CW-1 Wage Table for September 30, 2020, through June 30, 2021](#)

- **September 25, 2020. OFLC Announces Permanent Issuance of Electronic PERM Labor Certifications**

The Office of Foreign Labor Certification (OFLC) announced that it is permanently adopting the electronic issuance of PERM labor certifications to employers (and their authorized attorneys or agents).

On March 24, 2020, OFLC announced that—due to the impact of the COVID-19 pandemic—that it would electronically issue PERM labor certifications to employers (and their authorized attorneys or agents) through June 30, 2020. On June 16, 2020, OFLC announced that it was extending the period during which it would electronically issue PERM labor certifications through September 30, 2020.

On July 30, 2020, the Department of Labor (Department) signed a memorandum of agreement (MOA) with the Department of Homeland Security (DHS). Among other things, the MOA provides DHS access to all applications for permanent labor certification submitted to OFLC through the PERM online system, including the ability to verify that a PERM application has been certified. The enhanced information sharing and collaboration under the MOA also eliminates the need for duplicate certification requests and increases the integrity of the PERM program by supporting efforts to combat instances of fraud and abuse in connection with labor certification and employment-based immigrant and non-immigrant programs.

DHS regulations require that—in order to file a USCIS Form I-140, *Immigrant Petition for Alien Workers* (Form I-140), with U.S. Citizenship and Immigration Services (USCIS)—employers must concurrently submit an original labor certification issued by the Department, unless the **original labor certification** was already provided to USCIS in support of a different petition.

When a permanent labor certification was granted in the past, OFLC would send the original certified ETA Form 9089, *Application for Permanent Employment Certification*, and a Final Determination letter on "security paper" to the employer (or their authorized attorney/agent). To be valid, a certified ETA Form 9089 must contain the following completed sections:

- Section O - Signed and dated by the OFLC Certifying Officer;
- Section L - Signed and dated by the foreign worker;
- Section M - Signed and dated by the form preparer, if applicable; and
- Section N - Signed and dated by the employer; and
- Footer on each page identifying the validity period of the certification.

The employer (or their authorized attorney/agent) then would submit the original signed paper ETA Form 9089, along with the USCIS Form I-140 and all other supporting documentation and appropriate fees, to USCIS.

As of March 24, 2020, employers (or their authorized attorney/agent) who file a PERM application and are granted a permanent labor certification by OFLC have received the certified ETA Form 9089 and Final Determination letter by email. In circumstances where employers (or their authorized attorneys or agents) submit the application for permanent labor certification by mail and

are not able to receive the certified ETA Form 9089 documents by email, OFLC has and will continue to send the original security paper ETA Form 9089 and Final Determination letter by mail. At this time, OFLC expects to continue using UPS regular delivery to send the documents (i.e., approximately 2 to 8 days depending on delivery location).

Before filing a Form I-140 with USCIS, the electronic copy of the certified ETA Form 9089 that is provided by OFLC via email, must be printed, and signed and dated in the appropriate sections by the:

- Foreign worker;
- Preparer (if applicable); and
- Employer.

**Important Reminder:** To ensure receipt of electronic permanent labor certification documents and all other correspondence from the Atlanta National Processing Center, OFLC reminds stakeholders to add [plc.atlanta@dol.gov](mailto:plc.atlanta@dol.gov) to their address book or "safe list" within email system(s) to avoid being filtered as spam.

- **August 28, 2020. OFLC Releases corrected LCA and Prevailing Wage Public Disclosure Data for the Third Quarter of Fiscal Year 2020.**

The Office of Foreign Labor Certification (OFLC) has released a corrected version of the following public disclosure data files for the third quarter of Fiscal Year 2020:

- [PW Disclosure Data FY 2020 Q3.xlsx](#)
- [H-1B H-1B1 E-3 FY2020 Q3.xlsx](#)

The [public disclosure files](#) include all final determinations OFLC issued for these programs during the October, 1, 2019, through June 30, 2020, reporting period of FY 2020.

Earlier this month, an error was discovered in the PW\_Disclosure Data FY 2020 Q3.xlsx file in which the PRIMARY\_WORKSITE\_COUNTY column was not populating for all records. This has been corrected.

The H-1B H-1B1 E-3 FY2020 Q3.xlsx file contained an error in which some records for which the CASE\_STATUS column indicated "Certified – Withdrawn" should have indicated a status of "Withdrawn". This too has been corrected.

- **August 12, 2020. Department of State Determination on National Interest Exceptions to Presidential Proclamation 10052 as it Relates to H-1B, H-2B, L-1A, L-1B, and Certain J-1 Visa Programs**

On August 11, 2020, the Assistant Secretary of Consular Affairs for the U.S. Department of State (DOS), in consultation with the Secretaries of Labor and Homeland Security, determined additional types of travel that may qualify for a national interest exception to [Presidential Proclamation 10052](#) for H-1B, H-2B, L-1A, L-1B and certain J-1 visa programs. The announcement regarding this determination can be accessed [here](#). The announcement updates a notice from July 30, 2020, and discusses expanded categories of visa applicants who may qualify for a national interest exception to Presidential Proclamation 10052.

Stakeholders are reminded that U.S. embassies and consulates may only be able to offer limited visa services due to the COVID-19 pandemic. Prospective visa applicants should visit the website for the embassy or consulate where they intend to apply for a visa to get updates on current operating status.

- **July 30, 2020. OFLC Publishes Minor Correction to *Federal Register* Notice Regarding 60-Day Public Comment Period on Proposed Revisions to**

## Permanent Labor Certification Program Forms

On July 20, 2020, the Office of Foreign Labor Certification (OFLC) published a *Federal Register* notice announcing its intent to revise application forms, instructions, and other information collected under the permanent labor certification program.

The *Federal Register* notice published on July 20, 2020, incorrectly stated that the OMB Control Number for Forms ETA-750A, *Application for Alien Employment Certification - Offer of Employment*, and ETA-750B, *Application for Alien Employment Certification - Statement of Qualifications of Alien*, is 1205-0515.

The *Federal Register* notice published today corrects the OMB Control Number for Forms ETA-750A and ETA-750B to 1205-0015.

Written comments must be submitted following the instructions in the *Federal Register* notice published on July 20, 2020. The deadline to submit comments is September 18, 2020.

- [View the \*Federal Register\* notice correction](#)

- **July 29, 2020. OFLC Announces Transition Date to New Website Domain**

As announced on June 3, 2020, the Office of Foreign Labor Certification's website will be migrating to a new web domain.

The Foreign Labor Certification website is scheduled to become part of the main Department of Labor website at [www.dol.gov/agencies/eta/foreign-labor-certification](http://www.dol.gov/agencies/eta/foreign-labor-certification) on August 3, 2020. As part of the transition, the visual display on OFLC's website will change, but the information provided on each of these pages will remain the same.

Users who try to access OFLC website pages and file at their current URL will be automatically redirected to the new location and should encounter no service disruptions. After the transition, we encourage users to update their bookmarks and documentation with the new URLs to ensure that they can continue to access information on OFLC's website.

- **July 20, 2020. OFLC Announces 60-Day Public Comment Period on Proposed Revisions to Permanent Labor Certification Program Forms**

The U.S. Department of Labor published a *Federal Register* notice announcing its intent to revise application forms, instructions, and other information collected under the Permanent labor certification (PERM) program.

The proposed revision better aligns information collection requirements with the Department's PERM regulation, provides greater clarity to employers on regulatory requirements, standardizes and streamlines information collection for employers preparing PERM applications, and promotes greater efficiency and transparency in OFLC's review and issuance of labor certification decisions.

Written comments must be submitted in accordance with the instructions in the *Federal Register* notice. The deadline to submit comments is September 18, 2020.

- [View the \*Federal Register\* notice](#)
- [View the Supporting Statement](#)
- [View the proposed Form ETA-9089](#)
- [View the proposed Form ETA-9089, Appendix A](#)
- [View the proposed Form ETA-9089, Appendix B](#)

- [view the proposed Form ETA-9089, Appendix B](#)
- [View the proposed Form ETA-9089, Appendix C](#)
- [View the proposed Form ETA-9089, Appendix D](#)
- [View the proposed Form ETA-9089, Final Determination](#)
- [View the proposed Form ETA-9089, Instructions](#)

- **July 15, 2020. OFLC Releases Fiscal Year 2020 Q3 Foreign Labor Recruiter List**

The Office of Foreign Labor Certification (OFLC) is publishing an updated list of the names of foreign labor recruiters for the H-2B program (as required by [20 CFR § 655.9\(c\)](#)).

The list contains the name and location of persons or entities hired by, or working for, the recruiter that employers have indicated they engaged, or planned to engage, in the recruitment of prospective H-2B workers to perform the work described on their Form ETA-9142B, H-2B Application for Temporary Employment Certification. The H-2B Foreign Labor Recruiter List includes cases filed from October 1, 2019, through June 30, 2020. This information is also available in Form ETA-9142B, Appendix C, which presents foreign recruiter information sorted by H-2B case number.

By publishing the foreign labor recruiter list, OFLC is ensuring greater transparency for the H-2B worker recruitment process and facilitating information sharing between the U.S. Department of Labor and other agencies.

In order to view the Foreign Labor Recruiting list, please visit the [Foreign Labor Recruiting List web page](#)

- **July 15, 2020. OFLC Releases Public Disclosure Data and Selected Program Statistics for the Third Quarter of Fiscal Year 2020**

The Office of Foreign Labor Certification (OFLC) has released a comprehensive set of public disclosure data (through the third quarter of fiscal year 2020) drawn from employer applications requesting prevailing wage determinations and labor certifications for the PERM, H-1B, H-1B1, E-3, H-2A, H-2B, CW-1, and Prevailing Wage programs.

The public disclosure files include all final determinations OFLC issued for these programs during the October, 1, 2019, through June 30, 2020, reporting period of FY 2020.

OFLC has also released Q3 selected program statistics for fiscal year 2020 for the PERM, H-1B, H-1B1, E-3, H-2A, H-2B, CW-1, and Prevailing Wage programs.

- View the [public disclosure files](#) and corresponding record layouts containing detailed descriptions of each available data element.
- View the [selected program statistics](#) containing key program information.

- **July 13, 2020. OFLC Publishes List of Randomized H-2B Applications Submitted July 3-5 for Employers Seeking H-2B Workers Starting October 1, 2020**

To keep the public informed regarding the submission and assignment of H-2B applications for review, the Office of Foreign Labor Certification (OFLC) published the assignment group(s) for 685 H-2B applications covering 16,609 worker positions with the start date of work of October 1, 2020. Since the number of the H-2B applications received during the initial three-day period collectively requested fewer worker positions for certification than the

collectively requested fewer worker positions for certification than the statutory numerical limitation, all H-2B applications filed within that time period and requesting workers for the earliest possible start date of work were randomly given a unique number and placed into the same group for assignment.

- [View the List of Randomized H-2B Applications Submitted July 3-5, 2020](#)

- **July 6, 2020. OFLC Conducts Randomization Process on H-2B Applications Requesting an October 1, 2020, Work Start Date**

The Office of Foreign Labor Certification has completed the [procedures](#) to randomly assign all H-2B applications submitted during the initial three-day filing window, July 3-5, 2020, requesting an October 1, 2020, work start date for the first half of the Fiscal Year 2021 H-2B statutory visa cap.

OFLC received a total of 685 H-2B applications in the Foreign Labor Application Gateway System requesting 16,609 worker positions during this filing period.

Since the number of the H-2B applications received during the initial three-day period collectively requested fewer worker positions for certification than the statutory numerical limitation, all H-2B applications filed within that time period and requesting workers for the earliest possible start date of work were randomly given a unique number and placed into the same group for assignment.

- **July 2, 2020. OFLC Issues Technical Release Notes for the Occupational Employment Statistics Wage Data Update for Wage Year July 2020**

The Office of Foreign Labor Certification (OFLC) has published the latest prevailing wage data from the Occupational Employment Survey as generated by the Bureau of Labor Statistics (BLS) for July 2020 through June 2021. These updates include:

**Geographic Changes:** The Occupational Employment Statistics (OES) program added the Twins Fall, Idaho, metropolitan statistical area. OFLC also has wage data available for New Shoreham, Rhode Island.

- [View BLS information about the May 2019 Metropolitan and Nonmetropolitan Area definitions](#)

**American Competitiveness and Workforce Improvement Act (ACWIA) - Education Industry Database:** Updates with wages for additional ACWIA occupations are now available.

- [View the OES ACWIA wage data for additional occupations](#)

**Explanation of OES 2019 Hybrid Structure:** On June 23, 2020, OFLC published Round 2 of frequently asked questions explaining that OFLC will continue using the 2010 SOC occupations for the July 2020 wage year. OFLC will apply the OES 2019 Hybrid Structure wage estimates generated by BLS for these 2010 SOC occupations.

- [View the OES table for the July 2020 wage year](#)
- [View the technical release notes for OES 2019 Hybrid Structure](#)

- **June 26, 2020. H-2B Application Filing Timelines for Employers Seeking H-2B Workers for an October 1, 2020 Start Date**

The Office of Foreign Labor Certification (OFLC) reminds employers and other interested stakeholders that the filing window to submit an H-2B *Application for Temporary Employment Certification* (Form ETA-9142B and appendices)

requesting work start dates of October 1, 2020, or later, **will open on July 3, 2020, at 12:00 a.m. Eastern Time.**

Following OFLC's standard operating procedures, H-2B applications requesting an October 1, 2020, work start date **will be denied if they are filed before July 3, 2020, at 12:00 a.m. Eastern Time.** OFLC will randomly order for processing all H-2B applications requesting a work start date of October 1, 2020, that are filed during the initial three calendar days (July 3-5, 2020) using the [randomization procedures](#) published in the Federal Register on March 4, 2019.

**IMPORTANT REMINDER:** Employers are reminded that Foreign Labor Application Gateway (FLAG) System user accounts are solely for the use of the individual for whom they were created. Sharing the same user account is forbidden and is grounds for terminating FLAG access. Passwords or any other authentication mechanism should never be shared or stored in any place easily accessible. If stored, a password may not be stored in a clear-text or readable format.

- **June 23, 2020. OFLC Announces Release of Round 2 of National Prevailing Wage and Helpdesk Center FAQs.**

The Office of Foreign Labor Certification released Round 2 of frequently asked questions (FAQs) regarding questions related to occupations used for July 2020 Wage Data.

- [View the Round 2 FAQs regarding July 2020 Wage Data](#)

- **June 16, 2020. OFLC Announces Extension of Issuance of Electronic PERM Labor Certifications Through September 30, 2020.**

On March 24, 2020, the Office of Foreign Labor Certification (OFLC) informed stakeholders that the Atlanta National Processing Center (NPC) will issue PERM labor certification documents electronically to employers (and their authorized

attorneys or agents) through June 30, 2020. Due to the ongoing impact of the COVID-19 pandemic, OFLC is extending the period during which the Atlanta NPC will issue PERM labor certification documents electronically to employers (and their authorized attorneys or agents) **through September 30, 2020.**

U.S. Department of Homeland Security (DHS) regulations require that—in order to file a USCIS Form I-140, *Immigrant Petition for Alien Workers*, with U.S. Citizenship and Immigration Services (USCIS), for certain employment—based immigrant visas—employers must concurrently submit an original labor certification issued by the U.S. Department of Labor (DOL), unless the **original labor certification** was already provided to USCIS in support of a different petition.

Normally, when a permanent labor certification is granted, OFLC sends an original certified ETA Form 9089, *Application for Permanent Employment Certification*, and a Final Determination letter on security paper to the employer (or the employer's authorized attorney or agent who submitted the application). To be valid, the certified ETA Form 9089 contains a completed:

- Section O – Signed and dated by the OFLC Certifying Officer;
- Section L – Signed and dated by the foreign worker;
- Section M – Signed and dated by the form preparer, if applicable; and
- Section N – Signed and dated by the employer; and
- Footer on each page identifying the validity period of the certification.

The employer (or its authorized agent or attorney) then submits the original, signed paper ETA Form 9089, along with the USCIS Form I-140 and all other

supporting documentation and appropriate fees, to USCIS.

**Through September 30, 2020**, employers (or their authorized attorneys/agents) who file the application and are granted a permanent labor certification by OFLC will receive the certified ETA Form 9089 and Final Determination letter by email. In circumstances where employers (or their authorized attorneys or agents) are not able to receive the certified ETA Form 9089 documents by email, OFLC will send the original security paper ETA Form 9089 and Final Determination letter using UPS regular delivery (i.e., approximately 2 to 8 days depending on delivery location).

Before filing Form I-140 with USCIS, the electronic copy of the certified ETA Form 9089 must be printed, and then signed and dated by the:

- Foreign worker;
- Preparer (if applicable); and
- Employer.

USCIS may consider this printed Form ETA-9089, containing all signatures, as satisfying the requirement that petitioners provide evidence of an original labor certification issued by DOL.

**Important Reminder:** To ensure proper receipt of electronic permanent labor certification documents and all other correspondence from the Atlanta NPC, OFLC reminds stakeholders to add [plc.atlanta@dol.gov](mailto:plc.atlanta@dol.gov) to their address book or "safe list" within email system(s) to avoid being filtered as spam.

- **June 3, 2020. OFLC Releases Round 4 of COVID-19 Frequently Asked Questions Regarding Further Extensions.**

The Office of Foreign Labor Certification released Round 4 of frequently asked questions (FAQs) regarding COVID-19. COVID-19 Round 4 rescinds and replaces Question 3 of the COVID-19 Round 1 FAQs, published on March 20, 2020. All

other COVID-19 FAQs remain in full effect, with an extension of the accommodations set forth in Questions 7 and 8 of the COVID-19 Round 2 FAQs from May 12, 2020, until stay-at-home orders are lifted for the City of Chicago and Cook County, Illinois, and the processing center can resume daily mail processing operations.

- [View the Round 4 FAQs regarding COVID-19](#)

- **June 3, 2020. OFLC Announces Migration of Website to New Domain.**

Please be advised that the Office of Foreign Labor Certification (OFLC) is in the process of migrating our website from <https://www.foreignlaborcert.doleta.gov/> to <https://www.dol.gov/agencies/eta/foreign-labor-certification>.

**We expect the new website to go live in mid-July, following the July H-2B peak filing period .**

The changes will offer a new design and layout as part of the U.S. Department of Labor's OneWeb@DOL initiative. The design changes include enhancements for users on mobile devices and accessibility for individuals with disabilities.

Once the new website is launched, the old URLs for webpages and files on <https://www.foreignlaborcert.doleta.gov/> will be redirected to the corresponding links at <https://www.dol.gov/agencies/eta/foreign-labor-certification>. Users with bookmarked webpages or who use a search engine will be seamlessly redirected to the new website location. We encourage users to update their bookmarks and documentation with the new URLs to ensure



that they can continue to access information on OFLC's website.

**Important Note:** The migration to the new OFLC website domain will not impact the Foreign Labor Application Gateway ( <https://flag.dol.gov> ), Permanent Online Filing ( <https://www.plc.doleta.gov/> ), and SeasonalJobs.dol.gov ( <https://seasonaljobs.dol.gov> ) websites. Users of these websites should encounter no service disruptions.

- **May 22, 2020. Final Rule: Rules Concerning Discretionary Review by the Secretary**

On May 20, 2020, the Office of the Secretary issued a final rule, *Rules Concerning Discretionary Review by the Secretary* to establish a system of discretionary secretarial review over cases pending before or decided by the Board of Alien Labor Certification Appeals (BALCA) and to make technical changes to regulations governing the timing and finality of decisions of the Administrative Review Board and BALCA. The effective date of the rule is June 19, 2020. The rule also provides that the Secretary will not exercise his new review authority until at least 30 days after the rule goes into effect.

- **May 21, 2020. OFLC Reminds Stakeholders on Tips for Uploading PERM Documents**

The Office of Foreign Labor Certification reminds stakeholders that information and directions on uploading documents into the Permanent (PERM) Online System is available under the PERM webinars link located on the Permanent Labor Certification Program web page.

- [View slides providing information on uploading PERM documents](#)

- **April 15, 2020. OFLC Releases the H-2B Foreign Labor Recruiter List for First Half of Fiscal Year 2020.**

The Office of Foreign Labor Certification (OFLC) has published an updated list of the names of foreign labor recruiters for the H-2B program as required by [20 CFR 655.9\(c\)](#).

The list contains the name and location of persons or entities identified on Appendix C of the Form ETA-9142B that were hired by, or working for, the recruiter that employers have indicated they engaged, or planned to engage, in the recruitment of prospective H-2B workers to perform the work described on their H-2B application.

The H-2B Foreign Labor Recruiter List includes only those names and locations associated with H-2B applications that were processed or issued a final decision during the October 1, 2019, through March 31, 2020, reporting period of FY 2020.

By publishing the foreign labor recruiter list, OFLC is ensuring greater transparency for the H-2B worker recruitment process and facilitating information sharing between the U.S. Department of Labor and other agencies.

- [View the foreign labor recruiter list](#)
- [View FAQs regarding the foreign labor recruiting list](#)

- **April 15, 2020. OFLC Releases Public Disclosure Data and Selected Program Statistics for First Half of Fiscal Year 2020.**

The Office of Foreign Labor Certification (OFLC) has released a comprehensive set of public disclosure data for the first half of fiscal year 2020 drawn from employer applications requesting prevailing wage determinations and labor

certifications for the PERM, H-1B, H-1B1, E-3, H-2A, H-2B, CW-1, and Prevailing Wage programs.

The public disclosure files include all final determinations OFLC issued for these programs during the October 1, 2019, through March 31, 2020, reporting period of FY 2020—including a more expansive set of data elements based on new application forms processed through the Foreign Labor Application Gateway (FLAG) system.

OFLC has also released updated selected program statistics for the first half of fiscal year 2020 for the PERM, H-1B, H-1B1, E-3, H-2A, H-2B, CW-1, and Prevailing Wage programs.

- View the [public disclosure files](#) and corresponding record layouts containing detailed descriptions of each available data element.
- View the [selected program statistics](#) containing key program information.

- **April 9, 2020. OFLC Releases Round 3 of COVID-19 Frequently Asked Questions Covering Issues Related to the H-1B Temporary Specialty Occupations Program and H-2A Temporary Agricultural Labor Certification Program.**

The Office of Foreign Labor Certification released Round 3 of frequently asked questions (FAQs) regarding COVID-19. The Round 3 FAQs address potential issues regarding the H-1B temporary specialty occupations program and H-2A temporary agricultural labor certification program.

- [View the Round 3 FAQs regarding COVID-19](#)

- **April 8, 2020. OFLC Announces Schedule for the Final Phase of Decommissioning the iCERT System.**

The Office of Foreign Labor Certification (OFLC) is making this public service announcement to alert employers and other interested stakeholders that the legacy iCERT System will be fully decommissioned on **May 1, 2020**.

As part of the Department's technology modernization initiative, the [Foreign Labor Application Gateway \(FLAG\) System](#) was implemented to replace the legacy iCERT System, improve customer service, and modernize the administration of foreign labor certification programs.

On February 28, 2020, OFLC initiated the decommissioning process by transitioning the legacy iCERT System to a read-only mode where users can access their accounts to view, download, or copy information related to their applications.

**On May 1, 2020**, the legacy iCERT System will no longer be accessible to account holders and the general public will be redirected to the [FLAG System](#). As a reminder, iCERT System account holders who need to request a specific case action on an application submitted in the iCERT System (e.g., withdraw applications, request reconsideration, etc.) should continue to contact the relevant [OFLC program helpdesk](#) for review and appropriate action.

- **April 1, 2020. OFLC Releases Round 2 of COVID-19 Frequently Asked Questions Covering Issues Related to the H-2A Temporary Agricultural Labor Certification Program.**

The Office of Foreign Labor Certification released Round 2 of frequently asked questions (FAQs) regarding COVID-19. The Round 2 FAQs address potential issues regarding the H-2A temporary agricultural labor certification program.

- [View the Round 2 FAQs regarding COVID-19](#)

- **April 1, 2020. OFLC Temporarily Suspends Daily Mail Processing at Atlanta and Chicago National Processing Centers, Urges Employers to File Documents Electronically.**

On March 20, 2020, Illinois Governor JB Pritzker directed all individuals currently living in the State of Illinois to stay at home or at their place of residence, which currently extends through April 7, 2020. On March 23, 2020, City of Atlanta Mayor Keisha Lance Bottoms, directed all individuals living in the territorial jurisdictional limits of the city of Atlanta to stay at their place of residence, effective March 24, 2020.

The Office of Foreign Labor Certification has temporarily suspended daily mail processing at its Atlanta and Chicago National Processing Centers (NPCs) in order to protect the health and safety of its staff and help slow the spread of COVID-19. OFLC will monitor mail delivered to its NPCs once a week to ensure that time-sensitive documents are processed.

The Atlanta and Chicago NPCs continue to electronically process and issue labor certifications that meet all statutory and regulatory requirements under the federal government's maximum telework flexibilities operating status.

**OFLC strongly encourages all employers (and their authorized attorneys or agents) to use the [Foreign Labor Application Gateway \(FLAG\)](#) and [PERM electronic filing systems](#) for filing new applications and uploading responsive documents on applications currently under review.**

Alternatively, employers and their authorized attorneys or agents may file applications and responsive documentation using email at the following addresses: [TLC.Chicago@dol.gov](mailto:TLC.Chicago@dol.gov) (Chicago NPC) and [PLC.Atlanta@dol.gov](mailto:PLC.Atlanta@dol.gov) (Atlanta NPC). See the [COVID-19 Frequently Asked Questions, Round 1](#), issued on March 20, 2020, for more information.

- **March 24, 2020. OFLC Announces Issuance of Electronic PERM Labor Certifications in Response to the Impact of the COVID-19 Pandemic**

Due to the impact of the COVID-19 pandemic, the Office of Foreign Labor Certification (OFLC) is making this public service announcement to alert employers and other interested stakeholders that, **beginning March 25, 2020, and through June 30, 2020**, the Atlanta National Processing Center (NPC) will issue PERM labor certification documents electronically to employers and their authorized attorneys or agents.

Department of Homeland Security (DHS) regulations provide that, in order to file a USCIS Form I-140, *Immigrant Petition for Alien Workers*, with United States Citizenship and Immigration Services (USCIS), for certain employment-based immigrant visas, an employer must concurrently submit an **original labor certification** issued by the Department of Labor (DOL), unless the original labor certification was already provided to USCIS in support of a different petition. Currently, when a permanent labor certification is granted, OFLC sends an original certified Form ETA-9089, *Application for Permanent Employment Certification*, and a Final Determination letter on security paper to the employer or, if applicable, the employer's authorized attorney or agent who submitted the application. To be valid, the certified Form ETA-9089 contains a completed:

- Section O, signed and dated by the OFLC Certifying Officer;
- Footer on each page identifying the validity period of the certification;
- Section L, signed and dated by the foreign worker;
- Section M, signed and dated by the form preparer, if applicable; and

- Section N, signed and dated by the employer

The employer or, if applicable, its authorized agent or attorney, then submits the original, signed paper Form ETA-9089, along with the USCIS Form I-140 and all other supporting documentation and appropriate fees, to USCIS.

***Beginning March 25, 2020, and through June 30, 2020***, employers or their authorized attorneys/agents who file the application and are granted a permanent labor certification by OFLC will receive the certified Form ETA-9089 and Final Determination letter by email. In circumstances where employers or, if applicable, their authorized attorneys or agents, are not able to receive the certified Form ETA-9089 documents by email, OFLC will send the original security paper Form ETA-9089 and Final Determination letter using UPS regular delivery (i.e., approximately 2 to 8 days depending on delivery location).

Upon email receipt of an electronic copy of the certified Form ETA-9089, the form must be printed, and then signed and dated by each of the following prior to filing the Form I-140 with USCIS: the foreign worker, preparer (if applicable), and the employer. USCIS may consider this printed Form ETA-9089, containing all signatures, as satisfying the requirement that petitioners provide evidence of an original labor certification issued by DOL.

Based on potential service disruptions due to the COVID-19 pandemic, OFLC's electronic issuance of permanent labor certifications, during this temporary period, will help ensure employers and their authorized attorneys or agents are able to receive final determinations in a timely and cost effective manner.

Important Reminder: Similar to other electronic correspondence issued by the Atlanta NPC, and to ensure proper receipt of electronic permanent labor certification documents, OFLC reminds stakeholders to add [plc.atlanta@dol.gov](mailto:plc.atlanta@dol.gov) to their Address Book or "Safe List" within email system(s) to avoid being filtered as SPAM.

- **March 20, 2020. Annual Update to Allowable Charges for Agricultural Workers' Meals and for Travel Subsistence Reimbursement for H-2A and H-2B Workers, Including Lodging**

The U.S. Department of Labor's Employment and Training Administration has issued a *Federal Register* notice announcing the annual update to the allowable charges that employers seeking H-2A workers in occupations other than range herding may charge their workers when the employer provides three meals a day, and the maximum travel subsistence meal reimbursement that a worker with receipts may claim under the H-2A and H-2B programs. The notice also includes a reminder regarding employers' obligations with respect to overnight lodging costs as part of required subsistence.

- [Read the Federal Register notice](#)

- **March 20, 2020. OFLC Releases Frequently Asked Questions Regarding COVID-19**

The U.S. Department of Labor's Office of Foreign Labor Certification (OFLC) remains fully operational during the federal government's maximum telework flexibilities operating status - including the National Processing Centers, PERM System, and Foreign Labor Application Gateway (FLAG) System. OFLC continues to process and issue prevailing wage determinations and labor certifications that meet all statutory and regulatory requirements. If employers are unable to meet all statutory and regulatory requirements, OFLC cannot grant labor certification for the application. These frequently asked questions address impacts to OFLC operations and employers.

- [View the frequently asked questions regarding COVID-19](#)

- **March 9, 2020. OFLC Issues Frequently Asked Questions Related to the H-2B Supplemental Visa Allocation Announcement by Department of Homeland Security for the Second Half of Fiscal Year 2020.**

The Office of Foreign Labor Certification (OFLC) has released a set of frequently asked questions (FAQs) to address stakeholder questions concerning the U.S. Department of Homeland Security's public announcement on March 5, 2020, that it will take necessary anti-fraud and abuse measures to protect the integrity of the H-2B visa program and also make available 35,000 supplemental H-2B temporary nonagricultural worker visas for the second half of fiscal year 2020.

The FAQs are intended to clarify the use of emergency situations related to the supplemental allocation and the procedures that employers can use to return a temporary labor certification issued by OFLC that they no longer need.

- [View the Frequently Asked Questions](#)

- **March 9, 2020. Notice of Intent to Issue Declaratory Order; Withdrawal.**

The Office of Foreign Labor Certification (OFLC) alerts stakeholders that the Office of the Secretary of Labor has withdrawn its December 17, 2014, [Notice of Intent to Issue Declaratory Order](#) (79 FR 75179, Dec. 17, 2014).

All OFLC actions related to the resolution of requests for review of the relevant supplemental prevailing wage determinations, which have been stayed since December 20, 2013, will be processed in accordance with this Withdrawal Notice.

- [View a copy of the Withdrawal Notice in advance of its publication in the Federal Register.](#)

**Note:** *This version of the Withdrawal Notice may vary slightly from the published document if minor technical or formatting changes are made during the review by the Office of the Federal Register.*

- **March 3, 2020. H-2B Processing Update**

OFLC has issued 3,642 H-2B Temporary Labor Certifications covering 63,797 worker positions. Filers who have received a temporary labor certification may file a petition with the U.S. Citizenship and Immigration Services (USCIS). OFLC will continue to process H-2B applications, regardless of any H-2B visa cap administered by USCIS.

- **March 2, 2020. OFLC Announces Webinar on March 10, 2020, to Update Stakeholders on the Process for Filing CW-1 Applications for Employment in the Commonwealth of the Northern Mariana Islands.**

The Office of Foreign Labor Certification (OFLC) invites interested stakeholders to participate in a webinar that provides technical assistance and helpful tips for preparing the CW-1 Application for Prevailing Wage Determination (Form ETA-9141C) and the Application for Temporary Employment Certification (Form ETA-9142C).

The webinar will:

- Provide technical assistance to employers (and authorized attorneys or agents) on how to complete and submit Forms ETA-9141C and ETA-9142C.
- Provide a live video demonstration on how to use the [Foreign Labor](#)

Application Gateway (FLAG) System to prepare and submit CW-1 applications.

**Date:** Tuesday, March 10, 2020

**Start Time:** 8:30 a.m. Chamorro Standard Time (GMT+10)

**WebEx Link:** <https://dolevents.webex.com/dolevents/onstage/g.php?MTID=e9c7f4d32cac9a85bb542a60cb8af3ab3>

**Meeting password:** Welcome!24

**Toll-Free Phone:** 1-800-779-6819

**Toll Line:** 571-308-9268

**Participant Passcode:** 3822141

*Please note: Webinars are limited to 1,000 participants.*

- **February 4, 2020. Declaration of State of Emergency in the Commonwealth of the Northern Mariana Islands.**

On January 29, 2020, Governor Ralph DLG. Torres issued a *Declaration of a State of Significant Emergency* regarding matters of public health for travelers to the Commonwealth of the Northern Mariana Islands (CNMI).

The Office of Foreign Labor Certification reminds CNMI employers of regulatory provisions regarding the termination of work to be performed under a job order and/or work contracts with employees before the end date of work on the certification under the "contract impossibility" provisions in 20 CFR 655.20(g) (H-2B) and 20 CFR 655.423(g) (CW-1), and as discussed in the Office of Foreign Labor Certification's frequently asked questions .

Impacted employers may also be eligible to use emergency filing procedures, as outlined at 20 CFR 655.17 (H-2B) and 20 CFR 655.422 (CW-1) to file their application closer to their start date of need than is normally permitted. Any requests will be assessed by the Certifying Officer and take into account the employer's reasons for such requests.

For information from U.S. Citizenship and Immigration Services (USCIS) regarding immigration relief measures that may help if you are affected by unforeseen circumstances, please [visit the USCIS website](#).

- **January 24, 2020. OFLC Announces Decommissioning Schedule for the iCERT System Labor Certification Registry.**

The Office of Foreign Labor Certification (OFLC) is making this public service announcement to alert employers and other interested stakeholders that the iCERT System Labor Certification Registry, which provides public access to labor certification decisions in the PERM, LCA, H-2A, and H-2B visa programs, will be decommissioned.

Effective February 28, 2020 , members of the public interested in obtaining data on labor certification decisions will still be able to access it within the Disclosure Data section of the [OFLC Performance data page](#). This page provides the latest quarterly and annual disclosure data in easily accessible formats for public review and use. With the decommissioning of the iCERT System Labor Certification Registry, OFLC will be significantly expanding the scope of labor certification decision data available to the public through the Disclosure Data section in February 2020.

Members of the public interested in obtaining copies of labor certification records or other information maintained by OFLC may also request access under the Freedom of Information Act (FOIA). For more information on how to submit a FOIA request, please visit the [Department of Labor's FOIA webpage](#).

- **January 24, 2020. OFLC Announces Schedule for the Initial Phase of**

## Decommissioning the iCERT System.

As part of the Department's technology modernization initiative, the [Foreign Labor Application Gateway \(FLAG\) System](#) was developed to replace the legacy iCERT System, improve customer service, and modernize the administration of foreign labor certification programs.

The Office of Foreign Labor Certification (OFLC) is making this public service announcement to alert employers and other interested stakeholders that the iCERT System continues to be accessible, but will transition to a read-only mode as the Department initiates full decommissioning of the legacy system.

Effective February 28, 2020, iCERT System account users will no longer be able to take any actions on their applications (e.g., delete initiated applications, request redeterminations, request center director reviews, withdraw applications, and upload supporting documents) within the respective Prevailing Wage, LCA, H-2A, or H-2B program areas of the legacy iCERT System. However, iCERT System account users will retain the ability to access their accounts and view, download, or copy information related to their applications after the iCERT System is placed in a read-only mode.

Beginning February 28, 2020, iCERT System account users who need to request a specific case action on an application available in the iCERT System should contact the relevant [OFLC program helpdesk](#) for review and appropriate action.

- **January 22, 2020. OFLC Announces Technical Fixes and Enhancements to the Foreign Labor Application Gateway System.**

The Office of Foreign Labor Certification (OFLC) today implemented technical fixes and new enhancements to the [Foreign Labor Application Gateway \(FLAG\) System](#) related to the submission of applications. These enhancements are intended to improve customer service and increase the quality of applications submitted for processing, and includes, but is not limited to, the following:

### H-2B Program

- Users preparing Form ETA-9142B will see improvements to the display of responses entered in field F.b.11 on both the "Review" page and read-only view of the application in Adobe PDF. This is a resolution to the technical FAQ published on 12/20/2019.
- Users preparing Form ETA-9142B will see improvements to saving initiated applications that have data entered into Appendix C, Foreign Labor Recruiter Information. This is a resolution to the technical FAQ published on 12/20/2019.
- Users linking Form ETA-9141 to Form ETA-9142B will see improvements to searching for available Prevailing Wage applications within an account/network.
- Users will begin receiving courtesy email notifications after the submission of responses to a Notice of Deficiency, uploading a Recruitment Report, and uploading any ad hoc documentation supporting the application.

### H-2A Program

- Users preparing a Form ETA-790/790A will receive a warning message if

more than one signature file is uploaded.

- Users preparing a Form ETA-790/790A for a job opportunity covering the herding or production of livestock on the range will receive a warning message when the monthly wage entered is less than the current monthly Adverse Effect Wage Rate.
- Users will begin receiving courtesy email notifications after the submission of responses to a Notice of Deficiency or Notice of Required Modification, uploading a Recruitment Report, and uploading any ad hoc documentation supporting the application.

### **LCA Programs (H-1B, H-1B1, E-3)**

- Users preparing Form ETA-9035 with the H-1B visa classification will be able to review the Additional Employer Labor Condition Statements from the Section H and on the "Review & Submit" page.
- Users preparing Form ETA-9035 will see additional ACWIA SOC codes available for selection in Section B.

### **Prevailing Wage Program**

- Users preparing Form ETA-9141 will see improvements to saving and editing the Additional Worksites section of the application. This is a resolution to the technical FAQ published on 12/20/2019.
- Users preparing Form ETA-9141 will see improvements to their Initiated Cases queue that displays the Job Title entered on the application.

- **January 8, 2020. OFLC Publishes List of Randomized H-2B Applications Submitted January 2-4 for Employers Seeking H-2B Workers Starting April 1, 2020**

To keep the public informed regarding the submission and assignment of H-2B applications for review, the Office of Foreign Labor Certification (OFLC) published the assignment group(s) for 5,677 H-2B applications covering 99,362 worker positions with the start date of work of April 1, 2020.

Following the [randomization procedures](#) published in the Federal Register on March 4, 2019, OFLC completed the randomization process on January 6 and assigned to National Processing Center analysts all H-2B applications placed in Assignment Group A for issuance of Notices of Deficiency or Acceptance. Group A includes enough worker positions to reach the H-2B semi-annual visa allotment of 33,000. Four additional Assignment Groups were created for the remaining applications, each of which includes no more than 20,000 worker positions.

On January 6, 2020, OFLC provided written notice to each employer (and the employer's authorized attorney or agent) informing them about the Assignment Group for their application(s).

- [View the Assignment Groups for H-2B Applications Submitted January 2-4, 2020](#)

- **January 6, 2020. OFLC Conducts Randomization Process on H-2B Applications Requesting an April 1, 2020, Work Start Date**

The Office of Foreign Labor Certification has completed the [randomization process](#) to randomly assign all H-2B applications submitted during the initial three-day filing window, January 2-4, 2020, requesting an April 1, 2020, work start date for the second half of the Fiscal Year 2020 H-2B statutory visa cap



start date for the second half of the fiscal year 2020 H-2B statutory visa cap.

OFLC received a total of 5,677 H-2B applications requesting 99,362 worker positions during this filing period.

OFLC will be providing written notification to employers (and the employer's authorized attorney or agent) with their H-2B Assignment Group. On January 8, 2020, OFLC will also publish on its website the list of the H-2B applications assigned to each Assignment Group.

- **January 4, 2020. OFLC Announces Number of H-2B Applications Filed in the Foreign Labor Application Gateway System During First Two Days of the Peak Filing Season**

During the first two days of the H-2B peak filing season, employers filed 5,509 applications in the Foreign Labor Application Gateway System requesting more than 96,319 worker positions with an April 1, 2020, or later, work start date.

The Office of Foreign Labor Certification (OFLC) will continue to accept H-2B applications during the three-day filing window, and plans to randomize all applications submitted on January 6, 2020. OFLC will use the [randomization procedures](#) published in the Federal Register on March 4, 2019, to randomize H-2B applications.

- **January 3, 2020. OFLC Announces Number of H-2B Applications Filed in the Foreign Labor Application Gateway System During First 24 Hours of the Peak Filing Season**

During the first 24 hours of the H-2B peak filing season, employers filed 4,930 applications in the Foreign Labor Application Gateway System requesting more than 87,298 worker positions with an April 1, 2020, or later, work start date.

The Office of Foreign Labor Certification (OFLC) will continue to accept H-2B applications during the three-day filing window, and plans to randomize all applications submitted on January 6, 2020. OFLC will use the [randomization procedures](#) published in the Federal Register on March 4, 2019, to randomize H-2B applications.

- **January 2, 2020. OFLC Issues Frequently Asked Questions Related to the H-2B Visa Cap for the First Half of Fiscal Year 2020 and Returning Temporary Labor Certifications**

The Office of Foreign Labor Certification (OFLC) has posted a set of frequently asked questions (FAQs) to address stakeholder questions concerning whether the U.S. Department of Homeland Security's United States Citizenship and Immigration Services (USCIS) is accepting additional petitions for H-2B workers under the first half of fiscal year 2020 statutory limit, and the procedures employers can use to return a temporary labor certification issued by OFLC that they no longer need.

- [View the FAQs](#)

## Calendar Year 2019

- **December 20, 2019. OFLC Issues Frequently Asked Questions and Filing Tips Covering Technical Issues with the FLAG System**

In collaboration with the Department's Office of the Chief Information Officer, the Office of Foreign Labor Certification (OFLC) published a set of technical frequently asked questions (FAQs) addressing several technical issues with the Foreign Labor Application Gateway (FLAG) System. These FAQs provide FLAG

Foreign Labor Application Gateway (FLAG) System. These FAQs provide FLAG users with helpful tips and practices for preparing and submitting H-2B applications (Form ETA-9142B and appendices).

- [View the FLAG System Technical FAQs and Filing Tips](#)

- **December 19, 2019. New 2020 H-2A Monthly Adverse Effect Wage Rate (AEWR) for Herding or Production of Livestock on the Range**

The Department of Labor (DOL) has published a notice in the *Federal Register* announcing the new AEWR for herding or production of livestock on the range for the H-2A Program. The AEWR is the minimum wage rate DOL has determined must be offered and paid by employers to H-2A workers and workers in corresponding employment, so that the wages of similarly employed U.S. workers will not be adversely affected. The notice announces the new national monthly AEWR for herding or production of livestock on the range. To access the notice please click [here](#).

- **December 19, 2019. New 2020 H-2A Hourly Adverse Effect Wage Rates (AEWR) by State**

The Department of Labor (DOL) has published a notice in the *Federal Register* announcing the new AEWR in each state to perform agricultural labor or service other than herding and production of livestock on the range for the H-2A Program, based on the Farm Labor Survey conducted by the U.S. Department of Agriculture. The AEWR is the minimum wage rate DOL has determined must be offered and paid by employers to H-2A workers and workers in corresponding employment, so that the wages of similarly employed U.S. workers will not be adversely affected. The notice announces the new hourly AEWR for each state. To access the notice please click [here](#).

- **December 19, 2019. H-2B Application Filing Timelines for 2020 Peak Filing Season.**

The Office of Foreign Labor Certification (OFLC) reminds employers and other interested stakeholders that the filing window to submit an H-2B *Application for Temporary Employment Certification* (Form ETA-9142B and appendices) requesting work start dates of April 1, 2020, or later, **will open on January 2, 2020, at 12:00 a.m. Eastern Time**.

Following OFLC's standard operating procedures, H-2B applications requesting an April 1, 2020, work start date **will be denied if they are filed before January 2, 2020, at 12:00 a.m. Eastern Time**.

OFLC will randomly order for processing all H-2B applications requesting a work start date of April 1, 2020, that are filed during the initial three calendar days (January 2-4, 2020) using the [randomization procedures](#) published in the Federal Register on March 4, 2019.

**IMPORTANT REMINDER** : Employers are reminded that Foreign Labor Application Gateway (FLAG) System user accounts are solely for the use of the individual for whom they were created. Sharing the same user account is forbidden and is grounds for terminating FLAG access. Passwords or any other authentication mechanism should never be shared or stored in any place easily accessible. If stored, a password may not be stored in a clear-text or readable format.

- **December 19, 2019. H-2B Webinar is Now Available to Watch Online.**

On December 11, 2019, the Office of Foreign Labor Certification conducted a webinar to update stakeholders on the process for filing H-2B applications requesting a work start date of April 1, 2020, or later. For stakeholders who were

not able to participate, the [H-2B FY 2020 Best Practices Presentation webinar](#) is now available to watch online.

- **December 16, 2019. OFLC Encourages Stakeholders to Sign Up to Receive Email Updates.**

As we approach the H-2B filing season, the Office of Foreign Labor Certification (OFLC) reminds stakeholders that they can receive email notifications of OFLC announcements.

- [Sign up to receive email updates from the Office of Foreign Labor Certification](#)

- **December 12, 2019. H-2B Webinar Materials and Information for 2020 Peak Filing Season.**

On December 11, 2019, the Office of Foreign Labor Certification (OFLC) conducted a webinar to update stakeholders on the process for filing H-2B applications requesting a work start date of April 1, 2020, or later.

This webinar also provided best practices and helpful tips for preparing and submitting H-2B *Applications for Temporary Employment Certification* (Form ETA-9142B and appendices) using the [Foreign Labor Application Gateway](#) System. The presentation materials are now available on the [H-2B Temporary Non-Agriculture Program](#) page of the OFLC website and at the hyperlink below.

- [H-2B FY 2020 Best Practices Presentation](#)

**IMPORTANT REMINDER:** Employers are reminded that they should file only one application for the same job opportunity. With limited exception, under [20 CFR 655.15\(f\)](#), only one *Application for Temporary Employment Certification* (Form ETA-9142B and appendices) may be filed for worksite(s) within one area of intended employment for each job opportunity with an employer for each period of employment.

OFLC will review and process only the application that is filed first, according to its timestamp. If OFLC identifies multiple applications that appear to have been filed for the same job opportunity, OFLC will consider the **first application filed in timestamp order** - irrespective of randomization group assignments - as the **official application** submitted by (or on behalf of) the employer. OFLC will issue a Notice of Deficiency on the first application reviewed ( *i.e.*, the application that is randomized closest to the top of the processing order) to require the employer to establish a bona fide need for all potentially duplicative applications. Employers that fail to establish a bona fide need for each of the applications will receive a non-acceptance denial for each application identified as a duplicate and received after the application that was filed first.

Any necessary corrections or amendments should be made to the first application filed. For further information on requesting a correction or amendment of an H-2B application before a final determination is issued, please refer to [H-2B Frequently Asked Questions Round 11](#).

- **December 6, 2019. OFLC Announces Transition Schedule for Temporary and Seasonal Job Opportunities from the iCERT System Public Job Registry to SeasonalJobs.dol.gov**

As part of the Department's technology modernization initiative, the [Foreign Labor Application Gateway \(FLAG\) System](#) and [SeasonalJobs.dol.gov](#) were developed to replace the legacy iCERT System, improve customer service, and modernize the administration of foreign labor certification programs.

The Office of Foreign Labor Certification is making this public service announcement to alert employers and other interested stakeholders that the

Public Job Registry, which is a repository of temporary and seasonal jobs maintained through the iCERT System, will be decommissioned and transitioned to [SeasonalJobs.dol.gov](https://SeasonalJobs.dol.gov).

Beginning on December 27, 2019, members of the general public interested in obtaining information on temporary and seasonal jobs approved under the H-2A and H-2B visa programs will be redirected to [SeasonalJobs.dol.gov](https://SeasonalJobs.dol.gov).

Initially launched in December 2018, [SeasonalJobs.dol.gov](https://SeasonalJobs.dol.gov) is a mobile-friendly online portal that is designed to help Americans identify and apply for open seasonal and temporary jobs. In addition to providing more robust and personalized search capabilities that tailor results to the geographic location of American job seekers, this site makes it easier to integrate employment postings with third-party job search websites to make these job opportunities more accessible to job seekers.

- **December 5, 2019. Employer Filing Issues, and Best Practices Presentations**

As part of the Office of Foreign Labor Certification's (OFLC) ongoing efforts to increase compliance assistance outreach and technical assistance to the stakeholder community, OFLC is making available a series of presentations developed by its National Processing Centers highlighting recent trends in workload and identifying key filing issues and best practices.

Please click the links below to access each presentation:

- [Chicago National Processing Center H-2 Visa Programs Updates](#)
- [National Prevailing Wage Center Updates](#)
- [PERM Labor Certification Program Updates](#)

- **November 18, 2019. FY 2019 H-2B Foreign Labor Recruiter List**

The Office of Foreign Labor Certification (OFLC) is publishing an updated list of the names of foreign labor recruiters for the H-2B program (as required by [20 CFR § 655.9\(c\)](#)).

The list contains the name and location of persons or entities hired by, or working for, the recruiter that employers have indicated they engaged, or planned to engage, in the recruitment of prospective H-2B workers to perform the work described on their Form ETA-9142B, H-2B Application for Temporary Employment Certification. The H-2B Foreign Labor Recruiter List includes cases filed from October 1, 2018, through September 30, 2019.

The list for FY 2019 is published in two parts. The FY 2019 1st-3rd Quarter H-2B Foreign Labor Recruiter List includes foreign labor recruiters from H-2B applications filed on the previous version of the Form ETA-9142B. The FY 2019 4th Quarter H-2B Foreign Labor Recruiter List includes foreign labor recruiters identified in Appendix C of H-2B applications filed on the current version of the Form ETA-9142B.

By publishing the foreign labor recruiter list, OFLC is ensuring greater transparency for the H-2B worker recruitment process and facilitating information sharing between the U.S. Department of Labor and other agencies.

- [View the foreign labor recruiter list](#)
- [View FAQs regarding the foreign labor recruiting list](#)

- **November 18, 2019. OFLC Announces Webinar on December 11, 2019, to Update Stakeholders on the Process for Filing H-2B Applications With a Start Date of April 1, 2020, or Later**

**Start Date of April 1, 2020, or Later**

The Office of Foreign Labor Certification (OFLC) invites stakeholders to participate in a webinar that provides best practices and helpful tips for preparing H-2B *Applications for Temporary Employment Certification* (Form ETA-9142B and appendices). The webinar will discuss:

- Regulatory timeframes for filing applications with a start date of need of April 1, 2020, or later;
- Procedures OFLC uses to randomly select H-2B applications for review and processing; and
- Actions the Department is taking to prepare the Foreign Labor Application Gateway (FLAG) System to support the submission of applications beginning January 2, 2020.

Details of the webinars are as follows:

**Date:** Wednesday, December 11, 2019

**Start Time:** 2:30 p.m. Eastern Time (lasting approximately 1 hour)

**Link:** [https://dolevents.webex.com/dolevents/onstage/g.php?](https://dolevents.webex.com/dolevents/onstage/g.php?MTID=e029d7497a8ae370163092626c24da188)

[MTID=e029d7497a8ae370163092626c24da188](https://dolevents.webex.com/dolevents/onstage/g.php?MTID=e029d7497a8ae370163092626c24da188)

**Meeting password:** Welcome!68

**Call-in information:**

- Conference Number: 1-888-603-7016
- Participant Passcode: 4840313

*Please note: Webinars are limited to 1,000 participants.*

- **November 1, 2019. FY 2019 Q4 Cumulative Disclosure Data**

The Office of Foreign Labor Certification PERM, H-2A, H-2B, Prevailing Wage, CW-1, and H-1B program disclosure data files for Quarter 4 of FY 2019 are now available. Click [here](#) to access the disclosure files and corresponding record layouts.

- **November 1, 2019. FY 2019 Q4 Selected Statistics**

The Office of Foreign Labor Certification (OFLC) has posted updated program factsheets containing the Quarter 4 FY 2019 selected statistics for the [Permanent Labor Certification Program](#), [Prevailing Wage Determination Program](#), [H-1B Temporary Visa Program](#), [H-2A Temporary Agricultural Visa Program](#), [CW-1 Transitional Worker Program in the Commonwealth of the Northern Mariana Islands](#), and [H-2B Temporary Non-agricultural Visa Program](#). Reports are derived from program data as of 9/30/2019. The updated program factsheets may also be found on OFLC's Performance Data [page](#).

- **October 23, 2019. OFLC Issues Frequently Asked Questions (FAQs), Round 14, Covering the Definition of Agricultural Labor or Services in the H-2A Temporary Agricultural Labor Certification Program**

The Office of Foreign Labor Certification (OFLC) has posted a set of FAQs, Round 14, related to H-2A Applications for Temporary Employment Certification under the 2010 H-2A Final Rule. These FAQs address questions related to the definition of *agricultural labor or services* for H-2A program purposes. To access the Round 14 FAQs, please click [here](#).

- **October 22, 2019. OFLC Announces Continued Acceptance of CW-1 Applications**

All forms associated with the CW-1 Transitional Worker Program in the Commonwealth of the Northern Mariana Islands, contain an expiration date of September 30, 2019. The Department is seeking approval from the Office of Management and Budget to extend these application forms in one-month increments starting October 2019. Employers are permitted to continue filing applications for CW-1 applications for labor certifications and prevailing wage determinations in connection with the CW-1 program using the current forms, including any approved one-month extensions, starting October 2019.

- **OFLC Announces Schedule for Electronic Filing of Labor Condition Applications in the Foreign Labor Application Gateway (FLAG) System**

As part of the Department's technology modernization initiative, the FLAG System has been developed to replace the legacy iCERT System, improve customer service, and modernize the administration of foreign labor certification programs through the Employment and Training Administration's Office of Foreign Labor Certification (OFLC).

OFLC is making this public service announcement to alert employers and other interested stakeholders about implementation of its new FLAG System for the Labor Condition Application (LCA) programs covering the H-1B, H-1B1, and E-3 visa classifications.

#### **Electronic Filing of Form ETA-9035E, *Labor Condition Application for Nonimmigrant Workers***

- **Beginning September 16, 2019**, the FLAG System's LCA Program Module will be enabled and stakeholders will be able to begin preparing H-1B, H-1B1, and E-3 applications using the Form ETA-9035E. However, the **FLAG System will not permit the submission of LCA applications until 12:00 p.m. Eastern Time on October 1, 2019.**
- OFLC will continue to accept online submissions of the Form ETA-9035E through the iCERT System until 11:59 a.m. Eastern Time on October 1, 2019. The ability to submit LCA applications using the iCERT System will be deactivated at 12:00 p.m. Eastern Time on that date.
- OFLC will process all LCA applications submitted through the iCERT System, and stakeholders will be able to access their iCERT System accounts to check the status of applications submitted through the iCERT System.

#### **Technical Assistance Materials & Instructional Webinar**

OFLC has created instructional videos to help educate the stakeholder community on how to create and manage a FLAG System account and prepare the Form ETA-9035E. To obtain more information and view these instructional videos, please visit the LCA Program page on the FLAG System. The new videos will be posted no later than **Friday, September 13, 2019.**

Additionally, OFLC will host an instructional webinar on Wednesday, September 18, 2019, to provide technical assistance to employers and authorized attorneys or agents on how to prepare the Form ETA-9035E using the new FLAG System.

Details of the webinars are as follows:

Date: Wednesday, September 18, 2019 2:00 p.m. Eastern Time

Link: <https://dolevents.webex.com/dolevents/onstage/g.php?MTID=e2547a36864b207335bad0d74f0abf45a>

Meeting password: **Welcome!24**

Conference call-in number: 888-469-1548

Participant passcode: 2477817

*Please note: Webinar is limited to 1,000 participants.*

- **August 27, 2019. OFLC Announces New H-2A Application Forms and Schedule for Electronic Filing in the Foreign Labor Application Gateway System**

The Office of Foreign Labor Certification (OFLC) announced changes to the forms and the online filing process for the H-2A temporary agricultural program.

On August 22, 2019, the Office of Management and Budget (OMB) approved revisions for form [ETA-9142A, Application for Temporary Employment Certification](#), and [Appendix A, H-2A Assurances and Obligations](#). This approved package includes a newly designed form [ETA-790/790A, H-2A Agricultural Clearance Order](#), to collect information about the employer's agricultural job opportunity in an electronically fillable and fileable format, reducing the need for employers to submit "paper-based" job orders to State Workforce Agencies (SWAs).

OMB also approved form [ETA-9142A, Final Determination: H-2A Temporary Labor Certification Approval](#), which allows OFLC to begin issuing H-2A temporary labor certification approvals electronically to employers and, if applicable, their authorized attorneys or agents.

The following schedule outlines when the new and updated forms will be used, as well as the migration from the iCERT to [FLAG System](#).

#### **Electronic Filing Schedule for New H-2A Application Forms**

##### **Beginning September 4, 2019 (at 12:00 p.m. Eastern Time):**

- The FLAG System's H-2A Program Module will be enabled and stakeholders will be able to begin preparing job orders using the Form ETA-790/790A and applications using the Form ETA-9142A. However, the **FLAG System will not permit the submission of H-2A job orders and applications until October 1, 2019, at 12:00 p.m. Eastern Time.**
- OFLC will continue to accept online submissions of the current Form ETA-9142A (and job orders uploaded using the current Form ETA-790, *Agricultural and Food Processing Clearance Order*) through the iCERT System until October 16, 2019, at 11:59 a.m. Eastern Time. The ability to submit H-2A applications using the iCERT System will be deactivated on October 16, 2019, at 12:00 p.m. Eastern Time.
- OFLC will continue to process all H-2A applications and job orders submitted through the iCERT System, and stakeholders will be able to access their iCERT System accounts to check the status of applications submitted through the iCERT System.

#### **Transition Schedule for Submitting H-2A Applications in the iCERT and FLAG Systems**

##### **Beginning on October 1, 2019 (at 12:00 p.m. Eastern Time):**

- An employer seeking to file an emergency application, as set forth under 20 CFR 655.134, **OR** to employ H-2A workers to perform herding or production of livestock on the range, as defined in 20 CFR 655.201, must submit a job order using the new form ETA-790/790A (and corresponding addendums) and an H-2A application using the new form ETA-9142A (and corresponding appendices) in the FLAG System.



- All other employers seeking to employ H-2A workers with an expected **start date of need on and after December 15, 2019**, must submit a job order to the SWA using the new form ETA-790/790A (and corresponding addendums) and an H-2A application using the new form ETA-9142A (and corresponding appendices) in the FLAG System.
- An employer who initiated the H-2A application process before October 1, 2019, and has a pending job order with the SWA using the current form ETA-790, *Agricultural and Food Processing Clearance Order*, containing an expected **start date of need on or before December 14, 2019**, must file an H-2A application with the using the current form ETA-9142A in the iCERT System.

**Beginning on October 16, 2019 (at 12:00 p.m. Eastern Time):**

- OFLC will return - without further review - H-2A applications and job orders submitted in the iCERT System using the current versions of the form ETA-9142A and form ETA-790.
- OFLC will continue to accept H-2A applications and job order in the iCERT system using the current forms through October 16, 2019, at 11:59 a.m. Eastern Time for an employer seeking to employ H-2A workers with an expected start date of before December 15, 2019.

**Technical Assistance Materials and Instructional Webinar**

OFLC has created instructional videos to help educate the stakeholder community on how to create and manage a FLAG System account and prepare the new H-2A application forms. To obtain more information and view these instructional videos, please visit the H-2A Program page on the FLAG System. The new videos will be posted no later than September 6, 2019.

Additionally, OFLC will host an instructional webinar on **Tuesday, September 10, 2019**, to provide technical assistance to employers and authorized attorneys or agents on how to prepare the new H-2A application forms using the new FLAG System. Details of the webinars are as follows:

DATE: Tuesday, September 10, 2019, 2:00 p.m. Eastern Time  
 LINK: <https://dolevents.webex.com/dolevents/onstage/g.php?MTID=ee295e97298ca28d44eceb0443347c774>  
 Meeting Password: Welcome!68  
 Conference Number: 1-800-369-3357  
 Participant Passcode: 4532103

*Please note: Webinar is limited to 1,000 participants.*

● **August 19, 2019. FY 2019 3rd Quarter Selected Statistics Released**

The Office of Foreign Labor Certification (OFLC) has released updated program fact sheets containing the selected statistics for the 3rd quarter of FY 2019 for the Permanent Labor Certification Program, Prevailing Wage Determination Program, H-1B Temporary Visa Program, H-2A Temporary Agricultural Visa Program, and H-2B Temporary Non-agricultural Visa Program. These reports reflect program data through June 30, 2019. These fact sheets can also be found on OFLC's Performance Data page. Fact sheets for the CW-1 Nonimmigrant Visa Program will be released beginning in the 4th quarter of FY 2019; however, program information for the CW-1 program can be found in the 3rd quarter public disclosure data file.

● **August 19, 2019. FY 2019 3rd Quarter Cumulative Disclosure Data Released**

The Office of Foreign Labor Certification has released disclosure data files for the PERM, H-2A, H-2B, Prevailing Wage, H-1B, and CW-1 programs for the 3rd quarter of FY 2019.



quarter of FY 2019.

- **August 1, 2019. OFLC Website Routine Maintenance Service**

The Department will perform routine maintenance on OFLC's Website, <https://foreignlaborcert.doleta.gov/>, which will require a temporary outage from Friday, August 2, 2019, 3:00 p.m. Eastern Time until Tuesday, August 6, 2019, 8:00 a.m. Eastern Time. System users will not be able to access OFLC's website during this time. OFLC's case processing systems FLAG, iCERT, and PERM will continue to operate and be available for use. We apologize in advance for any inconvenience this may cause and thank you for your patience.

- **July 26, 2019. Publication of Notice of Proposed Rulemaking to Modernize and Improve the H-2A Temporary Agricultural Labor Program**

The Department of Labor (DOL) published a Notice of Proposed Rulemaking (NPRM) in the *Federal Register* to modernize and improve the H-2A program to include proposals that, among other things, would streamline and simplify the application process, strengthen protections for U.S. and foreign workers, and expand access to the H-2A program by revising the definition of agricultural labor to include employers engaged in reforestation and pine straw activities.

The Department seeks public comment on the NPRM **on or before September 24, 2019**. To obtain a copy of the NPRM published in the *Federal Register*, please click [here](#).

- **July 16, 2019. Occupational Employment Survey Wage Data Update**

On July 1, 2019, the Office of Foreign Labor Certification (OFLC) published the latest prevailing wage data from the Occupational Employment Survey as generated by the Bureau of Labor Statistics (BLS) for use July 2019-June 2020. Updates include:

- The Occupational Employment Statistics (OES) program has made changes to the metropolitan and nonmetropolitan area data. OES continues to publish data for metropolitan and nonmetropolitan areas that cover the full geography of the United States. However, the level of detail available has been reduced. [Learn more about the metropolitan and nonmetropolitan area changes.](#)
- OFLC continues to use the 2010 Standard Occupational Classification codes. However, where OES aggregated some occupations, OFLC disaggregated the occupations using the same wage for each detailed occupation. It should also be noted that due to limitations in the OES data, the wages for 45-3011 (Fishers and Related Fishing Workers) uses the mean wage for 45-0000 (Farming, Fishing, and Forestry Occupations). [Learn more about OES occupation changes.](#)

Please direct any questions or comments regarding the effect of the BLS updates on the prevailing wage determination process to the National Prevailing Wage Center help desk via email at [flc.pwd@dol.gov](mailto:flc.pwd@dol.gov).

- **July 15, 2019. The Department Proposes to Help America's Farmers with Rule to Modernize and Improve the H-2A Temporary Agricultural Labor Certification Program**

Furthering the agenda to help America's farmers, the Department of Labor (the Department), Employment and Training Administration and Wage and Hour Division, today is posting online a Notice of Proposed Rulemaking (NPRM) to solicit public comment on proposed changes to improve the H-2A temporary agricultural labor certification program. These proposed changes would

modernize the Department's H-2A regulations in a way that is responsive to stakeholder concerns and enhances employer access to a legal source of agricultural labor, while maintaining the program's protections for the U.S. workforce and enhancing enforcement against fraud and abuse.

The NPRM includes several major proposals that would streamline and simplify the H-2A application process, strengthen protections for U.S. and foreign workers, and ease unnecessary burdens on employers. For example, the NPRM would streamline the H-2A application process by mandating electronic filing of job orders and applications, promoting the use of digital signatures, and providing employers with the option of staggering the entry of H-2A workers on a single application.

The NPRM also proposes to strengthen protections for U.S. and foreign workers by enhancing standards applicable to rental housing and public accommodations, strengthening surety bond requirements, expanding the Department's authority to use enforcement tools like program debarment for substantial violations of program rules, and updating the methodologies used to determine the Adverse Effect Wage Rates and prevailing wages to ensure U.S. workers similarly employed are not adversely impacted.

Finally, the NPRM would expand access to the H-2A program by revising the definition of agricultural labor or services to include employers engaged in reforestation and pine straw activities, as workers performing these services share many of the same characteristics as traditional agricultural crews. The proposal would also codify and update procedures governing the certification for job opportunities in animal shearing, custom combining, beekeeping, and reforestation.

The Department is posting a copy of the NPRM in advance of its publication in the *Federal Register*. A copy of the NPRM can be found by clicking [here](#).

**Note** : This version of the proposed regulations may vary slightly from the published document if minor technical or formatting changes are made during the review by the Office of the Federal Register. Only the version published in the Federal Register is the official proposed regulation.

- **July 15, 2019. OFLC Announces List of Randomized H-2B Applications Submitted July 3-5 for Employers Seeking H-2B Workers Starting October 1, 2019.**

To keep the public informed regarding the submission and assignment of H-2B applications for review, the Office of Foreign Labor Certification (OFLC) is announcing the assignment group(s) for 493 H-2B applications covering 12,098 worker positions with the start date of work of October 1, 2019 randomly selected for assignment.

In accordance with procedures outlined in the Department's process change announcement of [February 26, 2019](#), OFLC successfully completed the randomization process on July 8 and assigned to NPC analysts all of the H-2B applications placed in Assignment Group A for issuance of Notices of Deficiency or Acceptance. Because the total number of H-2B applications contain an insufficient number of workers positions to reach the first semiannual visa allotment (i.e., 33,000), no other Assignment Groups were created.

Additionally, on July 8, 2019, OFLC provided written notice to each employer and, where applicable, the employer's authorized attorney or agent informing them about the Assignment Group for their application(s). To view the list of H-2B applications contained in Assignment Group A, [click here](#).

- **July 11, 2019. PERM System Routine Maintenance Service.**

On Thursday, July 11, 2019, the Department will be performing routine maintenance on the PERM System, which will require a temporary outage from 8:00 p.m. to 11:00 p.m. Eastern Time. System users will not be able to access the PERM System during this time. We apologize in advance for any inconvenience this may cause and thank you for your patience.

- **July 3, 2019. OFLC Announces Successful Launch of H-2B Electronic Filing in its New FLAG System for Employers Seeking H-2B Workers Starting Fiscal Year 2020.**

The Department of Labor's (Department) Office of Foreign Labor Certification (OFLC) is making this public service announcement to alert employers and other interested stakeholders about implementation of its new Foreign Labor Application Gateway (FLAG) System for the H-2B program.

On July 3, 2019, OFLC, in collaboration with the Department's Office of the Chief Information Officer, successfully launched a new H-2B Electronic Filing Module within the FLAG System to support employers seeking temporary labor certification to employ H-2B workers starting on or after October 1, 2019. As of 3:00 P.M. Eastern Time today, OFLC has **received approximately 326 H-2B applications covering more than 7,942 worker positions with no service interruptions**. Additionally, the Department deactivated the ability to file H-2B applications in the legacy iCERT system as of midnight today.

The Department recognizes that technology is a key enabler for OFLC to deliver the highest quality customer service, and implementing the FLAG System will ensure our technology capabilities are modern, secure, and resilient. Following the temporary service interruptions of January 1, 2019, the FLAG System modernization effort for the H-2B program was initiated in late March 2019 with the goal to replace the legacy iCERT H-2B module and provide improved and streamlined external customer experience starting with the Fiscal Year (FY) 2020

visa allotment season. The Department is pleased to announce that it met this goal by developing and deploying this new modernized solution using cloud-based technology.

To support implementation of the FLAG System's H-2B Electronic Filing Module, OFLC delivered a series of public webinars and provided instructional videos in June 2019 to educate stakeholders on how to obtain and manage user accounts and prepare for submission of new H-2B applications forms beginning July 3, 2019. Finally, for stakeholders who may experience any technical issues, the FLAG System offers a new automated "ticketing system" so customers can more efficiently request assistance and receive a unique service ticket number to effectively track resolution of their request.

On July 8, 2019, the Department will randomly select for assignment and processing all cases received between July 3rd and July 5th for October 1, 2019, employment start dates for the first half of the FY 2020 H-2B statutory cap, fully implementing the Department's process change announcement of [February 26, 2019](#), and efforts to provide a more equitable application process.

- **OFLC Announces Electronic Filing of H-2B Applications and Prevailing Wage Requests in the FLAG System**

The Office of Foreign Labor Certification (OFLC) reminds stakeholders of important changes for the electronic filing of the H-2B Application for Temporary Employment Certification form (Form ETA-9142B).

- **On July 3, OFLC will begin accepting online submissions of the H-2B Application for Temporary Employment Certification (Form ETA-**

### **9142B) in the FLAG System.**

- On July 2 at 11:59 p.m. Eastern Time, OFLC will no longer accept H-2B applications using the iCERT System.

- **OFLC Announces an Approved Updated CW-1 Program Survey from the CNMI Governor**

The Office of Foreign Labor Certification received an updated CW-1 wage survey from the Governor of the Commonwealth of Northern Mariana Islands (CNMI), including updates to the wages provided in the initial survey. OFLC has approved the Governor's second survey for 291 occupations and will begin issuing updated prevailing wages beginning July 1, 2019 for the occupations covered by the second survey. OFLC will post the updated CW-1 Wage Table under the "Prevailing Wage Information" tab on the [CW-1 program](#) page but will not apply the updated wages until July 1, 2019. The posting of the updated CW-1 Wage Table will coincide with the Bureau of Labor Statistics, Occupational Employment Statistics program wage updates that occur on July 1 of each year.

- **June 27, 2019. iCERT System Routine Maintenance Service**

On Friday, June 28, 2019, the Department will be performing routine maintenance on the iCERT System, which will require a temporary outage from 8:00 p.m. to 11:00 p.m. Eastern Time. System users will not be able to access the iCERT System during this time. We apologize in advance for any inconvenience this may cause and thank you for your patience.

- **June 14, 2019. OFLC Announces Webinar on June 21, 2019, to Demonstrate the Foreign Labor Application Gateway System**

As part of the U.S. Department of Labor's compliance assistance and technology modernization initiatives, the Foreign Labor Application Gateway (FLAG) System will replace the iCERT System in order to improve customer service and modernize the foreign labor certification process. With regards to the H-2B program, this enhanced platform will be effective on July 3, 2019.

The Employment and Training Administration's Office of Foreign Labor Certification invites stakeholders to participate in a webinar demonstrating the FLAG System and provide an opportunity for stakeholders to ask questions through an online chat room. Information regarding the FLAG System demonstration is as follows:

DATE: Friday, June 21, 2019, 2:00 p.m. Eastern Time

LINK: <https://dolevents.webex.com/dolevents/onstage/g.php?>

[MTID=e1945aff71eb8dcc31c42eb16f481729f](https://dolevents.webex.com/join/joinMTID=e1945aff71eb8dcc31c42eb16f481729f)

Meeting password: Welcome!68

Call-in information:

Conference Number: 1-800-369-1976

Participant Passcode: 2810956

Please note: Webinars are limited to 1,000 participants.

- **June 6, 2019. OFLC Announces New H-2B Application Forms For Use Beginning July 3, 2019, and Schedule for Electronic Filing in the FLAG System**

The Office of Foreign Labor Certification (OFLC) has received OMB approval for revisions to the H-2B Application for Temporary Employment Certification (Form ETA-9142B) and corresponding appendices, and related forms and

instructions. These revisions will better align information collection requirements with the Department's regulations, provide greater clarity to employers on regulatory requirements, standardize and streamline information collection to reduce employer time and burden preparing applications, and promote greater efficiency and transparency in OFLC's review and issuance of labor certification decisions under the H-2B program. This new form must be used for all new H-2B applications beginning July 3, 2019. To obtain a copy of the new H-2B application form and its instructions, please click [here](#).

### Transition Schedule for Submitting the New H-2B Application Forms

- **Beginning July 3, 2019**, OFLC will only accept H-2B applications submitted using the new Form ETA-9142B (i.e., forms containing an expiration date of May 31, 2022).
- Beginning July 3, 2019, OFLC will reject - without further review - H-2B applications submitted using the current version of Form ETA-9142B (i.e., forms containing an expiration date of May 31, 2019). OFLC will continue to accept H-2B applications using this form through 11:59 p.m. Eastern Time on July 2, 2019.

### Electronic Filing of the New H-2B Application Forms in the FLAG System

- **Beginning June 13, 2019**, the FLAG System's H-2B Program Module will be enabled and stakeholders will be able to begin preparing H-2B applications using the new Form ETA-9142B and corresponding appendices. However, the **FLAG System will not permit the submission of H-2B applications using the new forms until July 3, 2019**.
- OFLC will continue to accept online submissions of the current Form ETA-9142B through the iCERT System until 11:59 p.m. Eastern Time on July 2, 2019. The ability to submit H-2B applications using the iCERT System will be deactivated at this time.
- OFLC will process H-2B applications submitted through the iCERT System prior to July 3, 2019. Stakeholders will be able to access their iCERT System accounts to check the status of applications made through the iCERT System.
- Beginning July 3, 2019, all H-2B applications will be assigned for review in accordance with the [procedures announced by the Department on February 26, 2019](#).

### Technical Assistance Materials & Webinars

OFLC has created instructional videos to help educate the stakeholder community on how to create and manage a FLAG System account and prepare the Form ETA-9142B and corresponding appendices. To obtain more information and view these instructional videos, please visit the H-2B Program page on the FLAG System at <https://flag.dol.gov/>. The new videos will be posted on June 7, 2019.

Additionally, OFLC will host webinars on June 13, 2019, to provide technical assistance to employers and authorized attorneys or agents on the changes to the H-2B application forms.

Details of the webinars are as follows:

DATE: June 13, 2019

TIME: 10:00 a.m. Eastern Time and 2:00 p.m. Eastern Time

WEBINAR LINKS:

10:00 a.m. Eastern Time:

<https://dolevents.webex.com/dolevents/onstage/g.php?MTID=e485b340b4f791da058493683c7b26216>

2:00 p.m. Eastern Time:

<https://dolevents.webex.com/dolevents/onstage/g.php?MTID=e20df031b64d7816654e330548ae487a9>

Meeting password: Welcome!24

Both meetings will use this call-in information:

Conference Number: 1-888-790-3323

Participant Passcode: 8418168

*Please note: Each of the webinars is limited to 1,000 participants.*

- **June 5, 2019. Scheduled System Maintenance**

The iCERT system will be unavailable during the following time period for system maintenance: Thursday, June 6, 2019 from 8:00 pm to 11:00 pm EDT.

- **June 4, 2019. OFLC Announces Schedule for Electronic Filing of Prevailing Wage Requests in the Foreign Labor Application Gateway (FLAG) System**

As part of the Department's technology modernization initiative, the FLAG System is being developed to improve customer service and modernize the administration of foreign labor certification programs through the Employment and Training Administration's Office of Foreign Labor Certification (OFLC). Technology is a key enabler for OFLC to deliver the highest quality customer service, and implementing the FLAG System will ensure our technology capabilities are modern, secure, and resilient.

**FLAG System Implementation: Form ETA-9141**

- **Beginning Monday, June 10, 2019**, OFLC will accept online submissions of the Application for Prevailing Wage Determination (Form ETA-9141) in the FLAG System covering all visa programs.
- Beginning June 10, 2019, the capability to submit the Form ETA-9141 using the iCERT System will be deactivated. OFLC will continue to accept online submissions of the Form ETA-9141 through the iCERT System until 11:59 p.m. Eastern Time, Sunday, June 9, 2019.

**IMPORTANT REMINDER:** OFLC's National Prevailing Wage Center (NPWC) will process all Form ETA-9141s submitted through the iCERT System before 12:00 a.m. Eastern Time, Monday, June 10, 2019, and stakeholders will still be able to access their iCERT System accounts to check the status of their applications and obtain prevailing wage determinations.

**Technical Assistance Materials**

OFLC has developed a series of instructional videos to help educate the stakeholder community on how to create and manage a FLAG System account and content to prepare the Form ETA-9141 for submission to the NPWC. To obtain more information and view these instructional videos, please visit the Prevailing Wage Program page on the FLAG System at <https://flag.dol.gov/>. New videos will be posted Friday, June 7, 2019.

- **May 28, 2019. Acceptance of H-2A and Prevailing Wage Applications Starting June 2019.**

The H-2A Application for Temporary Employment Certification, Form ETA-9142A and Appendix A, and the Application for Prevailing Wage Determination,

Form ETA-9141, are set to expire on May 31, 2019. The Department is seeking approval from the Office of Management and Budget (OMB) to extend these application forms in one-month increments starting June 2019. Until OMB grants approval, employers are permitted to continue filing H-2A and prevailing wage applications using the current forms, including any approved one-month extensions, starting June 1, 2019.

- **May 17, 2019. CW-1 Program Implementation Frequently Asked Questions (FAQs).**

The Office of Foreign Labor Certification has developed FAQs for the implementation of the Department of Labor's [CW-1 Interim Final Rule](#) governing the CW-1 prevailing wage determination and temporary labor certification processes. The FAQs are posted on the CW-1 program page [here](#). The direct link to the FAQs may be found [here](#).

- **May 16, 2019. Employer Filing Issues, Best Practices, and IT Modernization Presentations.**

As part of the Office of Foreign Labor Certification's (OFLC) ongoing efforts to increase public outreach and technical assistance to the stakeholder community, OFLC is making available a series of presentations developed by its National Processing Centers highlighting recent trends in workload and identifying key filing issues and best practices. As part of the Department's IT modernization initiative, OFLC is also making available a general presentation on its new FLAG Labor Application Gateway (FLAG) System, which is designed to continuously improve OFLC business processes and stakeholder experience with our services. For more information on the FLAG System, please click [here](#).

Please click the hyperlinks below to access each presentation.

- [Chicago National Processing Center, Ask the CO's: H-2 Visa Programs](#)
- [National Prevailing Wage Center Updates](#)
- [PERM Labor Certification Program Updates](#)
- [Foreign Labor Application Gateway \(FLAG\) System](#)

- **May 13, 2019. OFLC Issues PERM Round 14 Frequently Asked Questions**

The Department is issuing this announcement that PERM Round 14 FAQ regarding PERM withdrawals, Requests for Reconsideration or BALCA Review, and Pay Differentials (Cost-of-Labor Adjustments) has been posted. To access the new FAQs, please click [here](#).

- **May 9, 2019. OFLC Announces an Approved CW-1 Program Survey from the CNMI Governor**

The Office of Foreign Labor Certification (OFLC) received a CW-1 wage survey from the Governor of the Commonwealth of the Northern Mariana Islands (CNMI) covering 84 occupations. OFLC has approved the Governor's survey and started issuing CW-1 prevailing wage determinations today using the survey wages for occupations covered by the Governor's survey. OFLC has also posted the survey wages under the "Helpful Links" tab on the [CW-1 program page](#).

- **May 8, 2019. Form ETA-9142-B-CAA-3**

The Office of Foreign Labor Certification (OFLC) has published Form ETA-9142-B-CAA-3 and the accompanying instructions in support of the temporary rule jointly issued by the Department of Homeland Security and the Department of Labor, titled "Exercise of Time-Limited Authority to Increase the Fiscal Year 2019 Numerical Limitation for the H-2B Temporary Nonagricultural Worker Program." The temporary rule was published in the Federal Register on May 8,

2019, with an immediate effective date. The Secretary of Homeland Security has decided, after consultation with DOL, to increase the H-2B cap for FY 2019 by up to 30,000 additional visas for American businesses that are likely to suffer irreparable harm (that is, permanent and severe financial loss) without the ability to employ all of the H-2B workers requested on their respective petitions before the end of FY 2019. The temporary rule requires an employer to conduct additional recruitment of U.S. workers when it submits a request to DHS for H-2B visas made available by the regulation if the employer submits that request to DHS more than 45 days after the start date of need listed on the temporary labor certification issued by DOL. The temporary rule also requires that, for purpose of the FY 2019 one-time increase, any H-2B nonimmigrants falling under this cap increase be limited to returning workers who were issued an H-2B visa or were otherwise granted H-2B status in FY 2016, 2017, or 2018. This attestation must be submitted to the United States Citizenship and Immigration Services along with Form I-129, in support of an H-2B application subject to the H-2B cap before the end of Fiscal Year 2019. The attestation is also available on the Forms and Instructions section of the OFLC website found at:

<https://www.foreignlaborcert.doleta.gov/form.cfm>.

- **May 8, 2019. FY 2019 Q2 Selected Statistics**

The Office of Foreign Labor Certification (OFLC) has posted updated program factsheets containing the Quarter 2 FY 2019 selected statistics for the [Permanent Labor Certification Program](#), [Prevailing Wage Determination Program](#), [H-1B Temporary Visa Program](#), [H-2A Temporary Agricultural Visa Program](#), and [H-2B Temporary Non-agricultural Visa Program](#). Reports are derived from program data as of 3/31/2019. The updated program factsheets may also be found on OFLC's Performance Data [page](#).

- **May 8, 2019. FY 2019 Q2 Cumulative Disclosure Data**

The Office of Foreign Labor Certification PERM, H-2A, H-2B, Prevailing Wage, and H-1B program disclosure data files for Quarter 2 of FY 2019 are now available. Click [here](#) to access the disclosure files and corresponding record layouts.

- **May 2, 2019. Scheduled System Maintenance**

The iCERT system will be unavailable during the following time period for system maintenance: Thursday, May 2, 2019 from 8:00 pm to 11:00 pm EDT.

- **April 22, 2019. FY 2019 H-2B Foreign Labor Recruiter List**

Pursuant to 20 CFR § 655.9(c), the Office of Foreign Labor Certification (OFLC) is publishing an updated list of the names of foreign labor recruiters and the identity and location of persons or entities hired by or working for the recruiter that employers have indicated they engaged, or planned to engage, in the recruitment of prospective H-2B workers to perform the work described on their Form ETA-9142B, *H-2B Application for Temporary Employment Certification*. The H-2B Foreign Labor Recruiter List includes cumulative cases filed from October 1, 2018 through March 31, 2019.

By providing this Foreign Labor Recruiter List, OFLC is providing a greater level of transparency to the H-2B worker recruitment process and facilitating information sharing between the Department and other agencies and the public. The list will be updated quarterly and can be accessed [here](#). FAQs regarding the Foreign Labor Recruiter List have been posted as 2017 H-2B IFR FAQs Round 16 and can be accessed [here](#). Archived Foreign Labor Recruiter Lists may be found [here](#).



- **April 11, 2019. Scheduled System Maintenance**

The iCERT and PERM systems may be unavailable during the following time period for system maintenance: Friday, April 12, 2019 from 10:00 pm EDT to Saturday, April 13, 12:00 pm EDT.

- **April 11, 2019. PERM System Maintenance**

The PERM system will be unavailable during the following time period for system maintenance: Thursday, April 11, 2019 from 8:00 pm EDT to 11:00 pm EDT.

- **April 1, 2019. OFLC Announces Updates to Implementation of the Interim Final Rule (IFR) for Temporary Employment in the Commonwealth of the Northern Mariana Islands (CW-1 Workers)**

Publication of CW-1 IFR: On April 1, 2019, the Office of the Federal Register published the Department's IFR, as required by the Northern Mariana Islands U.S. Workforce Act of 2018 (Pub. L. 115-218). To read the full text of the CW-1 IFR in the Federal Register, please click [here](#). **The CW-1 IFR will become effective on April 4, 2019, at 12:00 a.m. Eastern Time .**

Application Forms to Implement the CW-1 IFR: The Office of Management and Budget (OMB) has authorized use of the Forms ETA-9141C, *Application for Prevailing Wage Determination* and ETA-9142C, *Application for Temporary Employment Certification*, and the accompanying general instructions to support implementation of the CW-1 IFR. To obtain a copy of the application forms, please visit the Form and Instructions section of the OFLC website [here](#).

Implementation of CW-1 Electronic Filing Module: As required by the CW-1 IFR and except for employers that lack adequate access to electronic filing, either due to lack of internet access or physical disability, employers must use OFLC's Foreign Labor Application Gateway (FLAG) System to file the OMB-approved application forms. Employers are required to submit the Form ETA-9141C and obtain a valid Prevailing Wage Determination (PWD) before filing the Form ETA-9142C requesting temporary labor certification.

At 3:00 p.m. Eastern Time on April 1, 2019, OFLC's FLAG System will permit employers and their authorized attorneys or agents to begin preparing requests for PWDs in advance of the CW-1 IFR's effective date. However, employers will not be able to submit requests for PWDs until the CW-1 IFR becomes effective on April 4, 2019, at 12:00 a.m. Eastern Time. To access OFLC's FLAG System, please click [here](#).

- **March 26, 2019. Webinar Announcement: Program Overview: The Commonwealth of the Northern Mariana Island (CNMI) CW-1 Application for Temporary Employment Certification**

As part of the Office of Foreign Labor Certification's (OFLC) ongoing efforts to increase public outreach and awareness, and to provide the outreach and training required by the CNMI Workforce Act, OFLC will host two webinars on March 28, 2019, and April 2, 2019 Chamorro Standard Time (GMT+10). The webinars are designed to provide technical assistance to employers and, if applicable, their authorized attorneys or agents on how to complete and submit a CW-1 Application for Temporary Employment Certification. The content of both webinars will be the same.

**Details of the webinars are as follows:**

DATE: March 28, 2019 & April 2, 2019

TIME: 8:00 a.m - 9:30 a.m Chamorro Standard Time

Or

6:00 p.m - 7:30 p.m EST (March 27, 2019 & April 1, 2019)

March 28, 2019 Chamorro Standard Time (March 27 EST) Webinar Link:

<https://dolevents.webex.com/dolevents/onstage/g.php?>

[MTID=ec8b22804075b9d3689d107f3b6ef5f1c](https://dolevents.webex.com/dolevents/onstage/g.php?MTID=ec8b22804075b9d3689d107f3b6ef5f1c)

April 2, 2019 Chamorro Standard Time (April 1 EST) Webinar Link:

<https://dolevents.webex.com/dolevents/onstage/g.php?>

[MTID=e236a06b6c9f922d90384d08b3f60a6ce](https://dolevents.webex.com/dolevents/onstage/g.php?MTID=e236a06b6c9f922d90384d08b3f60a6ce)

Teleconference (Both meetings can use the same numbers below)

Toll-Free Phone Number: 888-603-7040

Toll Number: 1-312-470-0014

Participant Passcode: 8026950

Meeting password (both meetings): Welcome!24

- March 26, 2019. Federal Register Notice. Labor Certification Process for the Temporary Employment of H-2A and H-2B Foreign Workers in the United States: Annual Update to Allowable Charges for Agricultural Workers' Meals and for Travel Subsistence Reimbursement, Including Lodging**

The Employment and Training Administration (ETA) of the Department of Labor has issued a notice in the Federal Register to announce the annual update to the allowable charges that employers seeking H-2A workers in occupations other than range herding may charge their workers when the employer provides three meals a day and the maximum travel subsistence meal reimbursement that a worker with receipts may claim under the H-2A and H-2B programs. The notice also includes a reminder regarding employers' obligations with respect to overnight lodging costs as part of required subsistence. To read the notice, please click [here](#).

- March 25, 2019. Department of Labor Announces the Interim Final Rule for Temporary Employment in the Commonwealth of the Northern Mariana Islands (CW-1 Workers)**

**WASHINGTON, DC** - The Department of Labor (the Department or DOL) is posting an Interim Final Rule (IFR) as required by the Northern Mariana Islands U.S. Workforce Act of 2018 (Workforce Act), Pub. L. 115-218 (July 24, 2018). DOL is posting a copy of the IFR in advance of its publication in the *Federal Register*. A copy of the IFR can be found at [https://www.foreignlaborcert.doleta.gov/pdf/CNMI\\_IFR.pdf](https://www.foreignlaborcert.doleta.gov/pdf/CNMI_IFR.pdf).

The IFR establishes the process by which an employer in the Commonwealth of the Northern Mariana Islands (CNMI) will obtain a prevailing wage and temporary labor certification (TLC) from the Department for use in petitioning the Department of Homeland Security (DHS) to employ a nonimmigrant worker in CW-1 visa status. As required by the Workforce Act, a TLC granted by the Department serves as confirmation to DHS that an insufficient number of qualified U.S. workers are available to fill the employer's job opportunity in the CNMI, and the employment of a CW-1 worker will not adversely affect the wages or working conditions of similarly employed U.S. workers.

The Department's actions will help employers, through more robust domestic recruitment, find U.S. workers for positions the employers would otherwise seek to fill with CW-1 workers. The rule also establishes important protections for both CW-1 workers and U.S. workers in corresponding employment and ensures that no U.S. worker is placed at a competitive disadvantage compared to a CW-1 worker or is displaced by a CW-1 worker. Several provisions will improve transparency between employers and workers, such as requiring

improve transparency between employers and workers, such as requiring employers to provide workers with detailed earnings statements on or before each payday, disclose all deductions from pay, and a copy of the work contract in a language understood by the workers. To protect the program from fraud and abuse, the Department has authority to impose sanctions on employers who violate program requirements, such as more intensive or assisted recruitment requirements, revocation of a granted TLC, and debarment from all employment-based immigration programs administered by the Department for up to five years.

The IFR will be effective on and after April 4, 2019, at 12:00 a.m. Eastern Time. The IFR will provide the public with a comment period, lasting 60 days from the date the IFR is published in the *Federal Register*, during which interested parties will be able to submit public comments on the rule. **No CW-1 applications will be accepted until the IFR goes into effect on April 4, 2019.**

CW-1 employers will use the Foreign Labor Application Gateway (FLAG), which can be accessed at the following website: <https://flag.dol.gov>. The Department will provide user guides and conduct informational webinars on the new system for the public beginning this week.

In the coming weeks, the Department will conduct outreach and provide materials on the new regulatory requirements for stakeholders interested in the CW-1 program, and further details on those outreach events and materials will be announced on the OFLC website at [www.foreignlaborcert.doleta.gov](http://www.foreignlaborcert.doleta.gov). In the meantime, interested stakeholders may obtain a detailed factsheet on the new regulations, [https://www.foreignlaborcert.doleta.gov/pdf/CNMI\\_IFR\\_Factsheet.pdf](https://www.foreignlaborcert.doleta.gov/pdf/CNMI_IFR_Factsheet.pdf), as well as a copy of the IFR that will be published in the *Federal Register*, [https://www.foreignlaborcert.doleta.gov/pdf/CW\\_IFR.pdf](https://www.foreignlaborcert.doleta.gov/pdf/CW_IFR.pdf), at the enclosed links.

**Note :** These versions of the regulations may vary slightly from the published document if minor technical or formatting changes are made during the review by the Office of the Federal Register. Only the version published in the Federal Register is the official regulation.

- **February 26, 2019. Department Announces Updates to its Procedures for Processing H-2B Applications for Temporary Labor Certification**

The Department today announced updates to its procedures for processing H-2B applications. Because of the intense competition for H-2B visas in recent years, the Department's technology and available staff resources have been challenged to handle the increasingly large volume of H-2B applications filed on January 1 of each year. As a result of stakeholder comments and the most recent filing period in which the iCERT electronic filing system experienced a service disruption due to the large volume of system user requests, the Department's Office of Foreign Labor Certification (OFLC) reassessed its procedures for processing H-2B applications.

Today, OFLC announced that all H-2B applications filed on or after July 3, 2019 will be randomly ordered for processing based on the date of filing and the start date of work requested. OFLC will randomly order and assign for processing all of the H-2B applications requesting the earliest start date of work permitted under the semi-annual visa allocation (i.e., October 1 or April 1) and filed during the first three calendar days of the regulatory time period for filing H-2B applications. Once first actions are issued, OFLC will randomly assign for processing all other H-2B applications filed on a single calendar day.

OFLC is seeking comments on this procedural change for a period of 30

calendar days from the date that the notice is published in the Federal Register.

Interested stakeholders may submit comments to

[H2BReform.Comments@dol.gov](mailto:H2BReform.Comments@dol.gov) or Thomas M. Dowd, Deputy Assistant Secretary, Employment and Training Administration, U.S. Department of Labor, Box PPII 12-200, 200 Constitution Avenue, NW, Washington, DC 20210.

OFLC will review all of the comments received, make any changes it determines are appropriate, and issue a final announcement prior to July 3, 2019.

Stakeholders can access a full copy of the procedural announcement [here](#).

- **Scheduled Maintenance - Presidents Day Weekend**

The U.S. Department of Labor will be conducting scheduled system maintenance beginning Friday, February 15 at 5:00 p.m. ET through Tuesday, February 19 at 8:00 a.m. ET. Users should expect that OFLC's website, <https://www.foreignlaborcert.doleta.gov/>, and the **iCERT** and **PERM** systems will be unavailable during the maintenance window.

- **February 13, 2019. Published 60 Day Notice for Information Collection Related to Form ETA-9141, Application for Prevailing Wage Determination**

The Department of Labor (the Department) published a 60-day notice in the *Federal Register* informing the public of proposed revisions to Form ETA-9141, *Application for Prevailing Wage Determination*, for the purpose of requesting public comments. The objectives of the Form ETA-9141 revisions are to better align information collection requirements with the Department's current regulatory framework, streamline information collection across programs to reduce employer's time and burden in preparing applications, and promote greater efficiency and transparency in the Office of Foreign Labor Certification's (OFLC) review and issuance of prevailing wage determinations. Proposed changes to the form include addition of fields for the name and details of the attorney or agent filing the form on behalf of its employer client, formatted field for alternative requirements for the job opportunity instead of the current free-text field, and addition of an appendix to standardize the collection of requests for prevailing wage determinations for multiple worksites. Any written comments must be submitted in accordance with the *Federal Register* notice instructions. Copies of the 60 day notice, Supporting Statement, and the proposed forms and instructions are provided below:

- [Federal Register notice](#)
- [60-Day Supporting Statement](#)
- [Proposed Form ETA-9141](#)
- [Proposed Form ETA-9141, General Instructions](#)
- [Proposed Form ETA-9141, Appendix A](#)

- **February 7, FY 2019 Q1 Selected Statistics**

The Office of Foreign Labor Certification has posted updated program factsheets containing the Quarter 1 FY 2019 selected statistics for the [Permanent Labor Certification Program](#), [Prevailing Wage Determination Program](#), [H-1B Temporary Visa Program](#), [H-2A Temporary Agricultural Visa Program](#), and [H-2B Temporary Non-agricultural Visa Program](#). Reports are derived from program data as of 12/31/2018. The updated program factsheets may also be found on OFLC's Performance Data [page](#).

- **February 7, 2019. FY 2019 Q1 Cumulative Disclosure Data**

The OFLC PERM, H-2A, H-2B, Prevailing Wage, and H-1B program disclosure data files for Quarter 1 of FY 2019 are now available. Click [here](#) to access the disclosure files and corresponding record layouts.

- **January 31, 2019. FY 2019 H-2B Foreign Labor Recruiter List**

Pursuant to 20 CFR § 655.9(c), the Office of Foreign Labor Certification (OFLC) is publishing an updated list of the names of foreign labor recruiters. The list also contains the identity and location of persons or entities hired by, or working for, the recruiter that employers have indicated they engaged, or planned to engage, in the recruitment of prospective H-2B workers to perform the work described on their Form ETA-9142B, H-2B Application for Temporary Employment Certification. The H-2B Foreign Labor Recruiter List includes cumulative cases filed from October 1, 2018 through December 31, 2018.

By providing this Foreign Labor Recruiter List, OFLC is providing a greater level of transparency to the H-2B worker recruitment process and facilitating information sharing between the Department of Labor, other agencies, and the public. The list will be updated quarterly and can be accessed [here](#). FAQs regarding the Foreign Labor Recruiter List have been posted as 2017 H-2B IFR FAQs Round 16 and can be accessed [here](#). Archived Foreign Labor Recruiter Lists may be found [here](#).

- **January 11, 2019. OFLC Issues H-2B Processing Announcement.**

In continuing to keep the public well-informed regarding submission and processing of H-2B Applications for Temporary Employment Certification and the iCERT system, the Department of Labor (the Department) has the following updates:

**The Department is processing applications according to procedures announced on June 1, 2018, whereby applications are assigned to analysts for processing based on the date and time at which the application was received into the system. Under normal, pre-established procedures,**

**Notices of Acceptance and Notices of Deficiency will be issued on a rolling basis, and certifications will be issued as the employer meets all regulatory requirements.**

**Applicants' official receipt date and time are saved in the iCERT database and displayed on the applicants H-2B Portfolio Screen. This official date and time determines the order in which applications are assigned for processing.**

The Department has received questions about the difference between timestamps displayed in iCERT and timestamps contained in emails confirming the submission of applications. When an applicant submits an application, the system generates a courtesy email to the applicant which confirms the submission. The date and time in the courtesy email, however, does not represent the official date and time of the applicant's submission. Rather, it indicates the time at which the email was generated. To reiterate, the official date and time of each application may be viewed in the applicant's H-2B Portfolio Screen through the applicant's iCERT system account.

The Department undertook an after-action analysis of the iCERT system's January 7, 2019 performance. Through a review of the data logs, the Department has determined that 186 applicants submitted the same application more than once in the iCERT system. Because the iCERT database overwrites the previous date and time stamp when a new submission is made, the official date and time saved in the iCERT database is the date and time of the final submission. For these 186 applications, the Department was able to determine the time of the first submission down to the second. For the 152

applicants with multiple submissions within the same second, the final time stamp to the millisecond is reflected in the official date and time. In the remaining 34 cases, the submissions were made outside of the same second. Those applications are now at the first submission's second. These time stamps are reflected in the official receipt date and time that may be viewed on the H-2B Portfolio Screen through an iCERT system account.

Some users received an outage banner which delayed or blocked access to the H-2B page in the iCERT system. To increase processing capacity on January 7, 2019, the Department scaled up iCERT infrastructure to 50 load-balanced servers. One of the pathways to these servers did not allow access to the iCERT's H-2B module system at the 2:00 p.m. EST opening of the system, and for approximately two and half hours thereafter. All iCERT users were randomly assigned to a server at log-on as per a standard load-balancing algorithm. As a result, users assigned to this particular pathway experienced the outage banner and may have been delayed from getting into iCERT's H-2B module.

In addition, the Department received questions regarding whether there was a restoration of data due to data corruption. There was no restoration of data from back-up and no data corruption found connected to the system disruption of January 1, 2019.

The Department was notified that some applicants were missing certain required data or attachments from their applications. As per standard practice, applicants are encouraged to log into their iCERT accounts and verify that their applications are complete and accurate. If any attachments are missing, applicants may upload them at any time. If any required data fields on the ETA-9142B are missing or inaccurate, applicants may contact the Office of Foreign Labor Certification (OFLC) help desk at [tlc.chicago@dol.gov](mailto:tlc.chicago@dol.gov) and provide the relevant H-2B case number and explain the necessary corrections.

In light of the unprecedented demand for H-2B labor certifications, the Department is considering rulemaking changing the process by which applications are ordered for processing, including randomization and other methods. In the interim, the Department welcomes comments and suggestions from the public on these matters. Comments and suggestions should be directed to the [H2BReform.Comments@dol.gov](mailto:H2BReform.Comments@dol.gov).

- **January 8, 2019. OFLC Issues H-2B Processing Announcement.**

The Department of Labor's (DOL) Office of Foreign Labor Certification (OFLC) is making this public service announcement to alert employers and other interested stakeholders about the high volume of applications received requesting temporary labor certification under the H-2B visa program.

**OFLC has received for processing approximately 5,276 H-2B applications covering more than 96,400 worker positions.** Except where a statutory exemption applies, the Department of Homeland Security (DHS) may only issue up to 33,000 H-2B visas for employers seeking to hire H-2B workers during the second half of FY 2019 (April 1 to September 30). This unprecedented level of employer requests for H-2B workers is nearly three times greater than the 33,000 semi-annual visa allotment for FY 2019 permitted under the Immigration and Nationality Act (INA). The OFLC takes each request for temporary labor certification seriously and administers the labor certification program in a manner that protects the wages and working conditions of both H-2B and U.S. workers who support the seasonal workforce needs of U.S. small businesses, consumers, and communities.

### **Processing of H-2B Applications**

In order to process this significant surge of applications in a more equitable manner and to clarify the time at which an application is received, OFLC issued a public announcement on June 1, 2018, that it will sequentially assign H-2B applications to analysts based on the calendar date and time on which the applications are received (i.e., receipt date and time). Receipt time will be measured to the millisecond, e.g., 12:00:00.000 a.m. OFLC's technology servers are located in the Eastern Time Zone; therefore, the time an application is received and assigned to analysts is based on Eastern Time (ET). Applications submitted from other time zones may be filed as early as 12:00:00.000 a.m. ET.

Once assigned, the analysts will initiate review of each H-2B application in the order of receipt date and time, and in accordance with 20 C.F.R. 655.30. Based on the analyst's review, the Certifying Officer (CO) will authorize issuance of either a Notice of Acceptance (NOA) under 20 C.F.R. 655.33 or a Notice of Deficiency (NOD) under 20 C.F.R. 655.31. Following issuance of NOAs and/or NODs, the applications will be processed as each successive stage in the process is completed. Employers receiving NOAs may proceed to meet the additional regulatory requirements, including recruitment of U.S. workers and submission of recruitment reports. Employers receiving NODs must correct any deficiencies and then receive a NOA before proceeding to meet the additional regulatory requirements. As a result, for each application, analysts' review of NOD responses and recruitment reports, and issuance of final decisions (certifications and denials) will follow in the order in which each sequential step required by the regulations is concluded, irrespective of the receipt time of the application.

As required, OFLC will grant temporary labor certification only after the employer's H-2B application has met all the requirements for approving labor certification under 20 CFR 655.50 and the subpart. In accordance with regulatory requirements, OFLC will send all certified H-2B applications to the

applicant by means normally assuring next day delivery. OFLC will issue rejections, withdrawals, and denials of labor certification applications as each determination is made by the CO.

### **Background on Statutory Limit of H-2B Visas**

The INA set at 66,000 the annual number of aliens who may be issued H-2B visas or otherwise provided H-2B nonimmigrant status by the DHS to perform temporary non-agricultural work. Up to 33,000 H-2B visas may be issued in the first half of a fiscal year (October 1 to March 31), and the remaining annual allocation will be available for employers seeking to hire H-2B workers during the second half of the fiscal year (April 1 to September 30). If insufficient petitions are approved to use all H-2B numbers in a given fiscal year, the unused numbers cannot be carried over for petition approvals in the next fiscal year.

On December 12, 2018, the DHS United States Citizenship and Immigration Services (USCIS) announced that the first half of the annual number of H-2B visas for Fiscal Year (FY) 2019 was reached and, except where a statutory exemption applies, USCIS will reject new H-2B petitions requesting an employment start date on or before March 31, 2019. In accordance with the INA, USCIS will accept new H-2B petitions for the remaining 33,000 visas available for FY 2019 where the employer has received a temporary labor certification from the DOL and requests an employment start date on or after April 1, 2019.

- **January 7, 2019. OFLC Issues Last Status Update Today on the iCERT System.**

**LAST OPERATING STATUS**: The Department's iCERT Rapid Response Team has continued to monitor the iCERT system, which has consistently been open for service since 2:00 p.m. EST and successfully handled the submission of approximately 5,021 H-2B applications covering more than 92,400 workers positions for an April 1, 2019, start date of work **within the first two hours of operation**.

Application filing services through the iCERT system will remain open and the Department will continue to closely monitor the situation.

- **January 7, 2019. OFLC Issues Status Update on the iCERT System.**

**OPERATING STATUS**: The Department's iCERT Rapid Response Team has continued to monitor the iCERT system, which has now successfully handled the submission of approximately 4,749 H-2B applications covering more than 87,900 workers positions for an April 1, 2019, start date of work **within the first one hour of operation**.

Application filing services through the iCERT system will remain open and the Department will continue to closely monitor the situation.

- **January 7, 2019. OFLC Issues Status Update on the iCERT System.**

**OPERATING STATUS**: The iCERT system for application processing opened for service promptly at 2:00 p.m. EST today. The Department's iCERT Rapid Response Team continuously monitored the system's server capacity, which successfully handled the submission of approximately 4,195 H-2B applications covering more than 79,500 workers positions for an April 1, 2019, start date of work **within the first 30 minutes of operation**.

Application filing services through the iCERT system will remain open and the Department will continue to closely monitor the situation.

- **January 7, 2019. OFLC Issues Step-by-Step Instructions for Emergency Backup H-2B Applications Filing Process if iCERT System Disruption Occurs.**

The iCERT system for application processing is scheduled to **open at 2:00 p.m. EST on MONDAY, JANUARY 7, 2019.**

The Department has enhanced system capacity and performed intensive testing and performance tuning on the iCERT system to simulate the expected activity of a large number of simultaneous system users. Out of an abundance of caution, the Department is prepared to activate an emergency application filing process, called the H-2B Case Submission Ticketing Portal, in the unlikely event a system disruption occurs or the Department determines that it is prudent to activate.

During the stakeholder conference call held on Friday, January 4, 2019, the Department committed to providing the stakeholder community with procedural information on the emergency application filing process before 12:00 p.m. EST today. Accordingly, the Department provided iCERT system account holders, who have a pending H-2B application containing a start date of work on or after April 1, 2019, with step-by-step instructions for using the H-2B Case Submission Ticketing Portal. The electronic mail (e-mail) communications were issued throughout the early morning hours today. To view a sample of the electronic communication sent to iCERT system account holders with a pending H-2B application, please click [here](#).

Important Reminder: This web service portal will only be activated in the event of an emergency or the Department's determination that it is prudent to activate and upon electronic notice from the Department through the iCERT



system website ( <https://icert.doleta.gov>).

- **January 6, 2019. OFLC Issues Frequently Asked Questions Related to Passwords for the iCERT System**

The Department held a conference call on Friday, January 4, 2019, to update stakeholders on the status of the iCERT system and timeline to restore services **at 2:00 p.m. EST on MONDAY, JANUARY 7, 2019**. The Department is issuing this announcement in response to specific questions regarding passwords for the iCERT system. To access the new FAQs, please click [here](#).

- **January 4, 2019. OFLC Issues Frequently Asked Questions Regarding the iCERT System**

The iCERT system for application processing is tentatively scheduled to **open at 2:00 p.m. EST on MONDAY, JANUARY 7, 2019**.

Today, the U.S. Department of Labor held a conference call to update stakeholders on the status of the iCERT system. The Department is confident the iCERT System will open for service at 2:00 p.m. Eastern on Monday, January 7, 2019. The Department is issuing this announcement in order to respond to important questions stemming from today's conference call impacting the broader stakeholder community. To access the FAQs, please click [here](#).

Due to an unprecedented volume of simultaneous system users that included applications for 97,800 workers on January 1, 2019, the legacy iCERT System experienced a failure preventing applications for H-2B temporary labor certifications from being submitted to the Department.

The Department's iCERT Rapid Response team has been working non-stop to address all issues. Steps taken to recover and restore stability to the iCERT System include:

- Increasing web server capacity to 50 servers for managing the increased number of system users who need to submit applications;
- Instituting a "CAPTCHA" feature at the iCERT login stage to ensure individuals, as opposed to computer algorithms, are interacting with the system, and;
- Continuing to perform intensive testing and performance tuning on the iCERT system to simulate the functional load volume and activity of a large number of simultaneous system users.

The H-2B program is statutorily limited to 66,000 worker positions annually with 33,000 allocated to each half of the fiscal year. H-2B applications are date and time stamped to establish the order of submission, because of the demand for the program. A huge surge in user activity is expected upon the reopening of the iCERT System on January 7, especially in the first 15 minutes. The non-H-2B users should not attempt to log into the system until 3:00 p.m. The Department's iCERT Rapid Response Team will be monitoring the system's servers continuously when services are restored.

Out of an abundance of caution, we have established and will be prepared to activate a backup solution should an unlikely new system disruption occur. We understand how important our programs are for employers and realize this workforce is critical to meeting the seasonal needs of many employers across the nation.

- **January 3, 2019. OFLC Issues Status Update on Availability of the iCERT System**

The iCERT system for application processing is tentatively scheduled to **open at 2:00 p.m. EST on MONDAY, JANUARY 7, 2019.**

The Department is currently testing the system to process a record number of applicants. DOL has made 50 servers available for processing, more than eight times as many as available for processing on January 1, 2019.

To offer a further detailed update, senior leaders of the Employment and Training Administration will be conducting a conference call **TOMORROW, FRIDAY, JANUARY 4, 2019 at 2:00 p.m EST.** to provide a further update on the status of the iCERT system. **The conference call can be accessed by calling 1-888-946-6304 and using participant code 9462870.**

- **January 3, 2019. OFLC Issues Frequently Asked Question Regarding H-2A Applications Impacted by the iCERT system failure on January 1**

QUESTION : I am an H-2A employer impacted by the iCERT system failure that occurred in the early morning of January 1, 2019, and was not able to file my application 45 days before the start date of work. When system service is restored, will the Chicago NPC consider the recent system outage as a qualifying emergency?

ANSWER : Yes. The Department recognizes that some employers are not able to submit their H-2A applications at least 45 calendar days before the start date of work due to the temporary iCERT system outage. We consider this situation to qualify as good and substantial cause under 20 CFR 655.134. When the

Department has restored system service, employers with start dates of need less than 45 days from the date of restored service may file their H-2A applications with the Chicago NPC using emergency procedures and should include a statement that their request for a waiver of the regulatory timeframe for filing is based on the temporary iCERT system outage.

- **January 3, 2019. OFLC Issues Frequently Asked Questions Regarding H-2B Applications Mailed to the Chicago NPC**

QUESTION : I am an employer impacted by the iCERT system failure that occurred in the early morning of January 1, 2019. May I submit my H-2B application by mail to the Chicago National Processing Center (NPC)?

ANSWER : Yes. In accordance with 20 CFR 655.15(c), an employer may submit the H-2B Application for Temporary Employment Certification and all required supporting documentation to the NPC either electronically or by mail. An employer submitting by mail must send the H-2B application to the address listed below.

Office of Foreign Labor Certification  
Chicago National Processing Center  
11 West Quincy Court  
Chicago, IL 60604-2105  
ATTN: H-2B Program Unit

The Chicago NPC **does not accept** hand delivered applications.

QUESTION : I am an employer who mailed an H-2B application to the Chicago NPC and I understand from the Department of Labor's June 1, 2018, public announcement that applications are assigned to analysts based on the calendar date and time on which the applications are received. What procedures does the Chicago NPC use for mailed-in applications and how are the receipt dates and times affixed to these applications?

ANSWER : The Chicago NPC receives two shipments of mail each business day; one at approximately 10:00AM Central Standard Time (CST) and a second one at 2:00PM CST. For each shipment received, consistent with standard operating procedures, the Chicago NPC opens each mail item and establishes a receipt date. The following summarizes how the Chicago NPC handles mailed-in applications:

- Each application is assigned to a Chicago NPC data entry clerk;
- All data from each mailed-in application is fully entered into the iCERT system by an assigned data entry clerk based on the receipt date;
- Each application is assigned a date and timestamp based on the date and time the Chicago NPC data entry clerk submits the application after completing the data entry, not the date the application is originally received at the Chicago NPC; and
- After each application is submitted for processing by the Chicago NPC data entry clerk, the iCERT system issues a courtesy email notification that includes the date and timestamp of submission.

Important Note: As a result of the process described above, applications sent by mail will generally be filed in the system more slowly. The opening of mail and subsequent timely entry of the mailed-in applications is highly sensitive to the level of data entry resources available at the Chicago NPC. Submitting identical applications electronically and by mail is also not recommended and it may delay the processing of your application.

- **January 2, 2019. Important Announcement Regarding the Availability of the iCERT System for H-2B Program Filings**

Within the first five minutes of opening the semi-annual H-2B certification process on January 1, 2019, the U.S. Department of Labor iCERT system had an unprecedented demand for H-2B certifications with more than 97,800 workers requested in pending applications for the 33,000 available visas. With more than thirty-times the user demand on the iCERT system compared to last year on January 1, the iCERT system experienced a system disruption. The Employment and Training Administration, working with the Department of Labor's Office of the Chief Information Officer, is working diligently to have the system ready within a few days to accept a record number of H-2B applications. Enhancing system capacity and dealing with other factors such as the possible use of automated script programs during the application process are being addressed in iCERT to ensure certifications can be processed. As previously stated, the Department will be giving at least 24 hours' notice before the iCERT system is re-opened. A further update will be provided on Thursday, January 3, 2019.

## Calendar Year 2018

- **December 27, 2018. OFLC National Processing Centers Are Open**

The Department of Labor's (DOL) Office of Foreign Labor Certification (OFLC) is making this announcement to assure employers and other interested

stakeholders that the temporary lapse in appropriations for some Federal government programs and activities **does not directly impact** the administration of OFLC programs. A full year appropriations through September 30, 2019, for all DOL program and activities was enacted by Congress on September 28, 2018. The OFLC national processing centers and the iCERT System are open and operating as normally scheduled.

- **December 27, 2018. H-2B Application Filing Timelines**

The Department of Labor's Office of Foreign Labor Certification (OFLC) is making this announcement to remind employers and other interested stakeholders that H-2B Applications for Temporary Employment Certification, Form ETA-9142B, with April 1, 2019, start dates may be filed no earlier than January 1, 2019 at 12:00:00.000 a.m. Eastern Time. Applications with an April 1 start date that are filed before January 1, 2019 at 12:00:00.000 a.m. Eastern Time will be denied, and the employer will be required to refile its application. Filers are reminded that OFLC's technology servers are located in the Eastern Time Zone; therefore, the time an application is received is based on Eastern Time. Please reference the H-2B processing guidance that was previously published as an announcement on OFLC's website on June 1, 2018, for additional information regarding OFLC's processing of H-2B applications.

- **December 26, 2018. New 2019 H-2A Monthly Adverse Effect Wage Rate (AEWR) for Herding or Production of Livestock on the Range**

The Department of Labor (DOL) has published a notice in the *Federal Register* announcing the new AEWR for herding or production of livestock on the range for the H-2A Program. The AEWR is the minimum wage rate DOL has determined must be offered and paid by employers to H-2A workers and workers in corresponding employment, so that the wages of similarly employed U.S. workers will not be adversely affected. The notice announces the new national monthly AEWR for herding or production of livestock on the range. To access the notice please click [here](#).

- **December 26, 2018. New 2019 H-2A Hourly Adverse Effect Wage Rates (AEWR) by State**

The Department of Labor (DOL) has published a notice in the *Federal Register* announcing the new AEWR in each state to perform agricultural labor or service other than herding and production of livestock on the range for the H-2A Program, based on the Farm Labor Survey conducted by the U.S. Department of Agriculture. The AEWR is the minimum wage rate DOL has determined must be offered and paid by employers to H-2A workers and workers in corresponding employment, so that the wages of similarly employed U.S. workers will not be adversely affected. The notice announces the new hourly AEWR for each state. To access the notice please click [here](#).

- **December 21, 2018. Clarifications to Non-Substantive Application Form Changes in the H-2A and H-2B Programs.**

The Employment and Training Administration's Office of Foreign Labor Certification (OFLC) is issuing clarifications to the non-substantive changes to application forms for temporary labor certification under the H-2A and H-2B programs. The below Frequently Asked Questions are intended to provide employers with assistance in completing Section H, items H.6a, H.6b, and/or H.6c, before the application can be submitted.

QUESTION : I am a small employer that does not maintain a website where U.S. workers can apply for my job opportunities. Can I comply with the collection requirements in Section H.6.c, Forms ETA-9142A and 9142B, by entering the website of the State Workforce Agency (SWA) where I placed my job opportunity for recruiting U.S. workers?

ANSWER : Yes. The general instructions for Section H.6.c, Forms ETA-9142A and 9142B, require the employer to provide a website address where U.S. workers can apply, or enter "N/A" where no website address is available. The employer is also required to use a valid format when entering the website address, and the general instructions identify a number of valid website address suffixes, including those covering government agencies. Because employers are required by regulation to place job orders with the SWA and place other advertisements directing applicants to apply for the job opportunity at the nearest SWA in the states in which their advertisements appear, and include contact information for the relevant SWA in their advertisements, the employer may enter the website address of the SWA where the job opportunity is posted in Section H.6.c. Employers are reminded to report SWA referrals of qualified and available U.S. workers on their recruitment reports.

QUESTION : I am completing my application and usually do not include a phone number, email address, or website address for the State Workforce Agency (SWA) job order. Do I need to edit my job order to include the same information in Sections H.6.a, H.6.b., and H.6.c.?

ANSWER : No. The Department will review the application along with the SWA job order and issue a Notice of Deficiency (NOD) where the employer or their authorized agents or attorneys provide contact information (e.g., phone, email, web site) that is different from that provided on the SWA job order. For instance, if the employer or its authorized agent or attorney provides a phone number and email address as its contact information on the SWA job order where U.S. workers can apply, and the information submitted on the Forms ETA-9142A or 9142B is different, a NOD will be issued to provide the employer with an opportunity to correct the discrepancy. However, if an employer or its authorized agent or attorney provides other methods of contact information on

the SWA job order, such as a fax number and physical address, the Department will not issue a NOD but will view this as additional methods for U.S. workers to apply for the job.

- **IMMEDIATE ACTION REQUIRED : December 19, 2018. Non-Substantive Form Changes to iCERT Data Collection in the H-2A and H-2B Programs.**

*Important Notice:* Employers that have prepared cases in iCERT, but have not yet submitted them, will need to login to iCERT and complete Section H, items H.6a, H.6b, and/or H.6c, before the application can be submitted. If two of the three items are not completed, employers will not be able to submit their application.

The Employment and Training Administration's Office of Foreign Labor Certification (OFLC) will be implementing non-substantive changes to application forms for temporary labor certification under the H-2A and H-2B programs. These changes are intended to offer greater assistance to prospective U.S. workers applying for job opportunities. **Employers that have prepared cases in iCERT, but have not yet submitted them, will need to take additional actions on their application .**

As of December 19, 2018, OFLC implemented non-substantive changes to Section H, items H.6a, H.6b, and H.6c, on the Forms ETA-9142A and ETA-9142B. These changes have been approved by the Office of Management and Budget.

Specifically, the revised application forms require collection of the following information related to recruiting U.S. workers for the employer's job opportunity: (1) a phone number where U.S. workers can apply, (2) an email

address where U.S. workers can apply, and (3) a website address where U.S. workers can apply. As per the instructions, an employer must provide a minimum of two of the three categories of information through which prospective U.S. workers can contact the employer and apply for the job opportunity.

Stakeholders can access a copy of the form instructions and revised Forms ETA-9142A and ETA-9142B [here](#).

- **December 17, 2018. Acceptance of H-2B Applications for January 2019**

The H-2B Application for Temporary Employment Certification, Form ETA-9142B and all appendices, are set to expire on December 31, 2018. The Department is seeking approval from the Office of Management and Budget (OMB) to extend these application forms in one-month increments starting January 2019. Until OMB grants approval, employers are permitted to continue filing H-2B applications using the current forms, including any approved one-month extensions, starting January 1, 2019.

- **December 14, 2018. Revised Form ETA-9035/9035E Presentation and Informational Materials**

The revised Form ETA-9035/9035E PowerPoint presentation can be accessed on the Office of Foreign Labor Certification's Additional Resources tab located [here](#). Also posted under the Additional Resources tab is a side-by-side comparison of the major form revisions and factsheet that provides further explanation of the revisions.

- **December 11, 2018. Extension of H-2A and H-2B Notices of Proposed Rulemaking (NPRM) Comment Period**

On November 9, 2018, the Department of Labor (DOL) published in the *Federal Register* a NPRM to modernize the advertising requirements for the H-2A program. On November 9, 2018, DOL also jointly published with the Department of Homeland Security, a separate NPRM proposing to modernize the advertising requirements for the H-2B program.

Both NPRMs provide for the submission of public comments through December 10, 2018. In response to requests to extend the comment period, DOL has published subsequent notices in the *Federal Register* to extend both comment periods through December 28, 2018.

The H-2A *Federal Register* notice can be accessed here:

<https://www.federalregister.gov/documents/2018/12/10/2018-26766/modernizing-recruitment-requirements-for-the-temporary-employment-of-h-2a-foreign-workers-in-the#addresses>

The H-2B *Federal Register* notice can be accessed here:

<https://www.federalregister.gov/documents/2018/12/10/2018-26767/modernizing-recruitment-requirements-for-the-temporary-employment-of-h-2b-foreign-workers-in-the>

- **December 4, 2018. Webinar Announcement: PERM Helpdesk Inquiry Submission Process**

As part of the Office of Foreign Labor Certification's (OFLC) continuing efforts to increase public outreach and awareness, OFLC will host a a webinar on Wednesday, December 19, 2018, designed to provide technical assistance regarding the Electronic Helpdesk Inquiry Submission Process associated with the Permanent Labor Certification Online System Helpdesk Module. Details of the webinar are as follows:

DATE: Wednesday, December 19, 2018

TIME: 2:00 p.m. to 3:30 p.m. EST

Link to the webinar:

<https://dol.webex.com/dol/j.php?MTID=m2474cd0ef88e547ee22c2a879c30f9d5>

Teleconference: 1-877-917-3612

Attendee access code: 7763886

Meeting password: Welcome!68

- November 28, 2018. H-2B Program: Form ETA-9142B filing tip for jobs covered by temporary need exemption under the National Defense Authorization Act for Fiscal Year 2019**

The Office of Foreign Labor Certification (OFLC) is announcing a new filing tip for employers submitting an H-2B Form ETA-9142B in connection with a future filed H-2B nonimmigrant petition that falls under section 1045 of the National Defense Authorization Act (NDAA) for Fiscal Year 2019, as discussed in United States Citizenship and Immigration Services (USCIS) Policy Memorandum, PM-602-0164, for services or labor to be performed by H-2B workers in the Commonwealth of the Northern Mariana Islands (CNMI). An employer requesting H-2B temporary labor certification, whose job opportunity qualifies for the NDAA temporary need exemption described in PM-602-0164, should indicate such exemption in Section B.9 (Statement of Temporary Need) of the Form ETA-9142B in lieu of a temporary need statement. Specifically, a qualifying employer should enter the following statement in Section B.9: "N/A - job opportunity for services or labor to be performed by H-2B workers in the CNMI qualifies for NDAA temporary need exemption under USCIS PM-602-0164." This standard language is designed to provide employers with an efficient and

standard way to inform the OFLC Chicago National Processing Center that the job opportunity being requested for temporary labor certification is subject to the statutory exemption.

As USCIS will make the final decision as to whether an H-2B petition is covered by the provisions of section 1045 of the NDAA, and eligibility for the H-2B classification, employers are encouraged to review eligibility criteria carefully in PM-602-0164, which is available on USCIS's website here:

<https://www.uscis.gov/sites/default/files/USCIS/Laws/Memoranda/2018/2018-10-01-PM-602-0164-H-2B-Policy-Memorandum-to-Interpret-Guam.pdf>.

- November 21, 2018. California Wildfires Guidance**

Please click [here](#) for guidance regarding reasonable case-accommodations in light of the damage done by the California wildfires.

- November 20, 2018. Webinar Announcement: Employer Filing Tips for Submitting the Form ETA-9035/9035E, Labor Condition Application (LCA)**

As part of the Office of Foreign Labor Certification's (OFLC) ongoing efforts to increase public outreach and awareness, OFLC will host two additional webinars on November 28, 2018, designed to provide technical assistance to employers and, if applicable, their authorized attorneys or agents on how to complete and submit an LCA using the revised Form ETA-9035/9035E.

Details of the webinars are as follows:

DATE: November 28, 2018

TIME: 10:00 a.m. - 11:00 a.m. EST (Webinar 1)

3:00 p.m. - 4:00 p.m. EST (Webinar 2)

LINK to 10:00 a.m. EST presentation:

<https://dolevents.webex.com/dolevents/onstage/g.php?>

[MTID=e23189a272278e5dceaf5f2ec6a656b3e](https://dolevents.webex.com/dolevents/onstage/g.php?MTID=e23189a272278e5dceaf5f2ec6a656b3e)

LINK to 3:00 p.m. EST presentation:

<https://dolevents.webex.com/dolevents/onstage/g.php?>

[MTID=e8c7f5f0a2bc1942b02a0cfc906e88396](https://dolevents.webex.com/dolevents/onstage/g.php?MTID=e8c7f5f0a2bc1942b02a0cfc906e88396)

Teleconference: Toll Free Phone Number: 888-955-8963

Toll Number: 1-517-308-9289

Participant Passcode: 5549214

Meeting password: Welcome!68

- **November 16, 2018. USDA Release of 2018 Farm Labor Survey**

On November 15, 2018, the United States Department of Agriculture (USDA) issued the Farm Labor Survey (FLS) report in which it established the average annual wage rates, by region and the United States, for field and livestock workers. The Department of Labor (Department) relies on the average annual combined hourly wage for field and livestock workers in order to establish the Adverse Effect Wage Rates (AEWR) in the H-2A program. The AEWRs are the minimum hourly wage rates the Department has determined must be offered and paid by employers to H-2A workers and workers in corresponding employment, so that the wages of workers similarly employed in the United States will not be adversely affected.

The Department is reviewing the USDA FLS average annual wage rates for 2019 and will soon publish a notice in the Federal Register announcing new AEWRs for each state. To obtain more information on the National Agricultural Statistic Service (NASS) surveys and reports, please call the NASS Agricultural Statistics Hotline at (800) 727-9540, 7:30 a.m. EST to 4:00 p.m. EST, or e-mail: [nass@nass.usda.gov](mailto:nass@nass.usda.gov). You can access a copy of the latest [USDA FLS report](#).

- **November 14, 2018. H-2A and H-2B Notices of Proposed Rulemaking**

The Department of Labor (DOL) published a notice of proposed rulemaking (NPRM) in the Federal Register proposing to modernize the advertising requirements for the H-2A program. DOL also published, jointly with the Department of Homeland Security, a separate NPRM proposing to modernize the advertising requirements for the H-2B program. More information about the NPRMs are available by clicking on [H-2A program](#) and [H-2B program](#).

- **November 13, 2018. The Employment and Training Administration Announces iCERT Enhancements to Improve Customer Service in the H-2A and H-2B Programs**

The Employment and Training Administration's Office of Foreign Labor Certification today implemented new enhancements to the iCERT system related to the submission of applications for temporary labor certification under the H-2A and H-2B programs. These enhancements are intended to improve customer service and increase the quality of applications submitted for processing.

These enhancements include data validation checks designed to assist



employers in preparing H-2A and H-2B applications according to the required form fields and instructions approved by the Office of Management and Budget. Specifically, employers preparing applications must ensure that each required field of the Form ETA-9142A, H-2A Application for Temporary Employment Certification, and ETA-9142B, H-2B Application for Temporary Employment Certification, is completed before submitting to the National Processing Center for processing. As a reminder, the iCERT system helps employers prepare applications by displaying mandatory fields on the Forms ETA-9142A and 9142B with an asterisk (\*), and conditional mandatory fields with a section symbol (§) where the response is conditioned on one or more previous form entries.

- **November 8, 2018. OMB Approval of Revisions to the ETA Form 9035/9035E and WH-4**

In accordance with the Secretary's June 6, 2017, [News Release](#), which calls for form changes to better protect American workers, confront fraud, and increase transparency, the Office of Foreign Labor Certification (OFLC) is announcing revisions to the Labor Condition Application (LCA) information collection. The revisions include the ETA Form 9035/9035E, *Labor Condition Application for Nonimmigrant Workers*, for H-1B, H-1B1, and E-3 Nonimmigrants; Form WH-4, *Nonimmigrant Worker Information Form*; and all applicable instructions and electronic versions. The ETA Form 9035/9035E is used in the Department of Labor's (DOL) employment-based temporary immigration programs to request permission to bring foreign workers to the United States as nonimmigrants to perform certain work in specialty occupations or as fashion models of distinguished merit and ability. The WH-4 form is used to request that DOL's Wage and Hour Division initiate an investigation related to alleged violations of the H-1B, H-1B1, or E-3 program requirements.

#### IMPLEMENTATION PROCEDURES

The Department is updating the electronic filing system for the ETA Form 9035/9035E, and anticipates full implementation of the form on November 19, 2018. The existing ETA Form 9035/9035E remains valid and the public can continue to file it until November 19, 2018. Employers or their authorized representatives filing the ETA Form 9035/9035E on or after November 19, 2018, must use the revised form approved by the Office of Management and Budget.

OFLC will host two webinars on November 14, 2018, designed to provide technical assistance to employers and, if applicable, their authorized attorneys or agents in completing and submitting an LCA using the revised ETA Form 9035/9035E.

- **November 8, 2018. Webinar Announcement: Employer Filing Tips for Submitting the ETA Form 9035/9035E, *Labor Condition Application for Nonimmigrant Workers (LCA)***

As part of the Office of Foreign Labor Certification's (OFLC) ongoing efforts to increase public outreach and awareness, OFLC will host two webinars on November 14, 2018, designed to provide technical assistance to employers and, if applicable, their authorized attorneys or agents in completing and submitting an LCA using the revised ETA Form 9035/9035E.

Details of the webinars are as follows:

DATE: November 14, 2018

TIME: 10:00 a.m. - 11:00 a.m. EST (Webinar 1)

3:00 p.m. - 4:00 p.m. EST (Webinar 2)

LINK to 10:00 a.m. EST presentation:

<https://dol.webex.com/dol/j.php?>

[MTID=mc77b5aabb7e095b318ab08e8b3b7334f](https://dol.webex.com/dol/j.php?MTID=mc77b5aabb7e095b318ab08e8b3b7334f)

LINK to 3:00 p.m. EST presentation:

<https://dol.webex.com/dol/j.php?>

[MTID=m3962017f417afc545b90e3e7bbab91c4](https://dol.webex.com/dol/j.php?MTID=m3962017f417afc545b90e3e7bbab91c4)

Teleconference: 800-779-7164

Attendee access code: 4194887

Meeting password: **Welcome!24**

- **November 8, 2018. FY 2018 H-2B Foreign Labor Recruiter List**

Pursuant to 20 CFR § 655.9(c), the Office of Foreign Labor Certification (OFLC) is publishing an updated list of the names of foreign labor recruiters. The list also contains the identity and location of persons or entities hired by, or working for, the recruiter that employers have indicated they engaged, or planned to engage, in the recruitment of prospective H-2B workers to perform the work described on their Form ETA-9142B, H-2B Application for Temporary Employment Certification. The H-2B Foreign Labor Recruiter List includes cumulative cases filed from October 1, 2017 through September 30, 2018.

By providing this Foreign Labor Recruiter List, OFLC is providing a greater level of transparency to the H-2B worker recruitment process and facilitating information sharing between the Department of Labor, other agencies, and the public. The list will be updated quarterly and can be accessed [here](#). FAQs regarding the Foreign Labor Recruiter List have been posted as 2017 H-2B IFR FAQs Round 16 and can be accessed [here](#). Archived Foreign Labor Recruiter Lists may be found [here](#).

- **October 30, 2018. H-2B Employer Filing Tips Presentation**

The H-2B webinar presentation, hosted on September 14, 2018, is posted under the H-2B Additional Resources link on the Office of Foreign Labor Certification's [H-2B Visa Program](#) web page. You can access the H-2B Temporary Program and H-2B Webinar September 14, 2018 at the following address

[https://foreignlaborcert.doleta.gov/pdf/H-2B\\_Stakeholder\\_Webinar\\_September\\_2018.pdf](https://foreignlaborcert.doleta.gov/pdf/H-2B_Stakeholder_Webinar_September_2018.pdf)

- **October 29, 2018. Typhoon Yutu Guidance**

Please click [here](#) for guidance regarding reasonable case-accommodations in light of the damage done by Typhoon Yutu.

- **October 25, 2018. Published 60 Day Notice for Information Collection Related to the H-2A Program**

The Department of Labor published a 60-day notice in the *Federal Register* announcing its intent to revise application forms, instructions, and other information collected under the H-2A temporary agricultural visa program. The proposed revisions are designed to better align information collection requirements with the Department's H-2A regulations, provide greater clarity to employers on regulatory requirements, standardize and streamline information collection for employers preparing H-2A applications and job orders, and promote greater efficiency and transparency in the Office of Foreign Labor Certification's (OFLC) review and issuance of labor certification decisions. In part, the Department proposes revisions to the Forms ETA-9142A and ETA-790 to eliminate redundancy by collecting the material terms and conditions of the job opportunity in a significantly revised ETA-790 and ETA-790A with addenda and incorporating standardized language for required employer assurances.

Any written comments must be submitted in accordance with the *Federal Register* notice instructions. Copies of the 60 day notice, Supporting Statement, and the proposed forms are provided below:

*Federal Register* Notice

- [60-Day Supporting Statement](#)
- [Proposed Form ETA-9142A](#)
- [Proposed Form ETA-9142A General Instructions](#)
- [Proposed Form ETA-9142A Appendix A](#)
- [Proposed Form ETA-9142A Final Determination - TLC Approval](#)
- [Proposed Form ETA-790](#)
- [Proposed Form ETA-790A Agricultural Clearance Order](#)
- [Proposed Form ETA-790A General Instructions](#)
- [Proposed Form ETA-790A Addendum A - Crops Wages](#)
- [Proposed Form ETA-790A Addendum B - Worksites-Housing](#)

- **October 18, 2018. iCERT System Maintenance**

The iCERT system will be unavailable during the following time period for system maintenance: Thursday, October 18, 2018 from 8:00 pm ET to 11:00 pm ET.

- **October 16, 2018. FY 2018 Q4 Cumulative Disclosure Data**

The OFLC PERM, H-2A, H-2B, Prevailing Wage, and H-1B program disclosure data files for Quarter 4 of FY 2018 are now available. Access to the disclosure files and corresponding record layouts are available on the [OFLC Performance Data page](#).

- **October 16, 2018. FY 2018 Q4 Selected Statistics**

The Office of Foreign Labor Certification has posted updated program factsheets containing the Quarter 4 FY 2018 selected statistics for the [Permanent Labor Certification Program](#), [Prevailing Wage Determination Program](#), [H-1B Temporary Visa Program](#), [H-2A Temporary Agricultural Visa Program](#), and [H-2B Temporary Non-agricultural Visa Program](#). Reports are derived from program data as of 9/30/2018. The updated program factsheets may also be found on [OFLC's Performance Data page](#).

- **October 11, 2018. Hurricane Florence and Hurricane Michael Guidance**

Please click [here](#) for guidance regarding reasonable case-accommodations in light of the damage done by Hurricane Florence and Hurricane Michael.

- **September 21-23, 2018. iCERT and PERM System Maintenance**

iCERT and PERM systems will be unavailable during the following time period for system maintenance: Friday, September 21 8:00 pm ET through Sunday, September 23, 2018 until 2:00 pm ET.

- **September 20, 2018. OFLC Announces System Maintenance Outage Impacting the PERM System**

The PERM system will be unavailable during the following time period for system maintenance: Thursday, September 20, 2018 from 8:00 pm ET until 11:00 pm ET.

- **September 17, 2018. Hurricane Florence Guidance**

Please click [here](#) for guidance regarding reasonable case-accommodations in

light of the damage done by Hurricane Florence.

- **September 13, 2018. H-2A Employer Filing Tips Presentation**

The H-2A webinar presentation, hosted on August 23, 2018, is posted under the H-2A Additional Resources link on the Office of Foreign Labor Certification's H-2A Visa Program web page. You can access the [H-2A Temporary Agricultural Program](#) and H-2A Webinar August 2018 at the following address [https://foreignlaborcert.doleta.gov/pdf/H-2A\\_Webinar\\_August\\_2018.pdf](https://foreignlaborcert.doleta.gov/pdf/H-2A_Webinar_August_2018.pdf).

- **September 7, 2018. OFLC Announces 60-Day Public Comment Period on Proposed Revisions to Information Collection Under the H-2B Program**

The Department of Labor published a 60-day notice in the *Federal Register* announcing its intent to revise application forms, instructions, and other information collected under the H-2B temporary nonagricultural visa program. The proposed revisions are designed to better align information collection requirements with the 2015 H-2B Interim Final Rule, provide greater clarity to employers on regulatory requirements, standardize and streamline information collection for employers preparing H-2B applications, and promote greater efficiency and transparency in OFLC's review and issuance of labor certification decisions. Any written comments must be submitted in accordance with the *Federal Register* notice instructions. Copies of the 60 day notice, Supporting Statement, and the proposed forms are provided below:

[Federal Register Notice](#)

[60 Day Supporting Statement](#)

[Proposed Form ETA-9142B General Instructions](#)

[Proposed Form ETA-9142B](#)

[Proposed Form ETA-9142B Appendix A](#)

[Proposed Form ETA-9142B Appendix B](#)

[Proposed Form ETA-9142B Appendix C](#)

[Proposed Form ETA-9142B Appendix D](#)

[Proposed Form ETA-9142B E-Certification](#)

[Proposed Form ETA-9142B Seafood Attestation](#)

[Proposed Form ETA-9165 Instructions](#)

[Proposed Form ETA-9165](#)

[Proposed Form ETA-9155 Instructions](#)

[Proposed Form ETA-9155](#)

- **August 30, 2018. Webinar Announcement: Employer Filing Tips for H-2B Labor Certification Applications**

As part of the Office of Foreign Labor Certification's (OFLC) on-going efforts to increase public engagement, OFLC will host a webinar on Friday, September 14, 2018, designed to educate stakeholders, program users, and other interested members of best practices associated with filing an application with the H-2B Labor Certification program.

Our objective for this webinar is to provide technical assistance to employers and, if applicable, their authorized attorneys or agents that will provide stakeholders with helpful practice tips when submitting their H-2B applications for temporary labor certification to the Chicago National Processing Center.

DATE: Friday, September 14, 2018

TIME: 2:00 PM to 3:00 PM EST

FORMAT: Webinar & conference call capability will be provided to maximize

FORMAT: webinar & conference call capability will be provided to maximize participation

TELEPHONE NUMBER: 888-324-8530

TELEPHONE PASSCODE: 1210601

1. Go to or click on:

<https://dolevents.webex.com/dolevents/onstage/g.php?MTID=e878822bcfc898df038f6389dbe656ba7>

2. If prompted, please enter the appropriate contact information (first name, last name, email address)

3. If prompted, enter the event password: Welcome!24

4. Click on "Join Now"

5. To join and hear the audio, please dial the toll-free number 888-324-8530 and enter access code: 1210601 to hear the audio portion of the webinar or use the audio function of the WebEx software to stream audio.

- **August 24, 2018. The PERM Business Existence Online Registration Process Presentation**

The PERM Business Existence Online Registration Process presentation, hosted on August 22, 2018, is posted under the PERM Webinars link on the Office of Foreign Labor Certification's Permanent Labor Certification Program web page. You can access the [PERM presentation](#) directly.

- **August 10, 2018. Webinar Announcement: Employer Filing Tips and Best Practices for H-2A Labor Certification Applications**

As part of the Office of Foreign Labor Certification's (OFLC) on-going efforts to increase public engagement, OFLC will host a webinar on Thursday, August 23, 2018, designed to educate stakeholders, program users, and other interested

members of the public on recent program workload trends, common deficiencies and best practices associated with the H-2A Labor Certification program.

Our objective for this webinar is to provide technical assistance to employers and, if applicable, their authorized attorneys or agents that will provide stakeholders with helpful practice tips when submitting their H-2A applications for temporary labor certification to the Chicago National Processing Center.

DATE: Thursday, August 23, 2018

TIME: 2:00 PM to 3:30 PM EST

FORMAT: Webinar & conference call capability will be provided to maximize participation

TELEPHONE NUMBER: 888-989-9783

TELEPHONE PASSCODE: 2923456

1. Go to or click on:

<https://dolevents.webex.com/dolevents/onstage/g.php?MTID=ea5038a88b934a9d257256fd190821682>

2. If prompted, please enter the appropriate contact information (first name, last name, email address)

3. If prompted, enter the event password: Welcome!24

4. Click on "Join Now"

5. To join and hear the audio, please dial the toll-free number 888-989-9783

and enter access code: 2923456 to hear the audio portion of the webinar or use the audio function of the WebEx software to stream audio.

- **August 10, 2018. FY 2018 H-2B Foreign Labor Recruiter List**

Pursuant to 20 CFR § 655.9(c), the Office of Foreign Labor Certification (OFLC) is publishing an updated list of the names of foreign labor recruiters. The list also contains the identity and location of persons or entities hired by, or working for, the recruiter that employers have indicated they engaged, or planned to engage, in the recruitment of prospective H-2B workers to perform the work described on their Form ETA-9142B, H-2B Application for Temporary Employment Certification. The H-2B Foreign Labor Recruiter List includes cumulative cases filed from October 1, 2017 through June 30, 2018.

By providing this Foreign Labor Recruiter List, OFLC is providing a greater level of transparency to the H-2B worker recruitment process and facilitating information sharing between the Department of Labor, other agencies, and the public. The list will be updated quarterly and can be accessed [here](#). FAQs regarding the Foreign Labor Recruiter List have been posted as 2017 H-2B IFR FAQs Round 16 and can be accessed [here](#). Archived Foreign Labor Recruiter Lists may be found [here](#).

- **August 8, 2018. PERM Business Existence Online Registration Process**

As part of the Office of Foreign Labor Certification's (OFLC) continuous efforts to enhance both internal and external customer service and increase public engagement, the OFLC will host an Online Registration Process webinar on Wednesday, August 22, 2018. This webinar is specifically designed to educate our external customers (e.g. stakeholders, program users, and other interested members of the public) on identified best practices associated with the Permanent Labor Certification program.

Additionally, our objective for this webinar is to provide general technical assistance that will provide stakeholders with helpful tips when submitting an online registration via the PERM Online System. Please be advised that this webinar will not address case specific inquiries.

DATE: Wednesday, August 22, 2018

TIME: 2:00 PM to 3:30 PM Eastern Standard Time

FORMAT: Webinar & conference call capability will be provided to maximize participation

TELEPHONE NUMBER: 1-888-324-9242

TELEPHONE PASSCODE: 9766277

1. Go to or click on:

<https://dolevents.webex.com/dolevents/onstage/g.php?MTID=ef2eea551a0d1dd90686d573e95e8ebaf>

2. If prompted, please enter the appropriate contact information (first name, last name, email address)

3. If prompted, enter the event password: Welcome!68

4. Click on "Join Now"

5. To join and hear the audio, please dial the toll-free number 1-888-324-9242 and enter access code: 9766277 to hear the audio portion of the webinar or use the audio function of the WebEx software to stream audio.

- **July 13, 2018. FY 2018 Q3 Cumulative Disclosure Data**

## July 13, 2018: FY 2018 Q3 Cumulative Disclosure Data

The OFLC PERM, H-2A, H-2B, Prevailing Wage, and H-1B program disclosure data files for Quarter 3 of FY 2018 are now available. Access to the disclosure files and corresponding record layouts are available on the [OFLC Performance Data page](#).

- **July 13, 2018. FY 2018 Q3 Selected Statistics**

The Office of Foreign Labor Certification has posted updated program factsheets containing the Quarter 3 FY 2018 selected statistics for the [Permanent Labor Certification Program](#), [Prevailing Wage Determination Program](#), [H-1B Temporary Visa Program](#), [H-2A Temporary Agricultural Visa Program](#), and [H-2B Temporary Non-agricultural Visa Program](#). Reports are derived from program data as of 6/30/2018. The updated program factsheets may also be found on [OFLC's Performance Data page](#).

- **July 2, 2018.** On July 1, 2018, OFLC uploaded the newest prevailing wage data from the Occupational Employment Survey as generated by the Bureau of Labor Statistics for the year from July 2018 - June 2019. The effective date is July 1, 2018. Prevailing wage determinations issued from the National Prevailing Wage Center will reflect the new data.

- **June 14, 2018.** The PERM Appeals Webinar presentation, hosted on June 13, 2018, is posted under the PERM Webinars link on the Office of Foreign Labor Certification's Permanent Labor Certification Program web page. You can access the [PERM Webinar](#) directly.

- **June 1, 2018. H-2B Processing Announcement**

The Department of Labor's Office of Foreign Labor Certification (OFLC) is making this announcement to inform employers and other interested stakeholders how *H-2B Applications for Temporary Employment Certification*,

Form ETA-9142B, filed by employers on or after July 3, 2018, will be assigned to staff for review in accordance with 20 C.F.R. 655.30.

### Background

OFLC continues to experience significant increases in the number of H-2B applications requesting temporary labor certification, and those submissions are generally received on the earliest day employers, seeking to obtain visas for their workers under the semi-annual allotments, are permitted by regulation to file (i.e., 75 to 90 days before the start date of work). For example, in the past several second-half semi-annual filing cycles, the overwhelming majority of H-2B applications were received on January 1, which is the earliest date on which an H-2B application may be filed for a period of need beginning on April 1. Because of the intense competition for H-2B visas in recent years, the semi-annual visa allocation, and the regulatory timeframes for filing a request for temporary labor certification, stakeholders have also raised questions regarding the earliest **time** of day on which an application can be submitted to OFLC. In order to process the significant surge of applications that OFLC expects to receive in a short period of time during the semi-annual visa allotment periods in a more equitable manner and to clarify the time at which an application is received, OFLC will be implementing the following procedures.

### Process Announcement

For H-2B applications filed on or after July 3, 2018, OFLC will sequentially assign H-2B applications to analysts based on the calendar date **and time** on which the applications are received (i.e., receipt date and time). Receipt time will be measured to the millisecond, e.g., 12:00:00.000 a.m. OFLC's technology servers are located in the Eastern Time Zone; therefore, the time an application

is received and assigned to analysts is based on Eastern Time (ET). Applications submitted from other time zones may be filed as early as 12:00:00.000 a.m. ET, as discussed below.

Once assigned, the analysts will initiate review of each H-2B application in the order of receipt date and time, and in accordance with 20 C.F.R. 655.30. Based on the analyst's review, the Certifying Officer (CO) will authorize issuance of either a Notice of Acceptance (NOA) under 20 C.F.R. 655.33 or a Notice of Deficiency (NOD) under 20 C.F.R. 655.31. Following issuance of NOAs and/or NODs, the applications will be processed as each successive stage in the process is completed. Employers receiving NOAs may proceed to meet the additional regulatory requirements, including recruitment of U.S. workers and submission of recruitment reports. Employers receiving NODs must correct any deficiencies and then receive a NOA before proceeding to meet the additional regulatory requirements. As a result, for each application, analysts' review of NOD responses and recruitment reports, and issuance of final decisions (certifications and denials) will follow in the order in which each sequential step required by the regulations is concluded, irrespective of the receipt time of the application.

As required, OFLC will grant temporary labor certification only after the employer's H-2B application has met all the requirements for approving labor certification under 20 CFR 655.50 and the subpart. In accordance with regulatory requirements, OFLC will send all certified H-2B applications to the applicant by means normally assuring next day delivery. OFLC will issue rejections, withdrawals, and denials of labor certification applications as each determination is made by the CO.

#### **Instructive Examples Related to Time Zones**

Applicants wishing to file their H-2B applications at the earliest possible time may begin filing at 12:00:00.000 a.m. ET on the appropriate calendar day. As noted above, application receipt time is based upon ET. Receipt time is not

based on the time zone covering the geographic location in which the applicant is filing, nor is it based on the time zone covering the geographic location in which the job is located. For example, applicants seeking to file an H-2B application from a location outside the Eastern Time Zone at the earliest possible filing time for the first-half semi-annual filing cycle of FY 2019 should file at 12:00:00.000 a.m. ET on July 3, 2018; not 12:00:00.000 a.m. in any other time zone in which that person is located on July 3, 2018.

As noted above, receipt time will be measured to the millisecond. The following examples help illustrate how the receipt date and time will be recorded on H-2B applications filed with OFLC:

- An H-2B application filed and received on July 3, 2018 at 12:00:00.000 a.m. ET will be stamped with a receipt date and time of July 3, 2018 at 12:00:00.000 a.m. ET;
- An H-2B application filed and received on July 3, 2018 at 12:00:00.000 a.m. Pacific Time (PT) will be stamped with a receipt date and time of July 3, 2018 at 3:00:00.000 a.m. ET;
- An H-2B application filed and received on July 2, 2018 at 9:00:00.000 p.m. PT will be stamped with a receipt date and time of July 3, 2018 at 12:00:00.000 a.m. ET;
- An H-2B application filed and received on January 1, 2019 at 12:00:00.000 a.m. Central Time (CT) will be stamped with a receipt date and time of January 1, 2019 at 1:00:00.000 a.m. ET; and
- An H-2B application filed and received on December 31, 2018 at 11:00:00.000 p.m. CT will be stamped with a receipt date and time of



January 1, 2019 at 12:00:00.000 a.m. E I.

- **May 31, 2018. H-1B Form ETA-9035/9035E Extended**

The Labor Condition Application for Nonimmigrant Workers, Form ETA-9035/9035E has been extended through June 30, 2018. OFLC's request for a three-year extension is currently under review with the Office of Management and Budget (OMB). OFLC will continue to extend the form in one-month increments until approved by OMB. For complete details see the [Federal Register notice](#) for OMB control number 1205-0310.

- **May 31, 2018. ETA Form 9142-B-CAA-2**

The Office of Foreign Labor Certification (OFLC) has published [ETA Form 9142-B-CAA-2](#) and the accompanying [instructions](#) in support of the [temporary rule](#) jointly issued by the Department of Homeland Security and the Department of Labor, titled "Exercise of Time-Limited Authority to Increase the Fiscal Year 2018 Numerical Limitation for the H-2B Temporary Nonagricultural Worker Program." The temporary rule was published in the *Federal Register* on May 31, 2018, with an immediate effective date. The Secretary of Homeland Security has decided, after consultation with DOL, to increase the H-2B cap for FY 2018 by up to 15,000 additional visas for American businesses that are likely to suffer irreparable harm (that is, permanent and severe financial loss) without the ability to employ all of the H-2B workers requested on their respective petitions before the end of FY 2018. This attestation must be submitted to the United States Citizenship and Immigration Services along with Form I-129, in support of an H-2B application subject to the H-2B cap before the end of Fiscal Year 2018. The attestation is also available on the Forms and Instructions section of the OFLC website found at: <https://www.foreignlaborcert.doleta.gov/form.cfm>

- **May 30, 2018. OFLC Announces System Maintenance Outage Impacting the PERM System**

The PERM system will be unavailable during the following time period for system maintenance: Thursday, May 31, 2018 from 8:00 pm ET until 11:00 pm ET.

- **May 15, 2018. PERM Form ETA 9089 Extended**

The Office of Management and Budget granted the Department approval of a three year extension for the Form ETA-9089 (1205-0451). The Form ETA-9089 is available on the [Foreign Labor Certification Forms](#) page. The Departments PERM Online Filing System will be updated in the coming weeks. Once available, the Department will notify the public.

- **May 15, 2018. Webinar Announcement: PERM Appeals**

As part of the Office of Foreign Labor Certification's (OFLC) continuous efforts to enhance both internal and external customer service and increase public engagement, the OFLC will host an Appeals webinar on Wednesday, June 13, 2018. This webinar is specifically designed to educate our external customers (e.g. stakeholders, program users, and other interested members of the public) on identified best practices associated with the Permanent Labor Certification program.

Additionally, our objective for this webinar is to provide general technical assistance that will provide stakeholders with helpful tips when submitting a PERM Appeals response to the Atlanta National Processing Center. Please be advised that this webinar will not address case specific inquiries.

DATE: Wednesday, June 13, 2018

TIME: 2:00 PM to 3:30 PM Eastern Standard Time

FORMAT: Webinar & conference call capability will be provided to maximize participation

TELEPHONE NUMBER: 800-619-9983

TELEPHONE PASSCODE: 1185981

1. Go to or click on:

<https://dolevents.webex.com/dolevents/onstage/g.php?>

[MTID=e2ab84c73e041e15273c07c00156f38d8](https://dolevents.webex.com/dolevents/onstage/g.php?MTID=e2ab84c73e041e15273c07c00156f38d8)

2. If prompted, please enter the appropriate contact information (first name, last name, email address)

3. If prompted, enter the event password: Welcome!68

4. Click on "Join Now"

5. To join and hear the audio, please dial the toll-free number 800-619-9983 and enter access code: 1185981 to hear the audio portion of the webinar or use the audio function of the WebEx software to stream audio.

- **April 30, 2018. Prevailing Wage Concepts for H-2B Surveyors and General Filing Tips**

The H-2B Prevailing Wage Webinar presentation on Concepts for H-2B Surveyors and General filing tips, hosted on April 3, 2018, is posted under the Helpful Filing Tips on the Office of Foreign Labor Certification's H-2B web page, under Prevailing Wage Information. You can access this presentation directly at [https://www.foreignlaborcert.doleta.gov/2015\\_H-2B\\_IFR.cfm](https://www.foreignlaborcert.doleta.gov/2015_H-2B_IFR.cfm).

- **April 20, 2018. iCERT and PERM System Maintenance**

Due to planned maintenance, service interruptions and degraded performance may be possible for both the iCERT and PERM systems from 8:00 pm EDT on Friday, April 20, 2018 until 11:00 pm EDT on Sunday, April 22, 2018.

- **April 20, 2018. FY 2017 H-2B Foreign Labor Recruiter List**

Pursuant to 20 CFR § 655.9(c), the Office of Foreign Labor Certification (OFLC) is publishing an updated list of the names of foreign labor recruiters. The list also contains the identity and location of persons or entities hired by, or working for, the recruiter that employers have indicated they engaged, or planned to engage, in the recruitment of prospective H-2B workers to perform the work described on their Form ETA-9142B, H-2B Application for Temporary Employment Certification. The H-2B Foreign Labor Recruiter List includes cumulative cases filed from October 1, 2017 through March 31, 2018.

By providing this Foreign Labor Recruiter List, OFLC is providing a greater level of transparency to the H-2B worker recruitment process and facilitating information sharing between the Department of Labor, other agencies, and the public. The list will be updated quarterly and can be accessed [here](#). FAQs regarding the Foreign Labor Recruiter List have been posted as 2017 H-2B IFR FAQs Round 16 and can be accessed [here](#). Archived Foreign Labor Recruiter Lists may be found [here](#).

- **April 12, 2018. FY 2018 Q2 Cumulative Disclosure Data**

The OFLC PERM, H-2A, H-2B, Prevailing Wage, and H-1B program disclosure data files for Quarter 2 of FY 2018 are now available. Access to the disclosure files and corresponding record layouts are available on the [OFLC Performance Data page](#).

- **April 12, 2018. FY 2018 Q2 Selected Statistics**

The Office of Foreign Labor Certification has posted updated program

The Office of Foreign Labor Certification has posted updated program factsheets containing the Quarter 2 FY 2018 selected statistics for the [Permanent Labor Certification Program](#), [Prevailing Wage Determination Program](#), [H-1B Temporary Visa Program](#), [H-2A Temporary Agricultural Visa Program](#), and [H-2B Temporary Non-agricultural Visa Program](#). Reports are derived from program data as of 3/31/2018. The updated program factsheets may also be found on [OFLC's Performance Data page](#).

- **March 22, 2018. Federal Register Notice. Labor Certification Process for the Temporary Employment of H-2A and H-2B Foreign Workers in the United States: Annual Update to Allowable Charges for Agricultural Workers' Meals and for Travel Subsistence Reimbursement, Including Lodging**

The Employment and Training Administration (ETA) of the Department of Labor has issued a Notice to announce the annual update to the allowable charges that employers seeking H-2A workers in occupations other than range herding may charge their workers when the employer provides three meals a day and the maximum travel subsistence meal reimbursement that a worker with receipts may claim under the H-2A and H-2B programs. The Notice also includes a reminder regarding employers' obligations with respect to overnight lodging costs as part of required subsistence. To read the Notice, please click [here](#).

- **March 15, 2018. NPWC Webinar: H-2B Survey Concepts and Employer Filing Tips**

As part of the Office of Foreign Labor Certification's (OFLC) on-going efforts to increase public engagement, OFLC's NPWC will host a webinar on Tuesday, April 3, 2018 designed to educate surveyor's, stakeholders, program users, and other interested members of the public on H-2B surveyor concepts and general filing tips. The first hour will focus on information to surveyors and the second hour will have more general information for PWD requestors and employers.

- DATE: Tuesday, April 3
- TIME: 1:00 PM to 3:00 PM EST
- FORMAT: Webinar & conference call capability will be provided to maximize participation; Link to Webinar: <https://dolevents.webex.com/dolevents/onstage/g.php?MTID=ee2e492e153621e23cc5c6cc1e6adbba1>
- PASSWORD: Welcome!!23
- TELEPHONE NUMBER: 800-779-9039
- TELEPHONE PASSCODE: 6217706

- **March 13, 2018.** The PERM Webinar presentation, hosted on March 7, 2018, is posted under the PERM Webinars link on the Office of Foreign Labor Certification's Permanent Labor Certification Program web page. You can access the [PERM Webinar](#) directly.

- **February 27, 2018. Webinar Announcement: PERM Supervised Recruitment**

As part of the Office of Foreign Labor Certification's (OFLC) continuous efforts to enhance both internal and external customer service and increase public engagement, the OFLC will host a Supervised Recruitment webinar on Wednesday, March 7, 2018. This webinar is specifically designed to educate our external customers (e.g. stakeholders, program users, and other interested members of the public) on identified best practices associated with the Permanent Labor Certification program.

Additionally, our objective for this webinar is to provide general technical assistance that will provide stakeholders with helpful tips when submitting a

assistance that will provide stakeholders with helpful tips when submitting a PERM Supervised Recruitment response to the Atlanta National Processing Center. Please be advised that this webinar will not address case specific inquiries.

DATE: Wednesday, March 7, 2018

TIME: 2:00 PM to 3:30 PM Eastern Standard Time

FORMAT: Webinar & conference call capability will be provided to maximize participation

TELEPHONE NUMBER: 888-282-0371

TELEPHONE PASSCODE: 6854311

1. Go to or click on:

<https://dolevents.webex.com/dolevents/onstage/g.php?MTID=e35893c21221a8e89f25a00876613ff74>

2. If prompted, please enter the appropriate contact information (first name, last name, email address)

3. If prompted, enter the event password: Welcome!24

4. Click on "Join Now"

5. To join and hear the audio, please dial the toll-free number 888-282-0371 and enter access code: 6854311 to hear the audio portion of the webinar or use the audio function of the WebEx software to stream audio.

- **February 27, 2018. OFLC Announces System Maintenance Outage Impacting the PERM System**

The PERM system will be unavailable during the following time period for system maintenance: Thursday, March 1, 2018 from 8:00 pm ET until 11:00 pm ET.

- **January 29, 2018. FY 2018 H-2B Foreign Labor Recruiter List**

Pursuant to 20 CFR § 655.9(c), the Office of Foreign Labor Certification (OFLC) is publishing an updated list of the names of foreign labor recruiters and the identity and location of persons or entities hired by or working for the recruiter that employers have indicated they engaged, or planned to engage, in the recruitment of prospective H-2B workers to perform the work described on their Form ETA-9142B, *H-2B Application for Temporary Employment Certification*. The H-2B Foreign Labor Recruiter List includes cumulative cases filed from October 1, 2017 through December 31, 2018.

By providing this Foreign Labor Recruiter List, OFLC is providing a greater level of transparency to the H-2B worker recruitment process and facilitating information sharing between the Department and other agencies and the public. [H-2B Foreign Labor Recruiter List](#) will be updated quarterly. FAQs regarding the Foreign Labor Recruiter List have been posted as [2017 H-2B IFR FAQs Round 16](#) and can be accessed. [Archived Foreign Labor Recruiter Lists](#) may also be found.

- **January 19, 2018. FY 2018 Q1 Cumulative Disclosure Data**

The OFLC PERM, H-2A, H-2B, Prevailing Wage, and H-1B program disclosure data files for Quarter 1 of FY 2018 are now available. Access to the disclosure files and corresponding record layouts are available on the [OFLC Performance Data page](#).

- **January 19, 2018. FY 2018 Q1 Selected Statistics**

The Office of Foreign Labor Certification has posted updated program factsheets containing the Quarter 1 FY 2018 selected statistics for the

[Permanent Labor Certification Program](#), [Prevailing Wage Determination Program](#), [H-1B Temporary Visa Program](#), [H-2A Temporary Agricultural Visa Program](#), and [H-2B Temporary Non-agricultural Visa Program](#). Reports are derived from program data as of 12/31/2017. The updated program factsheets may also be found on [OFLC's Performance Data page](#).

- **January 17, 2018. H-2B Processing Announcement**

The Department of Labor's (DOL) Office of Foreign Labor Certification (OFLC) is making this announcement to alert employers and other interested stakeholders about a process change to better assure fairness regarding the issuance of H-2B temporary labor certifications due to the unprecedented volume of applications received on January 1, 2018.

#### **H-2B Visas: Statutory Background and OFLC Process**

The Immigration and Nationality Act (INA) sets the annual number of aliens who may be issued H-2B visas or otherwise provided H-2B nonimmigrant status by the Department of Homeland Security (DHS) to perform temporary non-agricultural work at 66,000. Up to 33,000 H-2B visas may be issued in the first half of a fiscal year (October 1 to March 31), and the remaining semi-annual allocation of 33,000 visas will be available for employers seeking to hire H-2B workers during the second half of the fiscal year (April 1 to September 30). This announcement concerns the processing of the H-2B temporary labor certification applications for the April 1 - September 30, 2018 period of need.

OFLC process for obtaining an H-2B certification is a two-step process for employers. Employers must first file a complete and accurate *Application for Temporary Employment Certification* ( [ETA Form 9142B](#) ). Following review and acceptance from OFLC, the employer must then conduct recruitment of U.S. workers and file a recruitment report. The Department reviews those reports and issues final labor certification decisions to employers who comply with all

regulatory requirements as they are returned to OFLC by employers. Employers granted temporary labor certification are then eligible to file a petition with the United States Citizenship and Immigration Services (USCIS) at the DHS.

#### **Process Change for Granting Temporary Labor Certification**

Because of the intense competition for H-2B visas in recent years, the semi-annual visa allocation, and the regulatory requirement that employers apply with OFLC for a temporary labor certification 75 to 90 days before the start date of work, employers who wish to obtain visas for their workers under the semi-annual allotment for periods of need beginning from April 1 - September 30, 2018, must promptly apply for a temporary labor certification and then file a petition with USCIS before the cap is reached. As a result, OFLC typically experiences a significant "spike" in labor certification applications at the beginning of January for temporary or seasonal jobs during the U.S.'s early spring and summer weather months.

Thus, on January 1, 2017 (FY 2017), OFLC received 1,538 applications covering approximately 26,673 worker positions for a work start date of April 1, 2017; approximately 80% of the entire semi-annual visa allocation of 33,000. By contrast, on January 1, 2018, OFLC received approximately 4,498 applications covering 81,008 worker positions requesting an April 1, 2018, start date of work. This unprecedented level of employer requests for H-2B workers on January 1, 2018 is approximately three times greater than the number of applications received on January 1, 2017, and more than two and one-half times greater than the 33,000 semi-annual visa allotment for FY 2018 permitted under the INA. In previous years, OFLC processed applications as expeditiously as possible in a manner independent of the time of day the application was filed

possible in a manner irrespective of the time or day the application was filed, only focusing on processing applications by the day they were filed. Although OFLC is working as expeditiously as possible to issue first actions, review responses to Notices of Deficiency, and issue Notices of Acceptance, the overwhelming workload this year has strained OFLC's processing system and resulted in delays for the majority of all applications filed on January 1. OFLC expects the first 2,400 applications filed on January 1 (which represent approximately 40,000 worker positions) will be processed for first actions by next week, with the remainder of all filed applications processed for first actions in the weeks that follow.

Employers receiving Notices of Acceptance can proceed to meet the additional regulatory requirements, including recruitment of U.S. workers and submission of recruitment reports. Employers receiving Notices of Deficiency that are corrected, and who then receive a Notice of Acceptance, can also proceed to meet the additional regulatory requirements. In order to promote fairness for employers in accessing the H-2B program and due to the unprecedented volume of applications on January 1, OFLC is making a change to its process regarding the issuance of final labor certification decisions. This process change will better reflect the sequential order in which employers filed applications. Thus, OFLC will not begin releasing certified H-2B applications (Form ETA-9142B *Application for Temporary Employment Certification*) until February 20, 2018. On that day, OFLC will release certified H-2B applications that have met all regulatory requirements as of that day ***in sequential order based on the original calendar day and time the application was filed (i.e., receipt time)***. Thereafter, OFLC will continue to release certified H-2B applications in a sequential manner until all applications are released. OFLC will continue to issue rejections, withdrawals, and denials of labor certification applications in accordance with standard procedures. This process change will allow employers who filed promptly on January 1, 2018, sufficient time to meet

regulatory requirements, including the recruitment and hiring of qualified and available U.S. workers, thus preserving the sequential order of filing that took place on January 1, 2018, to the extent possible.

As required, OFLC will grant temporary labor certification only after the employer's H-2B application has met all the requirements for approving labor certification under 20 CFR 655.50 and the subpart. In accordance with regulatory requirements, OFLC will send all certified H-2B applications to the employer, or the employer's authorized attorney or agent, by means normally assuring next day delivery.

- **January 3, 2018. OFLC Issues Public Service Announcement Regarding H-2B Requests for Temporary Labor Certification, Second Half of Fiscal Year (FY) 2018**

The Department of Labor's (DOL) Office of Foreign Labor Certification (OFLC) is making this public service announcement to alert employers and other interested stakeholders about the high volume of applications received requesting temporary labor certification under the H-2B visa program.

On January 1, 2018, the earliest date on which an employer seeking an employment start date of April 1 may file an H-2B application requesting temporary labor certification, ***OFLC received approximately 4,500 applications covering more than 81,600 worker positions***. Except where a statutory exemption applies, the Department of Homeland Security (DHS) may only issue up to 33,000 H-2B visas for employers seeking to hire H-2B workers during the second half of FY 2018 (April 1 to September 30).

The OFLC takes each request for temporary labor certification seriously and administers the labor certification program in a manner that protects the wages and working conditions of both H-2B and U.S. workers who support the seasonal workforce needs of U.S. small businesses, consumers, and communities. We are working as expeditiously as possible to issue first case actions, review responses to Notices of Deficiency (NODs), and issue Notices of Acceptance where possible. First case actions are taken on a first filed basis and responses to NODs are evaluated in the order in which they are received.

### **Background on Statutory Limit of H-2B Visas**

The Immigration and Nationality Act (INA) set at 66,000 the annual number of aliens who may be issued H-2B visas or otherwise provided H-2B nonimmigrant status by the DHS to perform temporary non-agricultural work. Up to 33,000 H-2B visas may be issued in the first half of a fiscal year (October 1 to March 31), and the remaining annual allocation will be available for employers seeking to hire H-2B workers during the second half of the fiscal year (April 1 to September 30). If insufficient petitions are approved to use all H-2B numbers in a given fiscal year, the unused numbers cannot be carried over for petition approvals in the next fiscal year.

On December 21, 2017, the DHS United States Citizenship and Immigration Services (USCIS) announced that the first half of the annual number of H-2B visas for Fiscal Year (FY) 2018 was reached and, except where a statutory exemption applies, USCIS will reject new H-2B petitions requesting an employment start date on or before March 31, 2018. In accordance with the INA, USCIS will accept new H-2B petitions for the remaining 33,000 visas available for FY 2018 where the employer has received a temporary labor certification from the DOL and requests an employment start date on or after April 1, 2018.

- **January 2, 2018. Labor Certification Process for the Temporary Employment of Aliens in Agriculture in the United States: Adverse Effect Wage Rate for Range Occupations in 2018; Correction**

On December 22, 2017, the Employment and Training Administration (ETA) of the Department of Labor (Department) published in the *Federal Register* a notice announcing the new Adverse Effect Wage Rate (AEWR) for the employment of temporary or seasonal nonimmigrant foreign workers (H-2A workers) who perform herding or production of livestock on the range. AEWRs are the minimum wage rates the Department has determined must be offered and paid by employers to H-2A workers and workers in corresponding employment so that the wages of similarly employed U.S. workers will not be adversely affected. The *Federal Register* Notice presented the new AEWR as both \$1,584.22/month and \$1,548.22/month. The correct 2018 AEWR for herding or production of livestock on the range is \$1,584.22/month.

On January 2, 2018, the Department published a correction notice in the *Federal Register* announcing the correct 2018 AEWR for herding or production of livestock on the range of \$1,584.22/month. Visit <https://www.federalregister.gov> to read more.

## **Calendar Year 2017**

- **December 28, 2017. New 2018 Herder H-2A Adverse Effect Wage Rates (AEWRs) - Correction**

On December 22, 2017, the Employment and Training Administration (ETA) of the Department of Labor (Department) published in the *Federal Register* a notice announcing the new Adverse Effect Wage Rate (AEWR) for the

employment of temporary or seasonal nonimmigrant foreign workers (H-2A workers) who perform herding or production of livestock on the range. AEWRs are the minimum wage rates the Department has determined must be offered and paid by employers to H-2A workers and workers in corresponding employment so that the wages of similarly employed U.S. workers will not be adversely affected. The *Federal Register* Notice presented the new AEWR as both \$1,584.22/month and \$1,548.22/month. The correct 2018 AEWR for herding or production of livestock on the range is \$1,584.22/month, effective January 1, 2018. ETA will publish a correction notice in the *Federal Register*.

- **December 22, 2017. New 2018 Herder H-2A Adverse Effect Wage Rates (AEWRs)**

On December 22, 2017, the Employment and Training Administration (ETA) of the Department of Labor (Department) is issuing this notice to announce the new Adverse Effect Wage Rate (AEWR) for the employment of temporary or seasonal nonimmigrant foreign workers (H-2A workers) to perform herding or production of livestock on the range. AEWRs are the minimum wage rates the Department has determined must be offered and paid by employers to H-2A workers and workers in corresponding employment so that the wages of similarly employed U.S. workers will not be adversely affected. To read the *Federal Register* notice please click [here](#).

- **December 21, 2017.**

The PERM Webinar presentation, hosted on December 13, 2017, is posted under the PERM Webinars link on the Office of Foreign Labor Certification's Permanent Labor Certification Program web [page](#).

- **December 21, 2017. New 2018 H-2A Adverse Effect Wage Rates (AEWRs)**

The Department has published a notice in the *Federal Register* announcing new Adverse Effect Wage Rates (AEWRs) for each state, based on the Farm Labor Survey conducted by the U.S. Department of Agriculture. The AEWRs are the minimum hourly wage rates the Department has determined must be offered and paid by employers to H-2A workers and workers in corresponding employment for a particular agricultural job and area, so that the wages of similarly employed U.S. workers will not be adversely affected. To read the *Federal Register* notice please click [here](#).

- **November 27, 2017. Webinar Announcement: How to Upload PERM Documents into the Permanent Online System**

As part of the Office of Foreign Labor Certification's (OFLC) on-going efforts to increase public engagement, OFLC, the AXIS Management Group, and the Office of the Chief Information Officer (OCIO) will host a webinar on Wednesday, December 13, 2017, designed to educate stakeholders, program users, and other interested members of the public on best practices associated with the Permanent Labor Certification program.

Our objective for this webinar is to provide technical assistance to stakeholders with helpful practice tips on how to upload documentation into the Permanent Online System. The benefits of uploading documentation in the Permanent Online System include: immediate confirmation of successfully uploaded documentation; reducing cost and burden to stakeholders from submitting documentation via U.S. mail, e-mail and/or facsimile; streamlining process of submitting documentation; and expediting review of PERM applications.

- DATE: Wednesday, December 13, 2017



- TIME: 2:00 PM to 3:30 PM Eastern Standard Time
- FORMAT: Webinar & conference call capability will be provided to maximize participation
- TELEPHONE NUMBER: 888-324-7513
- TELEPHONE PASSCODE: 6906613
  1. Go to or click on:  
<https://dolevents.webex.com/dolevents/onstage/g.php?MTID=ea2fdf781fddada1121e2da3b7bbd675b>
  2. If prompted, please enter the appropriate contact information (first name, last name, email address)
  3. If prompted, enter the event password: Welcome!25
  4. Click on "Join Now"
  5. To join and hear the audio, please dial the toll-free number 888-324-7513 and enter access code: 6906613 to hear the audio portion of the webinar or use the audio function of the WebEx software to stream audio.

- **November 16, 2017. USDA Release of 2017 Farm Labor Survey**

On November 16, 2017, the United States Department of Agriculture (USDA) issued the Farm Labor Survey (FLS) report in which it established the average annual wage rates, by region and the United States, for field and livestock workers. The Department of Labor (Department) relies on the average annual combined hourly wage for field and livestock workers in order to establish the Adverse Effect Wage Rates (AEWRs) in the H-2A program. The AEWRs are the minimum hourly wage rates the Department has determined must be offered and paid by employers to H-2A workers and workers in corresponding employment, so that the wages of workers similarly employed in the United States will not be adversely affected.

The Department is reviewing the USDA FLS average annual wage rates for 2017 and will soon publish a notice in the Federal Register announcing new Adverse Effect Wage Rates (AEWRs) for each state. To obtain more information on NASS surveys and reports, please call the NASS Agricultural Statistics Hotline at (800) 727-9540, 7:30 a.m. to 4:00 p.m. ET, or e-mail: [nass@nass.usda.gov](mailto:nass@nass.usda.gov). You can access a copy of the latest [USDA FLS report](#).

- **November 15, 2017. OFLC Announces System Maintenance Outage Impacting iCERT Systems**

The iCERT system will be unavailable during the following time period for system maintenance:

Thursday, November 16, 2017 from 8:00 pm ET until 10:00 pm ET

- **November 9, 2017.**

The H-2A Webinar presentation, hosted on October 31, 2017, is posted under the H-2A Additional Resources link on the Office of Foreign Labor Certification's H-2A Visa Program web page. You can access the [H-2A Temporary Agricultural Program](#) and the [presentation](#) directly.

- **November 2, 2017.**

The H-2B Webinar presentation, hosted on October 25, 2017, is posted under the H-2B Additional Resources link on the Office of Foreign Labor Certification's H-2B Visa Program web page. You can access the [H-2B Temporary Non-agricultural Program](#) and the [presentation](#) directly.

- **October 27, 2017. ETA Announces Enhancement of its iCERT System to**

## **Improve Customer Service and Streamline Processing in the H-2A and H-2B Visa Programs**

The State Workforce Agency (SWA) plays an important role supporting the Office of Foreign Labor Certification (OFLC) in processing employer applications requesting temporary labor certification under the H-2A agricultural and H-2B non-agricultural temporary visa programs. In the H-2A program, the SWA reviews the content of employer job orders prior to employer submission of the H-2A applications to the Chicago National Processing Center (CNPC), places approved job orders for intrastate and interstate recruitment of U.S. workers, and conducts safety inspections of employer-provided housing for temporary agricultural workers. In the H-2B program, the SWA reviews the employer's job order concurrently with the Certifying Officer (CO) at the CNPC, advises the CO of any job order deficiencies within six business days of receipt, promptly makes any modifications to the job order required by the CO, and places approved job orders for intrastate and interstate recruitment of U.S. workers.

During the course of processing an employer's application for H-2A or H-2B workers, the SWA currently provides the CO with required information and documentation using U.S. mail, electronic mail or facsimile. The iCERT System was not initially designed to permit SWA staff to upload responsive documents (e.g., housing certification) or input based on a review of the employer's job order directly to the employer's pending H-2A or H-2B application. As a result, the current process requires OFLC staff to invest time in receiving, tracking, and, where necessary, scanning and uploading each responsive document into the pending application assigned to the OFLC analyst for review. During certain seasons of the year when the H-2A and H-2B workloads are high, there can be delays associated with the time it takes for the SWA's information to get connected with the employer's pending application.

To help mitigate delays associated with connecting SWA documentation to the employer's pending H-2A or H-2B application and provide employers with better customer services, OFLC has released an enhancement to the iCERT System that will permit authorized SWA staff to electronically upload supporting documentation or other information directly to the employer's pending application for immediate review by the assigned CNPC analyst. OFLC expects that this new feature will ultimately eliminate the need for the SWAs to submit responsive documents via U.S. mail, e-mail or facsimile, and result in a more expedient review of the employer's pending H-2A or H-2B application. Initially, OFLC will be implementing this new enhancement in 33 states with the goal of full implementation nationwide no later than September 30, 2018:

- Arizona
- California
- Colorado
- Florida
- Georgia
- Idaho
- Iowa
- Kansas
- Kentucky
- Louisiana
- Maine
- Maryland
- Massachusetts

- Michigan
- Minnesota
- Mississippi
- Missouri
- Montana
- Nebraska
- Nevada
- New Jersey
- New York
- North Carolina
- Ohio
- Oklahoma
- Oregon
- Pennsylvania
- South Carolina
- South Dakota
- Tennessee
- Texas
- Utah
- Virginia
- Washington

- **October 24, 2017. FY 2017 H-2B Foreign Labor Recruiter List**

Pursuant to 20 CFR § 655.9(c), the Office of Foreign Labor Certification (OFLC) is publishing an updated list of the names of foreign labor recruiters and the identity and location of persons or entities hired by or working for the recruiter that employers have indicated they engaged, or planned to engage, in the recruitment of prospective H-2B temporary non-agricultural workers to perform the work described on their Form ETA-9142B, *H-2B Application for Temporary Employment Certification*. The H-2B Foreign Labor Recruiter List includes cumulative cases filed from July 28, 2016 through September 30, 2017.

By providing this Foreign Labor Recruiter List, OFLC is providing a greater level of transparency to the H-2B worker recruitment process and facilitating information sharing between the Department and other agencies and the public. The list will be updated quarterly and can be accessed [here](#). FAQs regarding the Foreign Labor Recruiter List have been posted as 2017 H-2B IFR FAQs Round 16 and can be accessed [here](#).

- **FY 2017 Q4 Cumulative Disclosure Data**

The OFLC PERM, H-2A, H-2B, Prevailing Wage, and H-1B program disclosure data files for Quarter 4 of FY 2017 are now available. Click [here](#) to access the disclosure files and corresponding record layouts.

- **October 19, 2017. FY 2017 Q4 Selected Statistics**

The Office of Foreign Labor Certification has posted updated program factsheets containing the Quarter 4 FY 2017 selected statistics for the [Permanent Labor Certification Program](#), [Prevailing Wage Determination Program](#), [H-1B Temporary Visa Program](#), [H-2A Temporary Agricultural Visa Program](#), and [H-2B Temporary Non-agricultural Visa Program](#). Reports are derived from program data as of 9/30/2017. The updated program factsheets may also be found on OFLC's Performance Data [page](#).

- **October 18, 2017. Webinar Announcement: Employer Filing Tips and Best Practices for H-2A Labor Certification Applications**

As part of the Office of Foreign Labor Certification's (OFLC) on-going efforts to increase public engagement, OFLC will host a webinar on Tuesday, October 31, 2017, designed to educate stakeholders, program users, and other interested members of the public on recent program workload trends, common deficiencies and best practices associated with the H-2A Labor Certification program.

Our objective for this webinar is to provide technical assistance to employers and, if applicable, their authorized attorneys or agents that will provide stakeholders with helpful practice tips when submitting their H-2A applications for temporary labor certification to the Chicago National Processing Center.

- DATE: Tuesday, October 31, 2017  
TIME: 2:00 PM to 3:00 PM EST  
FORMAT: Webinar & conference call capability will be provided to maximize participation  
TELEPHONE NUMBER: 888-324-2611  
TELEPHONE PASSCODE: 8502163

Go to or click on: <https://dolevents.webex.com/dolevents/onstage/g.php?MTID=e20ea933e3267af5aa6b4221552ab752d>

1. If prompted, please enter the appropriate contact information (first name, last name, email address)
2. If prompted, enter the event password: Welcome!24
3. Click on "Join Now"
4. To join and hear the audio, please dial the toll-free number 888-324-2611 and enter access code: 8502163 to hear the audio portion of the webinar or use the audio function of the WebEx software to stream audio.

- **October 18, 2017. Webinar Announcement: Employer Filing Tips and Best Practices for H-2B Labor Certification Applications**

As part of the Office of Foreign Labor Certification's (OFLC) on-going efforts to increase public engagement, OFLC will host a webinar on Wednesday, October 25, 2017, designed to educate stakeholders, program users, and other interested members of the public on recent program workload trends, common deficiencies and best practices associated with the H-2B Labor Certification program.

Our objective for this webinar is to provide technical assistance to employers and, if applicable, their authorized attorneys or agents that will provide stakeholders with helpful practice tips when submitting their H-2B applications for temporary labor certification to the Chicago National Processing Center.

- DATE: Wednesday, October 25, 2017  
TIME: 2:00 PM to 3:00 PM EST  
FORMAT: Webinar & conference call capability will be provided to maximize participation  
TELEPHONE NUMBER: 888-324-2611  
TELEPHONE PASSCODE: 8502163

Go to or click on: <https://dolevents.webex.com/dolevents/onstage/g.php?MTID=e11f2f059bc4a290558acbbbb0b70d5df>

1. If prompted, please enter the appropriate contact information (first name, last name, email address)
2. If prompted, enter the event password: Welcome!24

3. Click on "Join Now"

4. To join and hear the audio, please dial the toll-free number 888-324-2611 and enter access code: 8502163 to hear the audio portion of the webinar or use the audio function of the WebEx software to stream audio.

- **October 13, 2017. H-2A 2010 Rule FAQs Round 13**

The Office of Foreign Labor Certification (OFLC) has published Round 13 of Frequently Asked Questions (FAQs) related to H-2A Applications for Temporary Employment Certification under the 2010 Rule. This round, which covers questions related to H-2A newspaper advertisements, is posted on the OFLC website on the [H-2A](#) page, the [FAQs](#) page, and the [FAQs Rounds](#) page. To directly access the Round 13 FAQs, please click [here](#).

- **October 6, 2017. OFLC Announces System Maintenance Outage Impacting PERM and iCERT Systems**

The PERM and iCERT systems will be unavailable during the following time periods for system maintenance:

- Friday, October 6, 2017 from 8:00pm ET until Tuesday, October 10, 2017, 6:00 am ET

- **September 26, 2017. OFLC Announces System Maintenance Outage Impacting the PERM System**

The PERM system will be unavailable during the following time periods for system maintenance:

- Thursday, September 28, 2017 from 8:00pm ET until Friday, September 29, 2017, 1:00 am ET

- **September 13, 2017. The Department has released its Foreign Labor Certification Annual Report for Fiscal Year (FY) 2016.** The FY 2016 Annual Report presents information on the Prevailing Wage Determination Process, Permanent Labor Certification, and Temporary Nonimmigrant Labor Certification for FY 2016. The report also contains State Employment-Based Labor Certification Profiles and top Country Employment-Based Immigration Profiles. Click [here](#) to view the 2016 Annual Report. A 508 compliant version will be posted as soon as it is available.

- **August 22, 2017.** The PERM Webinar presentation, hosted on August 16, 2017, is posted under the PERM Webinars link on the Office of Foreign Labor Certification's Permanent Labor Certification Program web page. To access this page, please click [here](#).

- **August 25, 2017. OFLC Announces System Maintenance Outage Impacting the iCERT and PERM Systems**

The iCERT and PERM systems will be unavailable during the following time periods for system maintenance:

- Friday, August 25, 2017 from 10:30pm ET until Saturday, August 26, 9:30 am ET

- **August 3, 2017. Published 60 Day Notice for the LCA and WH-4**

In accordance with the Secretary's June 6, 2017 [News Release](#), which called for proposed form changes to better protect American workers, confront fraud, and increase transparency, the Department of Labor published a 60 day notice

in the *Federal Register* announcing its intent to revise its information collection for the H-1B, H-1B1 and E-3 programs. The revision includes the Labor Condition Application for Nonimmigrant Workers (LCA) Form ETA 9035/ 9035E (electronic), Form ETA 9035CP accompanying instructions, a new Appendix for the Form ETA 9035/ 9035E, and the Wage and Hour Division's WH-4 Nonimmigrant Worker Information Form collection. Any written comments must be submitted in accordance with the *Federal Register* notice instructions. Copies of the notice and the proposed forms are below:

[Federal Register 60 Day Notice](#)

[Proposed Form ETA 9035](#)

[Proposed Form ETA 9035CP Instructions](#)

[Proposed Form ETA 9035 Appendix A](#)

[Proposed Form WH-4](#)

[Proposed Form WH-4 Instructions](#)

[Supporting Statement](#)

[Supporting Statement Appendix](#)

[Table of Changes Form ETA 9035](#)

[Table of Changes Form ETA 9035CP](#)

[Table of Changes WH-4](#)

- **July 19, 2017. ETA Form 9142-B-CAA**

The Office of Foreign Labor Certification (OFLC) has published [ETA Form 9142-B-CAA](#) and the accompanying [instructions](#) in support of the [temporary rule](#) jointly issued by the Department of Homeland Security and the Department of Labor, titled "Exercise of Time-Limited Authority to Increase the Fiscal Year 2017 Numerical Limitation for the H-2B Temporary Nonagricultural Worker Program." The temporary rule was published in the *Federal Register* on July 19, 2017, with an immediate effective date. This attestation must be submitted to the United States Citizenship and Immigration Services along with Form I-129, in support of an H-2B application subject to the H-2B cap for the second half of

Fiscal Year 2017. The attestation is also available on the Forms and Instructions section of the OFLC website found at:

<https://www.foreignlaborcert.doleta.gov/form.cfm>

- **July 18, 2017. FY 2017 Q3 Cumulative Disclosure Data**

The OFLC PERM, H-2A, H-2B, Prevailing Wage, and H-1B program disclosure data files for Quarter 3 of FY 2017 are now available. Click [here](#) to access the disclosure files and corresponding record layouts.

- **July 18, 2017. FY 2017 Q3 Selected Statistics**

The Office of Foreign Labor Certification has posted updated program factsheets containing the Quarter 3 FY 2017 selected statistics for the [Permanent Labor Certification Program](#), [Prevailing Wage Determination Program](#), [H-1B Temporary Visa Program](#), [H-2A Temporary Agricultural Visa Program](#), and [H-2B Temporary Non-agricultural Visa Program](#). Reports are derived from program data as of 6/30/2017. The updated program factsheets may also be found on OFLC's Performance Data [page](#).

- **July 18, 2017. FY 2017 Q2 H-2B Foreign Labor Recruiter List**

Pursuant to 20 CFR § 655.9(c), the Office of Foreign Labor Certification (OFLC) is publishing an updated list of the names of foreign labor recruiters and the identity and location of persons or entities hired by or working for the recruiter that employers have indicated they engaged, or planned to engage, in the recruitment of prospective H-2B workers to perform the work described on their Form ETA-9142B, *H-2B Application for Temporary Employment Certification*

The H-2B Foreign Labor Recruiter List includes cumulative cases filed from

The H-2B Foreign Labor Recruiter List includes cumulative cases filed from July 28, 2016 through June 30, 2017.

By providing this Foreign Labor Recruiter List, OFLC is providing a greater level of transparency to the H-2B worker recruitment process and facilitating information sharing between the Department and other agencies and the public. The list will be updated quarterly and can be accessed [here](#). FAQs regarding the Foreign Labor Recruiter List have been posted as 2015 H-2B IFR FAQs Round 16 and can be accessed [here](#).

- **July 17, 2017. H-2B Temporary Rule**

Today the Secretary of Labor and the Secretary of Homeland Security signed a joint regulation allowing some seasonal American businesses who have tried and failed to find American workers to hire a limited number of foreign workers on a temporary basis. This regulation is needed to keep U.S. businesses open and their American workers employed; it is limited to those businesses who are in the most desperate straits. [The text of the regulation](#) may be found at the *Federal Register*. Inquiries should be directed to [mediainquiry@h2.dhs.gov](mailto:mediainquiry@h2.dhs.gov).

- **July 14, 2017. Webinar Announcement: PERM Audit Response Submission Practice Tips**

As part of the Office of Foreign Labor Certification's (OFLC) on-going efforts to increase public engagement, OFLC will host a webinar on Wednesday, August 16, 2017, designed to educate stakeholders, program users, and other interested members of the public on best practices associated with the Permanent Labor Certification program.

Our objective for this webinar is to provide technical assistance to employers and, if applicable, their authorized attorneys or agents that will provide stakeholders with helpful practice tips when submitting their PERM audit response to the Atlanta National Processing Center.

- DATE: Wednesday, August 16, 2017  
TIME: 2:00 PM to 3:30 PM EST  
FORMAT: Webinar & conference call capability will be provided to maximize participation  
TELEPHONE NUMBER: 800-779-9573  
TELEPHONE PASSCODE: 6621869
- 1. Go to or click on:  
<https://dolevents.webex.com/dolevents/onstage/g.php?MTID=e27f766e27a5436e353601816de7f99a6>
- 2. If prompted, please enter the appropriate contact information (first name, last name, email address)
- 3. If prompted, enter the event password: Welcome!24
- 4. Click on "Join Now"
- 5. To join and hear the audio, please dial the toll-free number 800-779-9573 and enter access code: 6621869 to hear the audio portion of the webinar or use the audio function of the WebEx software to stream audio.

- **July 6, 2017. OFLC Announces System Maintenance Outage Impacting the iCERT System**

The iCERT system will be unavailable during the following time periods for system maintenance:

- Thursday, July 6, 2017 from 8:00pm - 12:00am ET

- **September 9, 2016. H-2B Prevailing Wage FAQs.**

- **June 16, 2017: OFLC Announces 2010 H-2A FAQ on Rental Housing and Public Accommodations**

The Office of Foreign Labor Certification (OFLC) has published a twelfth round of Frequently Asked Questions (FAQs) related to the filing and processing of H-2A Applications for Temporary Employment Certification covering issues related to the use of rental housing or public accommodations. These FAQs are intended to help H-2A employers better understand the filing and documentation requirements that are necessary for an employer to demonstrate that the housing being offered to accommodate H-2A foreign workers complies with applicable housing standards for rental housing and public accommodations. The Round 12 FAQs are posted on the OFLC website on the H-2A program page at <https://www.dol.gov/agencies/eta/foreign-labor/programs/h-2a.cfm> and the FAQs page at <https://www.foreignlaborcert.doleta.gov/faqsanswers.cfm> . To directly access the Round 12 FAQs, please click [here](#).

- **June 7, 2017. OFLC Announces System Maintenance Outage Impacting the iCERT and PERM Systems**

The iCERT and PERM systems will be unavailable during the following time periods for system maintenance:

- Friday, June 9, 2017 from 8:00pm ET until Monday, June 12, 6:00 am ET

- **May 30, 2017. OFLC Announces Improvements to the PERM Sponsorship Verification Process**

The Office of Foreign Labor Certification (OFLC) is currently working to streamline the PERM sponsorship verification process. Effective May 13, 2017, OFLC updated the automated email request for sponsorship verification process, allowing the employer to respond within 30 days by directly accessing

the sponsorship questionnaire online. Employers who do not respond within seven (7) calendar days will be sent a follow up email reminding them that it has 23 days left to respond to the sponsorship request.

If applicable, the employer's attorney/agent will also receive a courtesy email regarding the employer's timeframe to respond to the sponsorship request. Failure to respond to the request within the established timeframe will result in a denial for failure to comply with the request for sponsorship verification. These emails will inform both the employer and the employer's attorney/agent of the consequences of failing to comply with the request for sponsorship verification.

If the employer does not have an email address listed on its ETA Form 9089, Application for Permanent Employment Certification, OFLC will verify sponsorship via a telephone call or a mailed request for sponsorship verification.

- **May 19, 2017. OFLC Announces System Maintenance Outage Impacting the iCERT and PERM Systems**

The iCERT and PERM systems will be unavailable during the following time periods for system maintenance:

- Friday, May 19, 2017 from 10:00pm ET until 12:00 am ET

- **May 18, 2017.** The PERM Webinar presentation, hosted on May 10, 2017, is posted under the PERM Webinars link on the Office of Foreign Labor Certification's Permanent Labor Certification Program web page. To access this



page, please click [here](#). To access the presentation directly, please click [here](#).

- **May 11, 2017. OFLC Announces System Maintenance Outage Impacting the PERM System**

The PERM system will be unavailable during the following time periods for system maintenance:

- Thursday, May 11, 2017 from 8:00pm ET until 12:00 am ET

- **April 28, 2017. Webinar Announcement: Employer Filing Tips and Best Practices for Preparing and Submitting H-2B Prevailing Wage Requests**

As part of the Office of Foreign Labor Certification's (OFLC) on-going efforts to increase public engagement, the OFLC will host webinar on Thursday, May 18, 2017 designed to educate stakeholders, program users, and other interested members of the public on recent program workload trends, common deficiencies and best practices associated with employer request for H-2B prevailing wage determinations (PWDs).

Our objective for the webinar is to provide technical assistance to employers and, if applicable, their authorized attorneys or agents that will improve the quality of applications submitted to the OFLC by providing:

- Helpful filing tips to ensure quality PWD requests are submitted for processing;
- Assistance in writing correct Job Duties and Occupations in the application;
- Tips on how to avoid common deficiencies or errors that lead to Requests for Further Information (RFIs);
- Recommendations on the use of surveys for PWD requests.

DATE: Thursday, May 18, 2017

TIME: 2:00PM to 4:00PM Eastern Standard Time

FORMAT: Webinar & conference call capability will be provided to maximize participation

PASSWORD: **Welcome!25**

1. Go to or click on:

<https://dolevents.webex.com/dolevents/onstage/g.php?MTID=e378bf63c1553fc5b5444b8c549e5cd0e>

2. If prompted, please enter the appropriate contact information (first name, last name, email address)

3. If prompted, enter the event password: Welcome!25

4. Click on "Join Now"

5. To join and hear the audio, please dial the toll-free number **888-455-3756** and enter access code: **1965721** to hear the audio portion of the webinar or use the audio function of the Web Ex software to stream audio.

- **Apr 18, 2017. FY 2017 Q2 Cumulative Disclosure Data.** The OFLC PERM, H-2A, H-2B, Prevailing Wage, and H-1B program disclosure data files for Quarter 2 of FY 2017 are now available. Click [here](#) to access the disclosure files and corresponding record layouts.
- **Apr 18, 2017.** The Office of Foreign Labor Certification has posted updated program factsheets containing the Quarter 2 FY 2017 selected statistics for the [Permanent Labor Certification Program](#), [Prevailing Wage Determination Program](#), [H-1B Temporary Visa Program](#), [H-2A Temporary Agricultural Visa](#)

Program, and H-2B Temporary Non-agricultural Visa Program. Reports are derived from program data as of 3/31/2017. The updated program factsheets may also be found on OFLC's Performance Data page.

- **Apr 18, 2017. OFLC Announces System Maintenance Outage Impacting the iCERT and PERM Systems**

iCERT and PERM systems will be unavailable during the following time periods for system maintenance:

- Friday, April 21, 2016 from 8:00pm ET until Monday, April 24, 2017 6:00 am ET

- **Apr 18, 2017. Federal Register Notice Announcing the 2017 Allowable Charges for Agricultural Workers' Meals and Travel Subsistence Reimbursement, Including Lodging for the H-2A and H-2B Programs.**

The Department of Labor has published a Notice in the *Federal Register* to announce the allowable charges for 2017 that employers seeking H-2A workers may charge their workers when the employer provides three meals a day, and the maximum travel subsistence meal reimbursement that a worker with receipts may claim in 2017 under the H-2A and H-2B programs. The Notice also includes a reminder regarding employers' obligations with respect to overnight lodging costs as part of required subsistence for the H-2A and H-2B programs. To read the Notice, please click [here](#).

- **Apr 18, 2017. FY 2017 Q2 H-2B Foreign Labor Recruiter List**

Pursuant to 20 CFR § 655.9(c), the Office of Foreign Labor Certification (OFLC) is posting an updated list of the names of foreign labor recruiters and the identity and location of persons or entities hired by or working for the recruiter that employers have indicated they engaged, or planned to engage, in the recruitment of prospective H-2B workers to perform the work described on

their Form ETA-9142B, H-2B Application for Temporary Employment Certification. The H-2B Foreign Labor Recruiter List includes cumulative cases filed from July 28, 2016 through March 31, 2017.

By providing this Foreign Labor Recruiter List, OFLC is providing a greater level of transparency to the H-2B worker recruitment process and facilitating information sharing between the Department and other agencies and the public. The list will be updated quarterly and can be accessed [here](#). FAQs regarding the Foreign Labor Recruiter List have been posted as 2015 H-2B IFR FAQs Round 16 and can be accessed [here](#).

- **Apr 12, 2017. Webinar Announcement: Employer Filing Tips and Best Practices for Preparing and Submitting Permanent Labor Certification Applications and PERM Prevailing Wage Requests**

As part of the Office of Foreign Labor Certification's (OFLC) on-going efforts to increase public engagement, the OFLC will host a webinar on Wednesday, May 10, 2017, designed to educate stakeholders, program users, and other interested members of the public on recent program workload trends, common deficiencies and best practices associated with the Permanent Labor Certification program.

Our objective for the webinar is to provide technical assistance to employers and, if applicable, their authorized attorneys or agents that will improve the quality of applications submitted to the OFLC by:

- Discussing the E-issuance, E-Receipt and Upload Documents process;
- Identifying how to avoid common deficiencies or frequent errors when

- preparing an ETA Form 9089 application;
- o Providing helpful practice tips to ensure quality applications are submitted for processing; and
- o Helpful tips for common deficiencies related to PERM prevailing wage requests.

DATE: Wednesday, May 10, 2017

TIME: 2:00 PM to 3:30 PM Eastern Standard Time

FORMAT: Webinar & conference call capability will be provided to maximize participation

EVENT NUMBER: 888-455-3756

PASSCODE: 6624633

1. Go to or click on:

<https://dolevents.webex.com/dolevents/onstage/g.php?MTID=ec09f8a3a112fe1fd42884385558021bd>

2. If prompted, please enter the appropriate contact information (first name, last name, email address)
3. If prompted, enter the event password: Welcome!24
4. Click on "Join Now"
5. To join and hear the audio, please dial the toll-free number 888-455-3756 and enter access code: 6624633 to hear the audio portion of the webinar or use the audio function of the Web Ex software to stream audio.

- **ETA Announces PERM Case Management System Enhancement to Streamline PERM Processes for Employers: Electronic Submission of Supporting Documentation**

ETA has implemented a new enhancement to the PERM Case Management System (CMS) related to the submission of applications for permanent labor certification intended to reduce burdens on employers and streamline the processing of applications. Beginning on and after April 15, 2017, the PERM CMS will permit the submission of electronic documentation while the application is pending review and up to 30 calendar days after the notice of proposed final agency action is issued on an application. The Department expects that this new feature will eliminate the need for the employer or, if applicable, its authorized agent or attorney to submit responsive documents via U.S. mail, e-mail or facsimile, and result in a more expedient review of applications by connecting the responsive documents directly to the OFLC analysts assigned to the application.

To review the features of this new CMS enhancement, please download a copy of the PERM Quick Guide at <https://www.plc.doleta.gov/onlinehelp.pdf>.

- **March 10, 2017. PERM FAQ Round 14**

In light of stakeholder input, which the Office of Foreign Labor Certification (OFLC) is considering, OFLC has temporarily removed from its website PERM FAQ Round 14 regarding Actual Minimum Requirements, originally published on March 6, 2017. OFLC will clarify and republish PERM FAQ Round 14 to provide additional information on its applicability to PERM applications and associated prevailing wage requests and determinations.

- February 6, 2017. OFLC Announces Updates to H-2B Case Workload and Processing Times**

The Department's Office of Foreign Labor Certification (OFLC) is providing additional processing information to employers who participate in the H-2B temporary nonimmigrant visa programs. Between January 1 - 7, 2017, OFLC received nearly 3,000 H-2B applications covering approximately 53,200 worker positions with an expected start date of work on or after April 1, 2017; an approximate 93% increase when compared to the number of H-2B applications received during the same calendar week in 2016. Between January 8 - 31, 2017, OFLC received another 1,500 H-2B applications requesting temporary labor certification for approximately 28,900 workers.

During 2016 and within its limited resources, OFLC planned and executed a number of management actions, as well as regular stakeholder education and outreach activities, designed to minimize expected processing delays without being able to accurately predict the total volume of applications that would be filed for processing. Beginning the first work week of January 2017, OFLC published regular updates on H-2B case processing times to the stakeholder community, and ensured consistent availability of its iCERT electronic system for customers to file H-2B applications and staff to process case actions. In order to issue prompt final decisions, OFLC also deployed a dedicated team of staff to review employer recruitment reports on pending H-2B applications that have completed the labor market test requirements under the regulation. We are continuing to focus our available resources on reducing the number of pending H-2B applications as expeditiously as possible while simultaneously issuing quality decisions.

To help employers better understand employer demand for workers under the H-2B visa program, OFLC has updated its H-2B case processing time information to include the total number of workers requested and certified

based on the week in which the employer filed its H-2B application. OFLC will continue to provide regular updates to this information during each work week, and employers can access current processing time information through the iCERT System at <https://icert.doleta.gov> and clicking on the "Processing Times" tab from the main home page.

- February 3, 2017. FY 2017 Q1 Cumulative Disclosure Data**

The OFLC PERM, H-2A, H-2B, Prevailing Wage, and H-1B program disclosure data files for Quarter 1 of FY 2017 are now available. Click [here](#) to access the disclosure files and corresponding record layouts.

- February 2, 2017. Updated program factsheets containing the Quarter 1 FY 2017**

The Office of Foreign Labor Certification has posted updated program factsheets containing the Quarter 1 FY 2017 selected statistics for the [Permanent Labor Certification Program](#), [Prevailing Wage Determination Program](#), [H-1B Specialty Occupations Labor Condition Program](#), [H-2A Temporary Agricultural Labor Certification Program](#) and [H-2B Temporary Non-agricultural Labor Certification Program](#). Reports are derived from program data as of 12/31/2016. The updated program factsheets may also be found on OFLC's Performance Data [page](#).

- January 11, 2017. FY 2017 Q1 H-2B Foreign Labor Recruiter List**

The Office of Foreign Labor Certification has posted an updated H-2B Foreign Labor Recruiter List with cumulative cases from July 28, 2016 through December 31, 2016. Quarterly updates will normally be posted by the end of the

December 31, 2016. Quarterly updates will normally be posted by the end of the month immediately following the close of the quarter. Click [here](#) for the updated list.

## Calendar Year 2016

- **December 23, 2016. New 2017 Herder H-2A Adverse Effect Wage Rates (AEWRs)**

On December 23, 2016, the Employment and Training Administration (ETA) of the Department of Labor (Department) is issuing this notice to announce the new Adverse Effect Wage Rate (AEWR) for the employment of temporary or seasonal nonimmigrant foreign workers (H-2A workers) to perform herding or production of livestock on the range. AEWRs are the minimum wage rates the Department has determined must be offered and paid by employers to H-2A workers and workers in corresponding employment so that the wages of similarly employed U.S. workers will not be adversely affected. To read the *Federal Register* notice please click [here](#).

- **December 23, 2016. New 2017 H-2A Adverse Effect Wage Rates (AEWRs)**

The Department has published a notice in the *Federal Register* announcing new Adverse Effect Wage Rates (AEWRs) for each state, based on the Farm Labor Survey conducted by the U.S. Department of Agriculture. The AEWRs are the minimum hourly wage rates the Department has determined must be offered and paid by employers to H-2A workers and workers in corresponding employment for a particular agricultural job and area, so that the wages of similarly employed U.S. workers will not be adversely affected. To read the *Federal Register* notice please click [here](#).

- **December 20, 2016. New 2017 H-2A Adverse Effect Wage Rates and Adverse Effect Wage Rate for Range Occupations.**

The Office of *Federal Register* has scheduled the *Labor Certification Process for the Temporary Employment of Aliens in Agriculture in the United States: 2017 Adverse Effect Wage Rates and 2017 Adverse Effect Wage Rate for Range Occupations* for publication in the [Federal Register](#) on December 23, 2016. These documents will be placed on public inspection on 12-22-2016 08:45:00.

- **December 19, 2016. PERM Notice of Proposed Rulemaking (NPRM) Status FAQ**

**Q: Is the Department planning to issue a regulation on PERM?**

A: On December 16, 2016, the PERM Notice of Proposed Rulemaking and Schedule A Request for Information were withdrawn from OMB/OIRA review.

- **December 1, 2016. OFLC Announces System Maintenance Outage Impacting the iCERT and PERM Systems**

The PERM system will be unavailable during the following time periods for system maintenance:

- Thursday, December 8, 2016 from 8:00pm EDT until 12:00 am EDT

iCERT and PERM systems will be unavailable during the following time periods for system maintenance:

- Friday, December 16, 2016 from 8:00pm EDT until Saturday, December 17, 2016 10:00 am EDT

- **November 17, 2016. USDA Release of 2016 Farm Labor Survey**

On November 17, 2016, the United States Department of Agriculture (USDA) issued the Farm Labor Survey (FLS) report in which it established the average annual wage rates, by region and the United States, for field and livestock workers. The Department of Labor (Department) relies on the average annual combined hourly wage for field and livestock workers in order to establish the Adverse Effect Wage Rates (AEWRs) in the H-2A program. The AEWRs are the minimum hourly wage rates the Department has determined must be offered and paid by employers to H-2A workers and workers in corresponding employment, so that the wages of workers similarly employed in the United States will not be adversely affected.

The Department is reviewing the USDA FLS average annual wage rates for 2016 and will soon publish a notice in the *Federal Register* announcing new Adverse Effect Wage Rates (AEWRs) for each state at which time the rates will become immediately effective. To obtain more information on NASS surveys and reports, please call the NASS Agricultural Statistics Hotline at (800) 727-9540, 7:30 a.m. to 4:00 p.m. ET, or e-mail: [nass@nass.usda.gov](mailto:nass@nass.usda.gov). To obtain a copy of the latest USDA FLS report, please click [here](#).

- **November 3, 2016. OFLC Announces System Maintenance Outage Impacting the iCERT System**

The iCERT system will be unavailable during the following time periods for system maintenance:

- Thursday, November 3, 2016 from 8:00pm EDT until 12:00 am EDT

- **November 1, 2016. The Department has released its Foreign Labor Certification Annual Report for FY 2015**

The 2015 Annual Report presents information on the Prevailing Wage Determination Process, Permanent Labor Certification, and Temporary Nonimmigrant Labor Certification for FY 2015. The report also contains State Employment-Based Labor Certification Profiles and top Country Employment-Based Immigration Profiles. Click [here](#) to view the 2015 Annual Report. A 508 compliant version will be posted as soon as it is available.

- **November 1, 2016. Electronic Notification of PERM Letters:**

The Atlanta National Processing Center (ANPC) will begin issuing PERM notification letters via e-mail beginning December 1, 2016. Electronic notification e-mails will ensure PERM stakeholders receive ETA Form 9089 application determination notifications in a timely, cost effective manner without 'in the mail' delivery delays.

To ensure this electronic notification delivery convenience works for all PERM stakeholders, please add [sr.processing@dol.gov](mailto:sr.processing@dol.gov) and [plc.atlanta@dol.gov](mailto:plc.atlanta@dol.gov) to your Address Book or Safe List within your e-mail system(s) to avoid being filtered as SPAM. In addition, if e-mail addresses for the authorized representative or employer have changed, please notify either [sr.processing@dol.gov](mailto:sr.processing@dol.gov) (Supervised Recruitment cases) or [plc.atlanta@dol.gov](mailto:plc.atlanta@dol.gov) (all other correspondence). Please provide the case number along with the updated contact information.

Stakeholders will receive the following letters/notifications via e-mail:

- Audit Notification Letters
- Denial Notification Letters

- Requests for Information Letters
- Additional Audit Information Requests
- Withdrawal Letters
- Notices of Decisions from Appeals

NOTE: Certified ETA Form 9089 PERM application letters will not be sent electronically due to the certification's security paper requirements currently in place with the U.S. Citizenship and Immigration Services.

**Electronic Receipt of PERM Audit Responses, Requests for Information, and Responses to Notices of Decisions for Appeals:** The ANPC will receive ETA Form 9089 audit responses and responses to Requests for Information, Additional Audit Information Requests, and Notices of Decisions for Appeals sent via e-mail on December 1, 2016. To ensure your submission is received with no issues, i.e., non-compliance with delivery size limitations, please ensure each e-mailed response is no larger than 20MB.

If your e-mail response is larger than 20MB, please separate the response into two or more documents of less than 20MB in size.

For example, if submitting more than one document in response to an audit notification due to size restrictions, please ensure you indicate in the Subject Line of the e-mail that there are multiple submissions. For example, <Case Number>\_Audit Response\_1 of 3.

In addition, when submitting an electronic response, please keep in mind the following tips:

- Do not combine multiple audit responses for different cases in one submission packet.
- Direct any questions via e-mail to [sr.processing@dol.gov](mailto:sr.processing@dol.gov) (Supervised Recruitment inquiries) or [plc.atlanta@dol.gov](mailto:plc.atlanta@dol.gov) (all other inquiries) and include the case number in the subject line.
- For audit responses specifically; scan, tab, or clearly identify the documentation into the following categories:
  1. Cover Letter
  2. Recruitment Report and any other supporting documentation
  3. Business Necessity and other supporting documentation
  4. Recruitment Content, including copies of newspaper advertisements, Notice of Filing, Job Order, and professional advertisements
  5. Copy of Audit Letter (if applicable)
  6. Resumes, including any applications, evaluations, and other supporting documentation
  7. Prevailing Wage (if applicable)
  8. Affidavits (if applicable)
  9. Signed ETA Form 9089 (if applicable)
  10. Postage Receipt (if applicable)

- **November 1, 2016. FY 2016 Q4 Cumulative Disclosure Data**

The OFLC PERM, H-2A, H-2B, Prevailing Wage, and H-1B program disclosure data files for Quarter 4 of FY 2016 are now available. Click [here](#) to access the disclosure files and corresponding record layouts.

- **November 1, 2016 .**

The Office of Foreign Labor Certification has posted updated program

The Office of Foreign Labor Certification has posted updated program factsheets containing the FY 2016 Quarter 4 Selected Statistics for the [Permanent Labor Certification Program](#), [Prevailing Wage Determination Program](#), [H-1B Temporary Visa Program](#), [H-2A Temporary Agricultural Visa Program](#), and [H-2B Temporary Non-agricultural Visa Program](#). Reports are derived from program data as of 9/30/2016. The updated program factsheets may also be found on OFLC's Performance Data page.

- **October 11, 2016. OFLC Announces System Maintenance Outage Impacting the iCERT/PERM Systems**

The PERM system will be unavailable during the following time periods for system maintenance:

- Thursday, October 13, 2016 from 8:00 pm EDT until 12:00 am EDT

The iCERT and PERM system will be unavailable during the following time periods for system maintenance:

- Saturday, October 15, 2016 from 10:00 am EDT until 4:00 pm EDT

- **October 7, 2016. PERM FAQ Round 13**

The Department of Labor has published a Frequently Asked Question (FAQ) Round 13 related to preparing the required recruitment report for employers seeking labor certification under the PERM Program along with two "best practice" sample recruitment reports. The Round 13 FAQ is posted on the PERM Program Page on the Office of Foreign Labor Certification website at [https://www.foreignlaborcert.doleta.gov/faqs\\_pdf.cfm](https://www.foreignlaborcert.doleta.gov/faqs_pdf.cfm). To directly access the Round 13 FAQ, please click [here](#).

- **October 7, 2016. OFLC Announces System Maintenance Outage Impacting the iCERT/PERM Systems**

The iCERT and PERM systems will be unavailable from 10:00 pm EDT on Friday, October 7, 2016 until 6:00 am EDT on Tuesday, October 11, 2016 for system maintenance.

- **October 4, 2016. H-2B Interim Final Rule FAQs Round 17**

The Department of Labor has published a seventeenth round of Frequently Asked Questions (FAQs) related to the filing and processing of H-2B Applications for Temporary Employment Certification covering issues related to the area of intended employment and what constitutes a worksite under the H-2B program. The Round 17 FAQs are posted on the H-2B Interim Final Rule Implementation Page on the Office of Foreign Labor Certification website at [https://www.foreignlaborcert.doleta.gov/2015\\_H-2B\\_IFR.cfm](https://www.foreignlaborcert.doleta.gov/2015_H-2B_IFR.cfm). To directly access the Round 17 FAQs, please click [here](#).

- **October 3, 2016: H-2A Herder Final Rule FAQs Round 3**

The Department of Labor has published a third round of Frequently Asked Questions (FAQs) related to the filing and processing of H-2A Applications for Temporary Employment Certification covering the herding or production of livestock on the range. The Round 3 FAQs are posted on the H-2A Herder Final Rule Implementation Page on the Office of Foreign Labor Certification website at [https://www.foreignlaborcert.doleta.gov/h-2a\\_herders.cfm](https://www.foreignlaborcert.doleta.gov/h-2a_herders.cfm). To directly access the Round 3 FAQs, please click [here](#).

- **September 14, 2016. OFLC Webinar Update: Technical Assistance Presentation from September 13, 2016, H-2A and H-2B Program Webinar Now Available**



On Tuesday, September 13, 2016, the Office of Foreign Labor Certification hosted a 4-hour webinar to educate stakeholders, program users, and other interested members of the public on recent program workload trends, common deficiencies and best practices associated with employer requests for H-2B prevailing wage determinations and applications for temporary labor certification under the H-2A and H-2B visa programs. Our objective for the webinar was to provide technical assistance to employers and, if applicable, their authorized attorneys or agents that will improve the quality of applications submitted to the OFLC by:

- Discussing recent program updates and initiatives designed to improve case processing and transparency of the decision-making process;
- Identifying how to avoid common deficiencies or frequent errors when preparing job orders and applications;
- Providing helpful practice tips to ensure quality job order and applications are submitted for processing; and
- Highlighting best practices or quality prevailing wage requests and labor certifications applications from the 2016 filing season.

Stakeholders and members of the general public can obtain a copy of the presentation by clicking [here](#).

- **September 9, 2016. H-2B Prevailing Wage FAQs.**

The Department of Labor has published Frequently Asked Questions (FAQs) related to processing H-2B Prevailing Wage Determinations under the 2015 H-2B Wage Final Rule. The FAQs are posted in the Prevailing Wages section on the FAQs page. To directly access the FAQs page, please click [here](#).

- **September 1, 2016. ETA Announces it is Streamlining the H-2B Process for Non-Agricultural Employers: Procedural Change in Submitting Temporary Need Documentation**

ETA is announcing a process change related to the submission of applications for temporary labor certification under the H-2B visa program intended to reduce burdens on employers and streamline the adjudication of temporary need. Effective immediately, an employer submitting an H-2B application may satisfy the regulatory requirements for demonstrating temporary need by disclosing such information on the Form ETA-9142B, Application for Temporary Employment Certification, without also submitting detailed supporting documentation with its initial application, particularly where the employer's temporary need has been demonstrated in earlier applications certified or the work is clearly tied to a temporary, seasonal cycle. This process change in the H-2B program better aligns the review of temporary need with the standard applied to agricultural employers in the H-2A program, where the submission of detailed supporting documentation to support recurring seasonal workforce needs is not necessary.

For a more detailed explanation of this important process change in the H-2B program, please click [here](#).

- **August 15, 2016. Webinar Announcement: Employer Filing Tips and Best Practices for Preparing and Submitting H-2B Prevailing Wage Requests and H-2A/H-2B Labor Certification Applications**

As part of the Office of Foreign Labor Certification's (OFLC) on-going efforts to increase public engagement, the OFLC will host a webinar on Tuesday, September 13, 2016, designed to educate stakeholders, program users, and other interested members of the public on recent program workload trends, common deficiencies and best practices associated with employer requests for H-2B prevailing wage determinations and applications for temporary labor

H-2B prevailing wage determinations and applications for temporary labor certification under the H-2A and H-2B visa programs.

Our objective for the webinar is to provide technical assistance to employers and, if applicable, their authorized attorneys or agents that will improve the quality of applications submitted to the OFLC by:

- Discussing recent program updates and initiatives designed to improve case processing and transparency of the decision-making process;
- Identifying how to avoid common deficiencies or frequent errors when preparing job orders and applications;
- Providing helpful practice tips to ensure quality job order and applications are submitted for processing; and
- Highlighting best practices or quality prevailing wage requests and labor certifications applications from the 2016 filing season.

DATE: Tuesday, September 13, 2016

TIME: 12:00PM to 4:00PM Eastern Standard Time

FORMAT: Webinar & conference call capability will be provided to maximize participation

EVENT NUMBER: 744 257 619

PASSWORD: **Welcome!25**

1. Go to or click on:

<https://dolevents.webex.com/dolevents/onstage/g.php?MTID=e61d5965bdc38a77f05328af0e2e4ec27>

2. If prompted, please enter the appropriate contact information (first name, last name, email address)

3. If prompted, enter the event password: Welcome!25

4. Click on "Join Now"

5. To join and hear the audio, please dial the toll-free number **800-369-1983** and enter access code: **2846236** to hear the audio portion of the webinar or use the audio function of the Web Ex software to stream audio.

- **August 11, 2016.**

Pursuant to 20 CFR § 655.9(c), the Office of Foreign Labor Certification (OFLC) is publishing a list of the names of foreign labor recruiters and the identity and location of persons or entities hired by or working for the recruiter that employers have indicated they engaged, or planned to engage, in the recruitment of prospective H-2B workers to perform the work described on their Form ETA-9142B, *H-2B Application for Temporary Employment Certification*.

By providing this Foreign Labor Recruiter List, OFLC is providing a greater level of transparency to the H-2B worker recruitment process and facilitating information sharing between the Department and other agencies and the public. The list will be updated quarterly and can be accessed [here](#). FAQs regarding the Foreign Labor Recruiter List have been posted as 2015 H-2B IFR FAQs Round 16 and can be accessed [here](#).

- **August 03, 2016. FY 2016 Q3 Program Factsheets**

The Office of Foreign Labor Certification has posted updated program factsheets containing the Quarter 3 FY 2016 selected statistics for the [Permanent Labor Certification Program](#), [Prevailing Wage Determination Program](#), [H-1B Temporary Visa Program](#), [H-2A Temporary Agricultural Visa Program](#), and [H-2B Temporary Non-agricultural Visa Program](#). Reports are derived from program data as of 6/30/2016. The updated program factsheets may also be found on OFLC's Performance Data [page](#).

- **July 29, 2016.**

The Office of Foreign Labor Certification has posted updated PERM Program disclosure data files for Quarter 4 of FY 2015. Click [here](#) to access the disclosure files and corresponding record layouts.

- **July 20, 2016. FY 2016 Q3 Cumulative Disclosure Data**

The OFLC PERM, H-2A, H-2B, Prevailing Wage, and H-1B program disclosure data files for Quarter 3 of FY 2016 are now available. Click [here](#) to access the disclosure files and corresponding record layouts.

- **July 6, 2016. OES Wage Data Update Includes Updated BLS Metropolitan Statistical Areas (MSAs) Definitions**

As noted in the July 1, 2016 web announcement below, the National Prevailing Wage Center (NPWC) recently began using the 2017 wage data set provided by the Bureau of Labor Statistics (BLS), based on May 2015 Occupational Employment Statistics (OES) data. This data set is the first to use the 2010 BLS definitions of Metropolitan Statistical Areas (MSAs), as designated by the Office of Management and Budget. As a result, some ETA-9141 prevailing wage request forms submitted prior to the NPWC's use of the new data and MSA definitions will incorrectly cite in subsection E.c.7a MSAs that have changed pursuant to the new definitions.

If an applicant's ETA-9141 Form lists a MSA that no longer exists due to the updated BLS area definitions, the NPWC will alter the text in E.c.7a to reflect the correct MSA and will include an additional note to notify the applicant that the NPWC has altered its form as a result of the update to the MSA definitions. In addition, some returning applicants seeking a prevailing wage determination (PWD) for multiple worksites will receive a different wage(s) than in prior years due to the BLS geographic area updates. For example, in prior years the areas of Somerset and Middlesex in New Jersey were included in the same MSA and thus received the same OES wage in a PWD. However, as a result of the BLS update, Somerset and Middlesex are included in separate BLS areas and PWDs issued for job opportunities in the areas will not be the same. Please direct any questions or comments regarding the effect of the BLS updates on the PWD process to the NPWC help desk via email at [flc.pwd@dol.gov](mailto:flc.pwd@dol.gov). The updated OES data sets may be viewed by visiting [www.bls.gov/oes/tables.htm](http://www.bls.gov/oes/tables.htm).

- **July 1, 2016. OES Wage Data Update**

On July 1, 2016, OFLC uploaded the newest prevailing wage data from the Occupational Employment Survey as generated by the Bureau of Labor Statistics for the year from July 2016 - June 2017. The effective date is July 1, 2016. Prevailing wages issued from the National Prevailing Wage Center will reflect the new data.

- **June 28, 2016. Webinar Update June 23, 2016: Employer Filing Tips for Submitting H-2A and H-2B Labor Certification Applications**

Copies of the OFLC's June 23rd presentation on filing tips and common deficiencies associated with the submission of applications for temporary labor

certification under the H-2A and H-2B visa programs are now available.

- To obtain a copy of the H-2A Filing Tips, please click [here](#).
- To obtain a copy of the H-2B Filing Tips, please click [here](#).
- To obtain a copy of the H-2B PWDs Filing Tips, please click [here](#).

- **June 27, 2016.**

The Office of Foreign Labor Certification has posted updated Prevailing Wage disclosure data files for Quarter 4 of FY 2015. Click [here](#) to access the disclosure files and corresponding record layouts.

- **June 8, 2016. Webinar Announcement: Employer Filing Tips for Submitting H-2A and H-2B Labor Certification Applications**

As part of the Department's Office of Foreign Labor Certification's (OFLC) on-going efforts for increased public outreach, the OFLC will host a public webinar on June 23, 2016, to educate stakeholders, program users, and other interested members of the public on best practices, filing tips, and common deficiencies associated with the submission of applications for temporary labor certification under the H-2A and H-2B visa programs. Our objective for this webinar is to provide technical assistance to employers and, if applicable their authorized representatives to avoid frequent or common errors in preparing and submitting H-2A and H-2B applications.

To join the webinar event scheduled for Thursday, June 23, 2016, please use the below instructions:

DATE: Thursday, June 23, 2016

TIME: 2:00PM - 3:30PM EST

Call-in number: 888-469-0871

INSTRUCTIONS:

1. Go to or click on:

<https://dolevents.webex.com/dolevents/onstage/g.php?MTID=e83537a74c16bc53cb6b5c930f48eff95>

2. If prompted, please enter the appropriate contact information (first name, last name, email address)

3. If prompted, enter the event password: Welcome!24

4. Click on "Join Now"

5. To join and hear the audio, please dial the toll-free number 888-469-0871 and enter access code: 27423 to hear the audio portion of the webinar or use the audio function of the Web Ex software to stream audio.

- **June 3, 2016. New H-2A Form ETA-9142A, Appendix A FAQs**

The Department of Labor on June 3, 2016 published a Frequently Asked Question (FAQ) for the H-2A program on the updated Form ETA-9142A, Appendix A. The FAQ is posted as Round 11: June 2016 on the H-2A program page. To directly access the new FAQ, please click [here](#).

- **May 18, 2016. ETA Announces it is Streamlining the H-2A Process for Agricultural Employers: Procedural Change to the Form ETA-9142A, Appendix A**

OFLC is pleased to announce that the Office of Management and Budget (OMB) has approved the Department's request to update the Appendix A in two ways: (1) to reflect new regulatory requirements contained in the 2015 H-2A Herder Final Rule and (2) to simplify the H-2A process for employers submitting this

Final Rule; and (2) to simplify the H-2A process for employers submitting this document alongside their I-129 petitions to the United States Citizenship and Immigration Services (USCIS). This approval came as part of the Department's 3-year extension of the Form ETA-9142A and Appendix A. The remainder of the data collected on the Form ETA-9142A remains unchanged.

When filing an H-2A application on the Form ETA-9142A, an employer is required to submit a signed and dated copy of the Appendix A, which contains the requisite program assurances and obligations. Prior to this announcement, where the OFLC granted a temporary labor certification application, the Chicago National Processing Center (NPC) sent the employer a certified H-2A application containing a second copy of the Appendix A issued on "blue security paper." The employer and its authorized attorney or agent were each then required to sign and date this second copy of Appendix A again and then submit it to the USCIS.

The Department's new Form will make it unnecessary to sign and submit a second copy of the Appendix A. An employer will now only need to sign and date the Appendix A once at the time of filing the H-2A application and retain the original in its administrative file. Then, where the OFLC grants a temporary labor certification, the Chicago NPC will send a certified H-2A application and a Final Determination letter to the employer by means normally assuring next day delivery, including electronic mail, and a copy, if applicable, to the employer's authorized attorney or agent. The employer and its authorized attorney or agent will be instructed to complete three steps:

## Form steps

Step	Description
Step 1	Complete the newly modified footer on each page of the original Appendix A (retained in its administrative file), adding the case number, status, and period of employment from the certified Form ETA-9142A;
Step 2	Retain the original Appendix A along with a copy of the certified Form ETA-9142A, as required by 20 CFR 655.167; and
Step 3	Submit <u>signed and dated copy</u> of the Appendix A, together with the original certified Form ETA-9142A issued by the OFLC, directly to the USCIS.

This change will save employers and their agents or attorneys from mailing each other paper forms to sign them a second time - which is effectively required under the current form.

### TRANSITION PROCEDURES

- Employers with either a currently pending H-2A application or those who file a new H-2A application prior to June 15, 2016, containing the previous Appendix A will be provided with a copy of the revised Appendix A at the time the Chicago NPC grants a temporary labor certification. They will also receive instructions from the Chicago NPC regarding how to complete the revised Appendix A for submission to the USCIS.

- On or after June 15, 2016, employers or their authorized representatives filing a new H-2A application must submit a signed and dated copy of the revised Appendix A containing the program assurances and obligations that comply with the 2010 H-2A Final Rule and 2015 H-2A Herder Final Rule. Otherwise, the Chicago NPC will issue either a Minor Deficiency Email or a Notice of Deficiency requesting that the employer provide a signed and dated copy of the revised Appendix A.

To obtain a copy of the revised Appendix A, please click [here](#).

To obtain a copy of the Form ETA-9142 and general instructions, please click [here](#).

- **May 17, 2016. FY 2016 Q2 Cumulative Disclosure Data**

The OFLC PERM, H-2A, H-2B, Prevailing Wage, and H-1B program disclosure data files through Quarter 2 of FY 2016 are now available. Click [here](#) to access the disclosure files and corresponding record layouts.

- **April 8, 2016.**

The Office of Foreign Labor Certification has posted updated program factsheets containing the Quarter 2 FY 2016 selected statistics for the [Permanent Labor Certification Program](#), [Prevailing Wage Determination Program](#), [H-1B Temporary Visa Program](#), [H-2A Temporary Agricultural Visa Program](#), and [H-2B Temporary Non-agricultural Visa Program](#). Reports are derived from program data as of 3/31/2016. The updated program factsheets may also be found on OFLC's Performance Data [page](#).

- **April 4, 2016. Webinar Announcement: Employer Filing Tips for Submitting H-2B Wage Surveys**

As part of the Department's Office of Foreign Labor Certification's (OFLC) on-going efforts for increased public outreach, the OFLC will host a public webinar on April 7, 2016, to educate stakeholders, program users, and other interested members of the public on submission of wage surveys to determine the prevailing wage for job opportunities in the H-2B temporary non-agricultural labor certification program.

***Employer Filing Tips for Submitting H-2B Wage Surveys***

The objectives for this webinar are to assist employers and surveyors to avoid frequent errors found in filing prevailing wage determination applications that include wage surveys by:

- Providing clarification on common errors with documenting and displaying survey results;
- Providing tools to help ensure surveys comply with applicable regulatory requirements;
- Reviewing common errors found when completing the Form ETA-9165

The webinar briefing is scheduled for Thursday, April 7, 2016, at 1:30 PM Eastern Standard time for approximately 90 minutes. This webinar is open to the public and no pre-registration is required. It will be accessible to the public on a first-come, first-served basis on the date specified. To learn how to access the Department's upcoming H-2B webinar focused on providing wage survey submission and compliance guidance, please click [here](#).

- **March 23, 2016. H-2A Program Forms.**

The forms for the H-2A program are currently in review for a three year extension. Notice of a second comment period, as required by the Paperwork Reduction Act, is expected to be published in the *Federal Register* in the coming weeks. The Chicago National Processing Center will continue to accept the current H-2A program form with 2016 expiration dates, which may be extended in one month increments until the full three year extension is approved by OMB and the new forms are posted on our website and updated in the iCERT System.

- **February 26, 2016. *Federal Register* Notice Announcing the 2016 Allowable Charges for Agricultural Workers' Meals and Travel Subsistence Reimbursement, Including Lodging for the H-2A and H-2B Programs.**

The Department of Labor has published a Notice in the *Federal Register* to announce the allowable charges for 2016 that employers seeking H-2A workers may charge their workers when the employer provides three meals a day, and the maximum travel subsistence meal reimbursement that a worker with receipts may claim in 2016 under the H-2A and H-2B programs. The Notice also includes a reminder regarding employers' obligations with respect to overnight lodging costs as part of required subsistence for the H-2A and H-2B programs. To read the Notice, please click [here](#).

- **February 24, OFLC Webinar on H-2B Case Processing Initiatives.**

On February 19, OFLC announced two initiatives designed to help reduce the backlog of pending H-2B applications and provide information to help the stakeholder community better understand the current processing timeframes for H-2B applications at the Chicago NPC. OFLC will be conducting a second webinar to explain these initiatives in more detail and answer stakeholder questions using a chat room feature.

To join the webinar event scheduled for Friday, February 26, 2016, please use the below instructions:

**DATE:** Friday, February 26, 2016

**TIME:** 1:00PM - 3:00PM Eastern Standard Time

**EVENT NUMBER:** 748 972 498

**PRESENTATION:** To obtain a copy of the powerpoint presentation slides, please click [here](#)

**INSTRUCTIONS:**

1. Go to or click on:  
<https://dolevents.webex.com/dolevents/onstage/g.php?MTID=e3dc7bbd2b4592a45cebc9975a7767e38>
2. If prompted, please enter the appropriate contact information (first name, last name, email address)
3. If prompted, enter the event password: **Welcome!25**
4. Click on "Join Now"
5. To join and hear the audio, please dial the toll-free number **1-800-857-9772** and enter access code: **7545364** to hear the audio portion of the webinar or use the audio function of the Web Ex software to stream audio.

- **February 19, OFLC Releases H-2B Case Processing Information**

The Department's Office of Foreign Labor Certification (OFLC) is making this public service announcement to employers who participate in the H-2B temporary nonimmigrant visa program. Since the end of December 2015, the Department has issued several public announcements concerning recent

Department has issued several public announcements concerning recent changes and significant delays in processing H-2B applications at the OFLC Chicago National Processing Center (NPC). The significant delays employers are experiencing stem from the implementation of changes in program requirements contained in the 2016 DOL Appropriations Act (enacted on December 18, 2015), and the magnitude of the increase in H-2B applications filed during the late December to early January time period. In addition, during the course of several weeks in January 2016, the OFLC experienced technical network problems with its iCERT System due to implementation of software upgrades related to mandatory security requirements, which impacted our staff's ability to process case actions in a timely manner and caused additional delays for our employer customers.

Since October 1, 2015, the OFLC has processed approximately 2,000 H-2B applications requesting approximately 45,500 worker positions. We have certified approximately 1,500 H-2B applications covering more than 36,900 worker positions. Between December 28, 2015 and February 19, 2016, the OFLC has issued more than 1,300 Notices of Acceptance (NOA) or Deficiency (NOD) on pending H-2B applications. The OFLC has expanded and reallocated resources to assist in the processing of pending H-2B applications without compromising program integrity or the processing timeframes of other visa programs. We continue to focus our efforts on reducing the number of pending cases as quickly as possible and examining administrative flexibilities to increase processing efficiency.

To help employers better understand the current processing timeframes for H-2B applications at the Chicago NPC, the OFLC is disclosing case processing information through its iCERT System at <https://icert.doleta.gov>, which will be updated at least weekly.

- **February 17, H-2B IFR Job Order Checklist and H-2B IFR Round 11 FAQs**

The Department of Labor has published on the H-2B program page an updated version of the H-2B 2015 Interim Final Rule (IFR) Job Order Checklist and updated H-2B 2015 IFR Round 11 Frequently Asked Questions: Job Order Content, Amendments, and Recruitment. To directly access the H-2B 2015 IFR Job Order Checklist, click [here](#). To directly access the H-2B 2015 IFR Round 11 FAQs, click [here](#).

- **February 16, H-2B Stakeholder Webinars (Update)**

The Department is posting the instructions for accessing H-2B stakeholder public webinars that are scheduled for February 17, 2016, at 10:00 AM Eastern Standard Time and February 18, 2016, at 2:00 PM Eastern Standard time. There is no pre-registration for the public webinars. Each will be accessible to the public on a first-come, first-served basis on the dates specified. To learn how to access the Department's H-2B stakeholder public webinar, please click [here](#).

- **February 12, FY 2016 Q1 Cumulative Disclosure Data**

The OFLC PERM, H-2A, H-2B, Prevailing Wage, and H-1B program disclosure data files for Quarter 1 of FY 2016 are now available. Click [here](#) to access the disclosure files and corresponding record layouts.

- **February 9, 2016. Stakeholder Webinars**

On February 17 and 18, 2016, the Department's Office of Foreign Labor Certification (OFLC) will host two public webinars to educate stakeholders, program users, and other interested members of the public regarding the changes to the H-2B program made by the 2016 DOL Appropriations Act, enacted on December 18, 2015, and how those changes impact the processing



enacted on December 18, 2015, and now those changes impact the processing of applications at the OFLC National Prevailing Wage Center and Chicago National Processing Center. The webinar briefings are scheduled for February 17, 2016, at 10:00 AM Eastern Standard Time and February 18, 2016, at 2:00 PM Eastern Standard time. Each briefing will be identical in content and will last 90 minutes. Instructions for accessing these H-2B webinars will be announced by February 12, 2016.

- **February 4, 2016. Index of OFLC FAQ Rounds added**

The Office of Foreign Labor Certification has compiled a list of topics covered in each one of its FAQ Rounds. Once launched, the user can search for key words in the FAQ Rounds by clicking the Ctrl + F keys. To access the Index of OFLC FAQ Rounds, please click [here](#).

- **January 29, 2016.**

The Office of Foreign Labor Certification has posted updated program factsheets containing the Quarter 1 FY 2016 selected statistics for the [Permanent Labor Certification Program](#), [Prevailing Wage Determination Program](#), [H-1B Temporary Visa Program](#), [H-2A Temporary Agricultural Visa Program](#), and [H-2B Temporary Non-agricultural Visa Program](#). Reports are derived from program data as of 12/31/2015. The updated program factsheets may also be found on OFLC's Performance Data [page](#).

- **January 27, 2016.**

The Department's Office of Foreign Labor Certification (OFLC) is making this public service announcement to employers who participate in H-1B, H-2A and H-2B temporary nonimmigrant visa programs. The OFLC has been experiencing technical network problems supporting its iCERT Visa Portal System (iCERT System), resulting in delays in the processing of temporary nonimmigrant visa applications for employers. Specifically, although the iCERT System's application and database are working properly, the network infrastructure supporting the system is exhibiting performance issues that are significantly impacting our staff's ability to process case actions for our employer customers. The Department's technology staff is working diligently with the OFLC to improve system performance as soon as practically possible.

- **January 22, 2016. H-2A Corporate Restructuring/ Successor in Interest FAQ**

The Department of Labor on January 22, 2016 published a Frequently Asked Question (FAQ) for the H-2A program on Post Certification: Corporate Restructuring/ Successor In Interest. The FAQ is posted as Round 10: January 2016 on the H-2A program page. To directly access the new FAQ, please click [here](#).

- **January 21, 2016. H-2B IFR Job Order Checklist**

The Department of Labor has temporarily removed the H-2B Interim Final Rule Job Order Checklist. It will be re-posted as soon as it is updated.

- **January 15, 2016.**

The Department of Labor has published Frequently Asked Questions (FAQs) related to employer obligations and minimum job order content requirements for occupations involving a mobile workforce under the 2015 H-2B Interim Final Rule. The FAQs are posted as Round 15 on the H-2B page. To directly access the new FAQs, please click [here](#).

- **January 12, 2016. Updated Prevailing Wage disclosure data files for Quarter 4 of FY 2015**

The Office of Foreign Labor Certification has posted updated Prevailing Wage disclosure data files for Quarter 4 of FY 2015. Click [here](#) to access the disclosure files and corresponding record layouts.

- **January 11, 2016.**

The Department's Office of Foreign Labor Certification (OFLC) is making this public service announcement to employers who participate in the H-2B temporary nonagricultural visa program. We have received a number of inquiries and correspondence concerning recent changes and delays in processing H-2B applications at the Chicago National Processing Center (NPC). The Department takes your concerns seriously and strives to support U.S. small businesses, consumers, and communities.

The Department, along with the Department of Homeland Security, jointly published the 2015 H-2B Interim Final Rule and H-2B Wage Final Rule, which became effective on April 29, 2015. The new rules strengthened protections for U.S. workers while also ensuring that employers can access foreign workers on a temporary basis when U.S. workers are not available. Additionally, the rules were intended to bring stability and continuity to the program. However, the 2016 Department of Labor Appropriations Act (2016 DOL Appropriations Act), enacted on December 18, 2015, contains provisions significantly affecting the processing of employer H-2B applications at the Chicago NPC. Unfortunately, the time required to implement these new legislative provisions is causing delays in processing employer H-2B applications filed prior to December 18 and that were pending with the Chicago NPC. Following an intensive review of the operational impacts of the 2016 DOL Appropriations Act, OFLC posted emergency guidance and has been implementing requirements of the 2016 DOL Appropriations Act, including new procedures and forms approved on an emergency basis by the Office of Management and Budget.

In addition, the current filing season has seen more than 1,700 new H-2B applications filed during the holiday season, an approximate 79% increase over the number of H-2B applications filed during the 2014 holiday season.

The simultaneous impact of the requirement to change procedures as the result of the 2016 DOL Appropriations Act, and the major increase in the number of applications being filed, has resulted in longer processing times in the H-2B program. This additional processing time may continue for the immediate future so that we can fully incorporate and operationalize the new program requirements and handle the increased workload. Our current efforts are focused on reducing the number of pending cases as quickly as possible without compromising program integrity.

- **January 7, 2016. Change of Address for the Office of Foreign Labor Certification, National Prevailing Wage Center**

The Department of Labor (Department) is providing notice that the Office of Foreign Labor Certification (OFLC) National Prevailing Wage Center (NPWC), currently located at 1341 G. Street, Washington, D.C., is relocating within the Washington, D.C. area effective Monday, January 11, 2016. The address for the NPWC's new location is:

US Department of Labor/ETA  
Office of Foreign Labor Certification  
National Prevailing Wage Center  
200 Constitution Avenue NW  
Room N-5311  
Washington, D.C. 20210

Telephone: (202) 693-8200

- **January 6, 2016. Upload the updated FY 2015 Q4 Disclosure Data. H-2B, PERM and Prevailing Wage**

The Office of Foreign Labor Certification has posted updated H-2B, PERM and Prevailing Wage disclosure data files for Quarter 4 of FY 2015. Click [here](#) to access the disclosure files and corresponding record layouts.

- **January 5, 2016. OMB Approval of Revisions to Appendix B of Form ETA-9142B and Form ETA-9165 in order to Implement Provisions of 2016 DOL Appropriations Act**

The 2016 Department of Labor Appropriations Act (Division H, Title I of Public Law 114-113) (2016 DOL Appropriations Act), which was enacted on December 18, 2015, contained several provisions requiring non-substantive modifications to (1) the Form ETA-9165, Employer-Provided Survey Attestations to Accompany H-2B Prevailing Wage Determination Request Based on a Non-OES Survey and (2) Appendix B of the Form ETA-9142B, H-2B Application for Temporary Employment Certification. In order to comply with the 2016 DOL Appropriations Act, the Office of Foreign Labor Certification (OFLC) submitted these non-substantive modifications to the Office of Management and Budget (OMB) for review and approval. The OMB has now approved the non-substantive modifications. Therefore, the OFLC Certifying Officers (COs) may issue H-2B prevailing wage determinations based on the submission of a private survey, and may now certify H-2B applications for temporary labor certification, so long as all applicable program requirements are met.

#### IMPORTANT NOTICES

##### Employers Requests for Prevailing Wage Determination Based on Survey

- Employer requests for a prevailing wage determination based on a private wage survey submitted on or after December 19, 2015, must be accompanied by the revised Form ETA-9165. The CO will issue a Request for Information requiring the employer submit the revised Form ETA-9165 for any survey-based requests for a prevailing wage determination submitted without the revised Form ETA-9165.

##### Employers Requests for H-2B Temporary Labor Certification

- Prior to February 1, 2016, employers with either a pending H-2B application or those who file a new H-2B application containing the previous Appendix B will be provided with a copy of the revised Appendix B at the time the CO issues a certification decision. They will also receive instructions in the Final Determination Letter regarding how to complete the revised Appendix B for submission to the United States Citizenship and Immigration Services.
- On or after February 1, 2016, employers or their authorized representatives filing a new H-2B application must submit a signed and dated copy of the revised Appendix B containing the program assurances and obligations that comply with the 2016 DOL Appropriations Act. Otherwise, the CO will issue a Notice of Deficiency requesting that the employer provide a signed and dated copy of the revised Appendix B.

To obtain a copy of the Emergency Guidance (updated January 5) reflecting these changes, please click [here](#).

To obtain a copy of the revised [Form ETA-9165](#) and general instructions, please [click here](#).

[click here](#).

To obtain a copy of the revised Appendix B, Form ETA-9142B, please click [here](#).

To obtain a copy of the Department's latest Frequently Asked Question concerning corresponding employment, please click [here](#).

## Calendar Year 2015

- **December 28, 2015. The Department has released its Foreign Labor Certification Annual Report for FY 2014**

The 2014 Annual Report presents information on the Prevailing Wage Determination Process, Permanent Labor Certification, and Temporary Nonimmigrant Labor Certification for FY 2014. The report also contains State Employment-Based Labor Certification Profiles and top Country Employment-Based Immigration Profiles. Click [here](#) to view the 2014 Annual Report. A 508 compliant version will be posted as soon as available.

- **December 22, 2015. New 2016 H-2A Adverse Effect Wage Rates (AEWRs)**

The Department has published a notice in the *Federal Register* announcing new Adverse Effect Wage Rates (AEWRs) for each state, based on the Farm Labor Survey conducted by the U.S. Department of Agriculture. The AEWRs are the minimum hourly wage rates the Department has determined must be offered and paid by employers to H-2A workers and workers in corresponding employment for a particular agricultural job and area, so that the wages of similarly employed U.S. workers will not be adversely affected. To read the *Federal Register* notice please click [here](#).

- **December 21, 2015.**

The Office of Foreign Labor Certification has posted updated performance factsheets containing the Quarter 4 FY 2015 selected statistics for the H-1B, H-2A and H-2B programs. The reports have been updated to include the percentage of applications processed timely. Additionally, the H-2A report has been updated to reflect the correct number of Top 10 Crops/Occupations FYTD. Reports are derived from program data as of 9/30/2015. The updated program factsheets may also be found on OFLC's Performance Data [page](#).

- **December 17, 2015. New Small Business Guide to the H-2A Visa Program: Herding or Production of Livestock on the Range**

In efforts to assist users of the H-2A Visa Program, the Department of Labor (Department) has published a Handbook for the Herding or Production of Livestock on the Range. This Handbook assists U.S. employers with Departmental standards and procedures for the employment of temporary H-2A agricultural workers in herding or production of livestock on the range occupations. To access the Handbook directly please click [here](#).

- **December 17, 2015. H-2B IFR FAQs**

The Department of Labor has published Frequently Asked Questions (FAQs) related to Prevailing Wage Determinations and Emergency Filings under the 2015 H-2B Interim Final Rule. The FAQs are posted as Round 13 on the H-2B page. To directly access the new FAQs, please click [here](#).

- **December 14, 2015. H-2B Forms Update**

All of the forms for the H-2B program, except the employer provided survey attestation (Form ETA-9165), have been extended for three years until

attestations (Form ETA-9165), have been extended for three years until December 31, 2018. The Form ETA-9165 is still being extended in monthly increments until receipt of a three year extension. However, if employers have already filled out and signed the forms with an expiration date of 12/31/2015 in anticipation of filing them in the first weeks of January, the Department will accept forms with the expiration date of 12/31/2015 through January 31, 2016. Also, as a reminder, the Form ETA-9155 and the registration process are not operational at this time. OFLC will announce the implementation of the registration process in the *Federal Register* and on this website.

- **December 11, 2015. H-2B IFR FAQs**

The Department of Labor has published Frequently Asked Questions (FAQs) related to Emergency Filings and Post Certification Amendments under the 2015 H-2B Interim Final Rule. The FAQs are posted as Round 12 on the H-2B page. To directly access the new FAQs, please click [here](#).

- **December 8, 2015. H-2B IFR FAQs and Job Order Checklist**

The Department of Labor has published Frequently Asked Questions (FAQs) related to Job Order Content, Recruitment and Amendments under the 2015 H-2B Interim Final Rule. The FAQs are posted as Round 11 on the H-2B page. To directly access the new FAQs, please click [here](#).

The Department also published a Job Order Checklist to help employers ensure they include required disclosures in their H-2B job orders. To read the job order checklist, please click [here](#).

- **November 30, 2015. H-2A Productivity Standards FAQs**

The Department of Labor published Frequently Asked Questions (FAQs) on October 30, 2015 on productivity standards for the H-2A program. The FAQs are posted as Round 9: October 2015 on the H-2A program page. To directly access the new FAQs, please click [here](#).

- **November 19, 2015. USDA Release of 2015 Farm Labor Survey**

On November 19, 2015, the United States Department of Agriculture (USDA) issued the Farm Labor Survey (FLS) report in which it established the average annual wage rates, by region and the United States, for field and livestock workers. The Department of Labor (Department) relies on the average annual combined hourly wage for field and livestock workers in order to establish the Adverse Effect Wage Rates (AEWRs) in the H-2A program. The AEWRs are the minimum hourly wage rates the Department has determined must be offered and paid by employers to H-2A workers and workers in corresponding employment, so that the wages of workers similarly employed in the United States will not be adversely affected.

The Department is reviewing the USDA FLS average annual wage rates for 2015 and will soon publish a notice in the *Federal Register* announcing new Adverse Effect Wage Rates (AEWRs) for each state at which time the rates will become immediately effective. To obtain more information on NASS surveys and reports, please call the NASS Agricultural Statistics Hotline at (800) 727-9540, 7:30 a.m. to 4:00 p.m. ET, or e-mail: [nass@nass.usda.gov](mailto:nass@nass.usda.gov). To obtain a copy of the latest USDA FLS report, please click [here](#).

- **November 19, 2015. Change of Address for the Office of Foreign Labor Certification National Office.**

The Department of Labor (Department) is providing notice that the Office of Foreign Labor Certification (OFLC) National Office currently located in the Frances Perkins Building at 200 Constitution Ave., NW is relocating within Washington, DC effective on Monday, November 23, 2015. The address for

OFLC's new location is:

U.S. Department of Labor  
Employment and Training Administration  
Office of Foreign Labor Certification  
375 E Street, SW  
Patriot Plaza II, Suite 12-200  
Washington, DC 20024  
Telephone: (202) 513-7350

However, mail for the OFLC National Office should continue to be sent to the Frances B. Perkins building at:

Office of Foreign Labor Certification  
Employment and Training Administration  
Department of Labor  
200 Constitution Avenue, NW  
Box# 12-200  
Washington DC 20210

A daily courier service will deliver mail to the new location.

- **November 17, 2015. New 2016 Herder H-2A Adverse Effect Wage Rates (AEWRs)**

On November 16, 2015, the Employment and Training Administration (ETA) of the Department of Labor (Department) is issuing this notice to announce the new Adverse Effect Wage Rate (AEWR) for the employment of temporary or seasonal nonimmigrant foreign workers (H-2A workers) to perform herding or production of livestock on the range. AEWRs are the minimum wage rates the Department has determined must be offered and paid by employers to H-2A

workers and workers in corresponding employment so that the wages of similarly employed U.S. workers will not be adversely affected. To read the *Federal Register* notice please click [here](#).

- **October 30, 2015. H-2B Forms Extended.**

The forms for the H-2B program have been extended temporarily until November 30, 2015 while OFLC awaits approval of its request for a three year extension under review with the Office of Management and Budget (OMB). OFLC will continue to extend the forms in one month increments until approved by OMB. A second comment period, as required by the Paperwork Reduction Act, ends November 30, 2015. For complete details see the *Federal Register* notice for OMB control number 1205-0509 [here](#) and 1205-0516 [here](#).

- **October 29, 2015. H-2A Final Rule: Range Herding or Production of Livestock in the United States**

The Department will host two public webinars to educate stakeholders, program users, and other interested members of the public on the changes to the Temporary Agricultural Employment of H-2A Foreign Workers in the Range Herding or Production of Livestock in the United States made by the 2015 H-2A Herder Final Rule, which published on October 16, 2015 with an effective date of November 16, 2015. The Final Rule may be found [here](#).

The webinar briefings are scheduled for November 10, 2015 and November 17, 2015. Each webinar will be from 2:00 PM until 3:30 PM Eastern time. There is no pre-registration for the public webinar. The webinar will be accessible to the public on a first-come, first-served basis on the each webinar day. Please read

the instructions for accessing the Department's webinars for the 2015 H-2A Herder Final Rule [here](#).

- **October 29, 2015. H-2A Herder Rule FAQs**

The Department of Labor is making available Frequently Asked Questions (FAQs) that address job order and application filing, processing, and wage rate under the new regulation governing the Temporary Agricultural Employment of H-2A Foreign Workers in the Herding or Production of Livestock on the Range in the United States (H-2A Herder Final Rule). This rule will be effective on November 16, 2015. To read the new FAQs, please click [here](#). To read a short description of the H-2A Herder Rule and FAQs addressing implementation and major provisions of the H-2A Herder Rule, please click [here](#).

- **October 21, 2015**

FY 2015 Q4 Cumulative Disclosure Data The OFLC PERM, H-2A, H-2B, Prevailing Wage, and H-1B program disclosure data files for Quarter 4 of FY 2015 are now available. Click [here](#) to access the disclosure files and corresponding record layouts.

- **October 21, 2015**

The Office of Foreign Labor Certification has posted updated program factsheets containing the FY 2015 Quarter 4 Selected Statistics for the [Permanent Labor Certification Program](#), [Prevailing Wage Determination Program](#), [H-1B Temporary Visa Program](#), [H-2A Temporary Agricultural Visa Program](#), and [H-2B Temporary Non-agricultural Visa Program](#). Reports are derived from program data as of 9/30/2015. The updated program factsheets may also be found on OFLC's Performance Data [page](#).

- **October 16, 2015**

On October 16, 2015, the Department of Labor (Department) published a new regulation governing the Temporary Agricultural Employment of H-2A Foreign Workers in the Herding or Production of Livestock on the Range (H-2A Herder Final Rule) in the United States. This Final Rule amends the current regulations governing the labor certification process and standards to cover H-2A foreign workers in herder occupations, codified at 20 CFR part 655, and enforcement of employer obligations under the H-2A program. In the coming weeks, the Department's Office of Foreign Labor Certification will publish additional technical implementation materials on its website for the new H-2A Herder Final Rule and will alert stakeholders as those materials becomes available. To read the full text of the Final Rule, please click [here](#). This rule will be effective on November 16, 2015.

To read a short description of the Final Rule and FAQs regarding the Final Rule, please click [here](#).

- **October 13, 2015**

On October 13, 2015, the Office of the *Federal Register* (OFR) placed on public inspection the Final Rule, Temporary Agricultural Employment of H-2A Foreign Workers in the Herding or Production of Livestock on the Range in the United States. The OFR made minor technical edits to the Final Rule posted on our website earlier the same day, but the substance of the Final Rule remains the same. Only the version published in the *Federal Register* is the official regulation. To view the Final Rule on the OFR's public inspection site, please click [here](#).

- **October 13, 2015**

On October 13, 2015, the U.S. Department of Labor announced the H-2A Herder Final Rule regarding the employment of foreign workers in jobs related to the herding of livestock on the range, including the herding of sheep and goats. To read the News Release regarding this regulation, click [here](#).

- **October 2, 2015**

The following public data has been updated due to data defects. Duplicated & voided cases removed; missing records restored in the following:

- H-1B - FY 2010
- H-2A - FY 2008, 2009, 2010
- H-2B - FY 2008, 2009

- **September 22, 2015**

The H-1B program disclosure data file has been updated to include records through June 30, 2015 for Quarter 3 of FY 2015. Click [here](#) to access the disclosure files and corresponding record layouts.

- **September 16, 2015. H-2B 2015 Final Wage Rule Webinar Recording.**

The recording of the H-2B 2015 Final Wage Rule webinar briefing, hosted on August 21, 2015, has been posted under the Prevailing Wage Information section on the Office of Foreign Labor Certification's H-2B 2015 Interim Final Rule web page. To access the page, please click [here](#). To access the recording directly, please click [here](#).

- **September 14, 2015. Submission of some PERM Applications.**

On Tuesday, September 1, 2015, the Department implemented software updates to the Permanent Labor Certification Case Management System (CMS). An unexpected programming glitch occurred which impacted a small number of applications and resulted in the prohibition of certain information being entered onto the ETA Form 9089. The Department is working to correct this issue.

Until the revisions become operational, an employer who cannot complete and file an ETA Form 9089 online should mail in their application to the Atlanta National Processing Center at the following address:

U.S. Department of Labor  
Employment and Training Administration  
Office of Foreign Labor Certification  
Atlanta National Processing Center  
Harris Tower, Suite 410  
233 Peachtree Street  
Atlanta, Georgia 30303

Employers, who attempted to submit an online application between Tuesday, September 1, 2015, and Friday, September 11, 2015, only, are authorized to provide documentation establishing that information in their ETA Form 9089 was impacted.

If you elect to provide documentation with the ETA Form 9089, please include a



If you elect to provide documentation with the ETA Form 9089, please include a cover page containing the words "September 2015, CMS Technical Issue" in the center of the page in large letters. All documentation in response to this letter must be submitted by September 30, 2015, to the following:

U.S. Department of Labor  
Employment and Training Administration  
Office of Foreign Labor Certification  
Attn: CMS Technical Issue Team  
Atlanta National Processing Center  
Harris Tower, Suite 410  
233 Peachtree Street  
Atlanta, Georgia 30303

- **September 1, 2015. H-2B 2015 Final Wage Rule Webinar Presentation.**

The presentation for the H-2B 2015 Final Wage Rule webinar briefing, hosted on August 21, 2015 has been posted under the Prevailing Wage Information section on the Office of Foreign Labor Certification's H-2B 2015 Interim Final Rule web page. To access the page, please click [here](#). To access the presentation directly, please click [here](#).

- **August 13, 2015. H-2B 2015 Final Wage Rule Webinar.**

The Department will host a public webinar to educate stakeholders, program users, and other interested members of the public on the changes to the H-2B program made by the H-2B 2015 Final Wage Rule, in effect as of April 29, 2015. The webinar briefing is scheduled for August 21, 2015, from 1:00 PM until 2:30 PM Eastern Daylight time. There is no pre-registration for the public webinar.

The webinar will be accessible to the public on a first-come, first-served basis on the date specified. Please read the instructions for accessing the Department's H-2B Final Wage Rule public webinar [here](#).

- **August 4, 2015.**

The Office of Foreign Labor Certification has posted new and updated Labor Condition Application (LCA/ ETA Form 9035/9035E) Frequently Asked Questions (FAQs) for the H-1B, H-1B1 and E-3 programs. The new FAQs may be found [here](#).

- **July 31, 2015.**

**IMPORTANT NOTICE** : Change in signature on approved labor certification applications.

The Office of Foreign Labor Certification (OFLC) today has implemented a change in the official signature on approved labor certification applications. Specifically, OFLC determinations to grant permanent and temporary labor certification will no longer display the electronic signature of the OFLC Acting Administrator, William W. Thompson, II. Beginning July 31, 2015, the electronic signature on approved applications under the permanent (ETA Forms 9089, 750) and temporary (ETA Forms 9035E, 9142A, 9142B, 9033) visa programs will be shown as "Certifying Officer."

This change demonstrates increased transparency and more accurately reflects

the operational decision making process across the organization. The OFLC has consulted with the Department of Homeland Security's United State Citizenship and Immigration Services on this change for purposes of accepting employer-filed I-129 and I-140 petitions.

- **July 22, 2015.**

The Office of Foreign Labor Certification has posted updated program factsheets containing the FY 2015 Quarter 3 Selected Statistics for the [Permanent Labor Certification Program](#), [Prevailing Wage Determination Program](#), [H-1B Temporary Visa Program](#), [H-2A Temporary Agricultural Visa Program](#), and [H-2B Temporary Non-agricultural Visa Program](#). Reports are derived from program data as of 6/30/2015. The updated program factsheets may also be found on OFLC's Performance Data [page](#).

- **July 21, 2015. H-2B 2015 IFR FAQs: Integrity Measures.**

The Department of Labor is making available Frequently Asked Questions (FAQs) that address post certification program integrity measures under the H-2B 2015 Interim Final Rule. To read the FAQs click [here](#) or visit the [H-2B Program Page](#).

- **July 17, 2015. Processing of H-2B Labor Certifications Granted under the 2008 Final Rule.**

The Department of Labor has posted an update regarding the processing of H-2B labor certifications granted under the 2008 Final Rule. To read the update, please visit the [H-2B Program Page](#).

- **July 17, 2015. ETA-9142B and ETA-9165 Extension Requests.**

The Department has published two notices in the *Federal Register* announcing 60-day comment periods on its forms used in the H-2B program, which include the Form ETA-9142B, Application for Temporary Employment Certification, Appendix B, and the new Form ETA-9165, Employer-Provided Survey Attestations to Accompany H-2B Prevailing Wage Determination Request Based

on a Non-OES Survey. To read the notices, please click [here](#) for the ETA-9142B and [here](#) for the ETA-9165. To obtain a copy of the forms and the supporting documentation please submit your request to [ETA.OFLC.Forms@dol.gov](mailto:ETA.OFLC.Forms@dol.gov), subject line: Form ETA-9142B or Form ETA-9165. The forms were approved by the Office of Management and Budget in conjunction with the H-2B rulemaking under the emergency procedures of the Paperwork Reduction Act. The Department now seeks to extend the forms for three years.

- **July 15, 2015. H-2B 2015 IFR FAQs: Appeals and Seafood Industry Staggered Crossings.**

The Department of Labor is making available additional 2015 Interim Final Rule Frequently Asked Questions (FAQs): 1. [Appeal Procedures](#) and 2. [Staggered Crossing of H-2B Nonimmigrants Working in the Seafood Industry](#). The FAQs may also be found on the [H-2B Program page](#) under the "Frequently Asked Questions" dropdown menu.

- **July 15, 2015.**

July 15, 2015. FY 2015 Q3 Cumulative Disclosure Data The OFLC PERM, H-2A, H-2B, Prevailing Wage, and H-1B program disclosure data files for Quarter 3 of FY 2015 are now available. Click [here](#) to access the disclosure files and corresponding record layouts.

- **July 9, 2015.**

The H-2B RFI mailbox at the Chicago National Processing Center ([RFI.H2B.Chicago@dol.gov](mailto:RFI.H2B.Chicago@dol.gov)) will cease to be monitored July 13, 2015, and will no longer accept messages starting September 30, 2015. All stakeholders

should use [TLC.Chicago@dol.gov](mailto:TLC.Chicago@dol.gov) for all communications concerning the H-2A and H-2B Temporary Labor Certification programs.

- **July 8, 2015.**

The Office of Foreign Labor Certification has updated the following H-2B forms: 1) Form 9142B - General Instructions; 2) Appendix B; 3) Form 9142B, Job Contractor Requirements under the 2015 H-2B Interim Final Rule. To access the forms, please click [here](#).

- **June 9, 2015. H-2B 2015 Interim Final Rule Webinar Resources.**

On May 27, 2015, the Department of Labor hosted a public webinar to educate stakeholders, program users, and other interested members of the public on the changes to the H-2B program made by the H-2B 2015 Interim Final Rule, which became effective on April 29, 2015. To learn more, you may now access the webinar recording and presentation slides on the H-2B 2015 Interim Final Rule Page, under Additional Resources [here](#).

- **June 1, 2015. H-2B 2015 Final Wage Rule Webinar Recording.**

The recording of the H-2B 2015 Final Wage Rule webinar briefing, hosted on May 15, 2015, has been posted under the Prevailing Wage Information section on the Office of Foreign Labor Certification's H-2B 2015 Interim Final Rule web page. To access the page, please click [here](#). To access the recording directly, please click [here](#).

- **May 22, 2015.**

On April 15, 2015, the Department of Labor (Department) published in the *Federal Register* a Notice of Proposed Rulemaking: Temporary Agricultural Employment of H-2A Foreign Workers in the Herding or Production of Livestock on the Open Range in the United States (NPRM) (80 FR 20300). The NPRM provided for the submission of public comments through May 15, 2015. In

response to public requests to extend the comment period, the Department published a subsequent notice in the *Federal Register* to extend the comment period by 15 days, through June 1, 2015 (80 FR 25633). After the publication of the notice announcing the extension, the Department received additional requests to extend the comment period. However, the Department is required by court order to publish a final rule no later than November 1, 2015, *Mendoza v. Perez*, No. 11-1790 (D.D.C Oct. 31, 2014), and any further extension of the comment period would significantly impair our ability to meet this court-ordered deadline. As a result, we have not further extended the comment period beyond June 1, 2015.

- **May 20, 2015. Announcing the H-2B 2015 Interim Final Rule Webinar.**

On May 27, 2015 at 2pm Eastern Daylight Time, the Department of Labor will host a public webinar to educate stakeholders, program users, and other interested members of the public on the changes to the H-2B program made by the H-2B 2015 Interim Final Rule, which became effective on April 29, 2015. Please note that this webinar is limited to 300 participants and will be accessible to the public on a first-come, first-served basis. To learn more, including how to access the Department's H-2B 2015 Interim Final Rule public webinar, please click [here](#).

- **May 18, 2015. H-2B 2015 Final Wage Rule Webinar Recording.**

The recording of the H-2B 2015 Final Wage Rule webinar briefing, hosted on May 13, 2015, has been posted under the Prevailing Wage Information section on the Office of Foreign Labor Certification's H-2B 2015 Interim Final Rule web page. To access the page, please click [here](#). To access the recording directly,

please click [here](#).

- **May 14, 2015. H-2B 2015 Final Wage Rule Webinar Presentation.**

The presentation for the H-2B 2015 Final Wage Rule webinar briefings, hosted on May 13, 2015 and May 15, 2015, has been posted under the Prevailing Wage Information section on the Office of Foreign Labor Certification's H-2B 2015 Interim Final Rule web page. To access the page, please click [here](#). To access the presentation directly, please click [here](#).

- **May 7, 2015. H-2B 2015 Final Wage Rule Webinar.**

The Department will host two public webinars to educate stakeholders, program users, and other interested members of the public on the changes to the H-2B program made by the H-2B 2015 Final Wage Rule, in effect as of April 29, 2015. The webinar briefings are scheduled for May 13, 2015 and May 15, 2015, from 1:00 PM until 2:30 PM Eastern Daylight time. There is no pre-registration for the public webinars. Each will be accessible to the public on a first-come, first-served basis on the dates specified. Please read the instructions for accessing the Department's H-2B Final Wage Rule public webinars [here](#).

- **May 5, 2015. DOL Extends the Comment Period for the H-2A Open Range Notice of Proposed Rulemaking to and including June 1, 2015.**

On April 15, 2015, the Department of Labor (Department) published in the *Federal Register* a Notice of Proposed Rulemaking: Temporary Agricultural Employment of H-2A Foreign Workers in the Herding or Production of Livestock on the Open Range in the United States (H-2A Open Range NPRM), 80 FR 20300 (Apr. 15, 2015). The Notice provided for the submission of public comments through May 15, 2015. In order to provide the public with additional time to submit comments, the Department published a subsequent notice in the

*Federal Register* to extend this comment period. To read the notice extending the comment period by 15 days, to and including June 1, 2015, please click [here](#).

- **May 1, 2015. H-2B 2015 Interim Final Rule Web Page.**

The Office of Foreign Labor Certification has created a dedicated web page for the H-2B 2015 Interim Final Rule to provide assistance to stakeholders. The web page contains program details with links to Frequently Asked Questions, the iCERT System for electronic filing, the Forms page and more. To access the page, please click [here](#).

- **April 29, 2015. New H-2B Program Regulations.**

On April 29, 2015, the Departments of Labor and Homeland Security jointly published new regulations governing the H-2B Temporary Non-agricultural Labor Certification Program. The new regulations are effective immediately.

- The Department of Labor's news release discussing the two regulations may be accessed [here](#).
- To read the Temporary Non-Agricultural Employment of H-2B Aliens in the United States, Interim Final Rule and learn how to submit comments during the 60-day open comment period, please click [here](#).
- To read the Wage Methodology for the Temporary Non-Agricultural employment H-2B Program, Final Rule please click [here](#).
- For compliance assistance with H-2B program obligations, you may access the Department's Wage and Hour Division Web site [here](#).

○ In addition, the Department's Office of Foreign Labor Certification will

- o In addition, the Department's Office of Foreign Labor Certification will soon launch a dedicated technical implementation Web page for the new H-2B regulations and will alert stakeholders when it becomes available.

- **April 24, 2015**

In an effort to increase the transparency of foreign labor certification application processing, the Office of Foreign Labor Certification has expanded the data fields displayed in the PERM, H-1B, H-2A and H-2B [Disclosure Data](#). The 2nd quarter disclosure data now includes additional information that better coincides with the majority of data fields displayed located on the [Labor Certification Registry](#). A power point presentation has been posted [here](#) to provide details of the additional fields included in the new tables.

- **April 16, 2015: H-2B Processing Continuing**

On April 15, 2015, the federal district court for the Northern District of Florida issued a further order in *Perez v. Perez*, No 3:14-cv-682 (N.D. Fla., March 4, 2015) that permits DOL to continue its processing of H-2B applications and requests for prevailing wages through May 15, 2015 unless otherwise lifted by the court. Therefore, DOL is continuing to process H-2B applications and requests for prevailing wage.

- **April 16, 2015: DOL H-2B Processing Stops Again**

Under the court order issued March 18, 2015, by the federal district court in *Perez v. Perez*, No. 3:14-cv-682 (N.D. Florida), DOL was permitted to temporarily resume processing H-2B requests for prevailing wages and applications for labor certification under the 2008 H-2B rule through April 15, 2015. The court's order permitted only a temporary resumption, and now requires DOL once again to cease accepting or processing requests for prevailing wage determinations or applications for labor certification in the H-2B program. Effective April 16, 2015, DOL has ceased accepting or processing H-2B prevailing wage determinations and applications for H-2B temporary non-agricultural labor certification under the 2008 rule. DOL and DHS are moving as quickly as possible to issue new joint regulations that will enable DOL to resume processing H-2B applications and requests for prevailing wage determinations.

- **April 15, 2015.**

On April 15, 2015, the Department published in the *Federal Register* a Notice of Proposed Rulemaking: Temporary Agricultural Employment of H-2A Foreign Workers in the Herding or Production of Livestock on the Open Range in the United States (H-2A Open Range NPRM). 80 FR 20300 (Apr. 15, 2015). The Department invites public comments on the H-2A Open Range NPRM during the 30-day comment period ending on May 15, 2015. To read the H-2A Open Range NPRM and learn how to submit comments, please click [here](#).

- **April 14, 2015.**

The Office of Foreign Labor Certification has posted updated program factsheets containing the Quarter 2 FY 2015 selected statistics for the [Permanent Labor Certification Program](#), [Prevailing Wage Determination Program](#), [H-1B Temporary Visa Program](#), [H-2A Temporary Agricultural Visa Program](#), and [H-2B Temporary Non-agricultural Visa Program](#). Reports are derived from program data as of 3/30/2015. The updated program factsheets may also be found on OFLC's Performance Data [page](#).

- **March 20, 2015. FAQs regarding Temporary Stay of the Court's Vacatur of 2008 Final Rule**

The Department of Labor is making available Frequently Asked Questions

The Department of Labor is making available frequently asked questions (FAQs) regarding its implementation of the Northern District of Florida's March 18, 2015 decision to temporarily stay its earlier judgment in *Perez v. Perez*, No. 3:14-cv-682 (N.D. Florida, Mar. 4, 2015). As a result of this stay, the Department has temporarily resumed processing of requests for H-2B prevailing wage determinations and applications for H-2B temporary non-agricultural labor certification until April 15, 2015. The FAQs can be accessed [here](#).

- **March 18, 2015. Prohibition of DOL H-2B Processing Temporarily Lifted**

On March 18, 2015, the federal district court in the Northern District of Florida issued an order effectively permitting DOL to restart its processing of H-2B applications under the 2008 rule immediately and to continue processing applications under that rule through April 15, 2015. Effective immediately, DOL will begin processing H-2B applications under the 2008 rule and will continue to do so through April 15th. Under the terms of the court's March 18th order, any application for certification or prevailing wage determination that has not completed DOL processing by the time the stay ends as of April 16, 2015 may no longer be processed under the 2008 H-2B rule.

- **March 16, 2015. Joint Statement from DOL and DHS on Next Steps for the H-2B Program**

On March 4, 2015, the federal district court in the Northern District of Florida vacated the Department of Labor's (DOL) 2008 H-2B regulations on the ground that DOL lacks authority under the Immigration and Nationality Act to issue regulations in the H-2B program. *Perez v. Perez*, No. 3:14-cv-682 (N.D. Fla., Mar. 4, 2015). Because this decision vacated the rule and permanently enjoined DOL from enforcing it, DOL was forced to immediately discontinue the processing of applications for temporary labor certification in the H-2B program.

To rectify the regulatory gap that the vacatur has caused, DOL and DHS are working expeditiously to issue a joint Interim Final Rule (IFR). It is the two Departments' intention to promulgate this rule by April 30, 2015. In addition, DOL will seek to determine whether relief from the Court's decision may be obtained such that processing can continue during the period of time before an IFR is promulgated.

DOL and DHS recognize the hardship that has resulted from the Court's decision. That is why the Departments are moving as quickly as possible to issue new regulations that would be consistent with the decision. In so doing, the Departments must be mindful of other court decisions that have invalidated past subregulatory actions in the H-2B and related programs, including the issuance of guidance in the absence of rulemaking.

- **March 4, 2015.**

On March 4, 2015, the federal district court in the Northern District of Florida vacated the Department of Labor's (DOL) 2008 H-2B regulations on the ground that DOL lacks authority under the Immigration and Nationality Act to issue regulations in the H-2B program. *Perez v. Perez*, No. 3:14-cv-682 (N.D. Florida, Mar. 4, 2015). Because of this decision, effective immediately, DOL can no longer accept or process requests for prevailing wage determinations or applications for labor certification in the H-2B program. DOL is considering its options in light of the court's decision.

- **February 23, 2015. Federal Register Notice Announcing the 2015 Allowable Charges for Agricultural Workers' Meals and Travel Subsistence Reimbursement, Including Lodging for the H-2A Program.**

The Department of Labor has published a Notice in the *Federal Register* to announce the allowable charges for 2015 that employers seeking H-2A workers may charge their workers when the employer provides three meals a day, and the maximum travel subsistence meal reimbursement that a worker with receipts may claim in 2015. The Notice also includes a reminder regarding employers' obligations with respect to overnight lodging costs as part of required subsistence for the H-2A program. To read the Notice, please click [here](#).

- **February 2, 2015. The Department has released its Foreign Labor Certification Annual Report for FY 2013.**

The 2013 Annual Report presents information on the Prevailing Wage Determination Process, Permanent Labor Certification, and Temporary Nonimmigrant Labor Certification for FY 2013. The report also contains State Employment-Based Labor Certification Profiles and top Country Employment-Based Immigration Profiles. Click [here](#) to view the 2013 Annual Report.

- **January 27, 2015. Additional Guidance regarding CATA v. Perez and Employers' H-2B Temporary Employment Certifications That Are Based on Employer-Provided Surveys.**

On Dec. 23, 2014, the Department announced procedures to implement the Court's decision in *Comite de Apoyo a los Trabajadores Agricolas et al v. Perez*, No. 14-3557 (3rd Cir. Dec. 5, 2014), which were applicable to (1) employers with pending prevailing wage requests based on an employer-provided survey and (2) employers who had received a prevailing wage determination based on an employer-provided survey but whose H-2B application had not yet been certified. In the latter case, the Department is issuing supplemental prevailing wage determinations (SPWDs) based on the OES mean.

For employers who already received an H-2B temporary labor certification based on an employer-provided survey as of the date of the issuance of the Court's order on December 5, 2014, the Department will hold in abeyance the issuance of any SPWDs pending the conclusion of the adjudicatory proceeding initiated by the Secretary of Labor's Notice of Intent to Issue a Declaratory Order, 79 Fed. Reg. 75179 (Dec. 17, 2014).

- **January 22, 2015. FY 2015 Q1 Cumulative Disclosure Data**

The OFLC PERM, H-2A, H-2B, Prevailing Wage, and H-1B program disclosure data files for Quarter 1 of FY 2015 are now available. Click [here](#) to access the disclosure files and corresponding record layouts.

- **January 16, 2015. DOL has Extended the Comment Period for the H-2B Notice of Intent to Issue Declaratory Order.**

On December 17, 2014, the Department of Labor (Department) published in the *Federal Register* a Notice of Intent to Issue Declaratory Order, Request for Comment, 79 Fed. Reg. 75179 (Notice). The Notice provided for the submission of public comments through January 16, 2015. On January 16, 2015 the Department published in the *Federal Register* a subsequent notice extending this comment period by 15 days, until February 2, 2015 in order to provide the public with additional time to submit comments. To read the notice extending the comment period, please click [here](#). To read the Notice and learn how to submit comments, please click [here](#).

- **January 16, 2015. The Office of Foreign Labor Certification (OFLC) Implements Search FAQs feature on Frequently Asked Questions and**

## Answers page.

The Office of Foreign Labor Certification (OFLC) has updated the FAQ page of its official website with a new keyword search function, *Search FAQs*. Users may now search the FAQ page by using a single keyword or exact phrase to identify items in the FAQ database that correspond to keywords or characters specified by the user. A Tip sheet has been developed to assist with use of the *Search FAQs* tool. To access the FAQs page and *Search FAQs* Tip Sheet, click [here](#).

- **January 13, 2015. DOL is Extending the Comment Period for the H-2B Notice of Intent to Issue Declaratory Order.**

On December 17, 2014, the Department of Labor (Department) published in the *Federal Register* a Notice of Intent to Issue Declaratory Order, Request for Comment, 79 Fed. Reg. 75179 (Notice). The Notice provided for the submission of public comments through January 16, 2015. The Department will publish in the *Federal Register* a notice extending this comment period by 15 days, until February 2, 2015 in order to provide the public with additional time to submit comments. To read the Notice and learn how to submit comments, please click [here](#).

- **January 8, 2015. Permanent Labor Certification Program: Listening Session.**

On *Thursday, January 22nd, 2015 from 4:30pm until 5:30pm EST*, the Department of Labor (Department) will host a stakeholder listening session regarding the Permanent Labor Certification Program (PERM) via conference call. The session will be led by the Department's Deputy Chief of Staff, Seema Nanda and the Assistant Secretary for Employment and Training, Portia Wu.

The Department is interested in beginning a dialogue and receiving feedback from you regarding the PERM program's role in employment-based immigration, its current regulatory framework and any general areas of concern

to the stakeholder community. To learn more, please read the Department's [factsheet](#).

To participate in the listening session **please RSVP no later than January 19th** by clicking on the following link <http://webapps.dol.gov/DOLEvents/Event/View/347/PERM-Public-Listening-Session> and completing the registration form **for the individual who will represent your organization**.

Once an RSVP is received, your organization's representative will receive a confirmation e-mail with additional details.

If you have questions, please feel free to contact the Department's Office of Public Engagement at [PublicEngagement@dol.gov](mailto:PublicEngagement@dol.gov).

We look forward to engaging with you on this important issue.

## Calendar Year 2014

- December 23, 2014.

In response to inquiries from our stakeholders, the Department is elaborating on the procedures that will be utilized in implementing the decision in *Comite de Apoyo a los Trabajadores Agricolas et al v. Solis*, No. 14-3557 (3rd Cir.), as stated below. Additional guidance may also be posted here.



Employers with pending prevailing wage request: Employers who have a prevailing wage determination request pending that is based on an employer-provided survey may modify that request to utilize a Service Contract Act (SCA) or Davis Bacon Act (DBA) wage determination or a wage based on a Collective Bargaining Agreement (CBA). That request will not be treated as a new filing and the request will be processed based on the original filing date. Employers are reminded that the request must specify precisely which SCA or DBA wage determination is being used or provide a copy of the Collective Bargaining Agreement. In the absence of such a request, the NPWC will issue the prevailing wage determination based on the OES mean for the occupation.

Employers who have received a prevailing wage determination: Employers who have already received a prevailing wage determination based on an employer-provided survey but who have not yet filed their application with the Chicago National Processing Center (NPC) may request a redetermination from the National Prevailing Wage Center irrespective of the time limits set forth in 20 CFR 655.10(g). An employer who has received a prevailing wage determination based on an employer-provided survey may use the survey-based wage rate in its recruiting. Employers who have filed their application with the NPC, and whose applications are adjudicated favorably, will receive a supplemental prevailing wage determination (SPWD) based on the OES mean for the occupation, along with the certification. The SPWD will provide the opportunity to seek a redetermination under 20 CFR 655.10(g). If, upon redetermination, the use of an alternative wage source (SCA, DBA, or CBA) is approved, the employer should return the original certification to the NPC and a new certification will be issued.

- December 19, 2014. New 2015 H-2A Adverse Effect Wage Rates (AEWRs).

The Department has published a notice in the Federal Register announcing new Adverse Effect Wage Rates (AEWRs) for each state, based on the Farm Labor Survey conducted by the U.S. Department of Agriculture. The AEWRs are the minimum hourly wage rates the Department has determined must be offered and paid by employers to H-2A workers and workers in corresponding employment for a particular agricultural job and area, so that the wages of similarly employed U.S. workers will not be adversely affected. To read the Federal Register notice please click [here](#).

- December 17, 2014. Federal Register Notice of Intent to Issue Declaratory Order; Request for Comment within 30 Days.

The Department of Labor has published in the Federal Register a Notice of Intent to Issue a Declaratory Order applicable to the Temporary Non-agricultural Employment H-2B Program. To read the Notice, please click [here](#).

- December 9, 2014

Effective December 8, 2014, the Department is no longer issuing prevailing wage determinations in the H-2B program based on employer provided wage surveys. This action is in response to the Court order entered December 5, 2014 in *Comite de Apoyo a los Trabajadores Agricolas et al v. Solis*, No. 14-3557 (3rd Cir.). The Court's order vacated the portion of the H-2B wage rule (20 CFR § 655.10(f)) and 2009 Wage Guidance permitting the use of such surveys.

Therefore, Prevailing Wage Determination Requests currently pending with the National Prevailing Wage Center that seek to utilize employer provided surveys will be given the appropriate Occupational Employment Statistics (OES) wage for the occupation. Employers who wish to utilize a Service Contract Act or Davis Bacon Act wage determination or a wage based on a Collective Bargaining Agreement may request redetermination under 20 CFR § 655.10(g). Employers whose prevailing wage determination was based an employer provided wage survey, but whose H-2B Applications for Temporary

Employment Certification have not yet resulted in a final determination by the Chicago NPC, will be notified of their new wage obligation along with their certification letters.

- November 25, 2014.

November 20, 2014. USDA Release of 2014 Farm Labor Survey

On November 20, 2014, the United States Department of Agriculture (USDA) issued the Farm Labor Survey (FLS) report in which it established the average annual wage rates, by region and the United States, for field and livestock workers. The Department of Labor (Department) relies on the average annual combined hourly wage for field and livestock workers in order to establish the Adverse Effect Wage Rates (AEWRs) in the H-2A program. The AEWRs are the minimum hourly wage rates the Department has determined must be offered and paid by employers to H-2A workers and workers in corresponding employment, so that the wages of workers similarly employed in the United States will not be adversely affected.

The Department is reviewing the USDA FLS average annual wage rates for 2014 and will soon publish a notice in the Federal Register announcing new Adverse Effect Wage Rates (AEWRs) for each state at which time the rates will become immediately effective. To obtain more information on NASS surveys and reports, please call the NASS Agricultural Statistics Hotline at (800) 727-9540, 7:30 a.m. to 4:00 p.m. ET, or e-mail: [nass@nass.usda.gov](mailto:nass@nass.usda.gov). To obtain a copy of the latest USDA FLS report, please click [here](#).

- October 23, 2014.

As of October 27, 2014, the Atlanta National Processing Center has changed its process and will no longer automatically forward to BALCA all PERM case Requests for Reconsideration where the original case decision was upheld. Rather, a Notice of Decision will be issued when the case is upheld, and the employer must affirmatively request review before BALCA no later than 30 calendar days after the date the Notice of Decision is issued. [FAQs now reflect this change in process](#).

- October 23, 2014.

The Office of Foreign Labor Certification has posted updated program factsheets containing the Quarter 4 FY 2014 selected statistics for the [Permanent Labor Certification Program](#), [Prevailing Wage Determination Program](#), [H-1B Temporary Visa Program](#), [H-2A Temporary Agricultural Visa Program](#), and [H-2B Temporary Non-agricultural Visa Program](#). Reports are derived from program data as of 9/30/2014. The updated program factsheets may also be found on OFLC's Performance Data [page](#).

- October 17, 2014.

H-1B Legacy records no longer available

On July 8, 2013, the National Archives and Records Administration (NARA) approved OFLC's revised retention schedule following a 30-day period of public notice and review. As part of its review and approval process, NARA determined employer applications for labor certification and supporting documentation, whether retained in paper and electronic form, are temporary records and subject to destruction in accordance with an approved disposition schedule. The OFLC-approved disposition schedule authorizes the retention of records for a period of 5 years following the date a final determination letter is issued or final action occurs, such as a withdrawn application, subject to an active investigation or litigation hold.

The records NARA identified as permanent records are the annual disclosure data files currently located on the FLC Data Center at <http://www.flcdatacenter.com>, as well as the quarterly disclosure data files and the OFLC Annual Reports located on the OFLC Performance page at <https://www.dol.gov/agencies/eta/foreign-labor/performance>.

Labor Condition Applications (LCA) retained in the LCA Online System are all beyond the retention period of 5 years from a date of final determination or final action. Therefore, effective October 17, 2014, the LCA Online System located at <http://www.lca.doleta.gov> has been decommissioned.

The OFLC will no longer respond to inquiries to search for records in response to FOIA requests, or provide information for requests for duplicate certifications for LCA applications processed in the LCA Online System, in keeping with the OFLC records schedule.

- October 7, 2014.

Staggered Crossing of Seafood Industry extended through December 11, 2014

On January 17, 2014, the President signed into law the Consolidated Appropriations Act of 2014 (the "2014 Appropriations Act"), Pub. L. 113-76, which included a provision permitting staggered entry of H-2B workers employed by employers in the seafood industry under certain conditions. Following passage of the Continuing Appropriations Resolution, 2015, Pub. L. 113-164, this provision now expires on December 11, 2014; accordingly, no staggered entry of H-2B workers after December 11, 2014 will be permitted absent further legislative extensions.

In order to use the "staggered crossing" provision established by the 2014 Appropriations Act, seafood industry employers must download, complete and sign the [official attestation](#), and provide it to the H-2B nonimmigrant worker for

presentation, upon request, to the Department of State's Consular Officers and/or the Department of Homeland Security's Customs and Border Protection officers. The Frequently Asked Questions (FAQs) may be accessed [here](#).

- September 16, 2014.

The Office of Foreign Labor Certification has posted updated program factsheets containing the FY 2014 Q4 TD selected statistics for the [Permanent Labor Certification Program](#), [Prevailing Wage Determination Program](#), [H-1B Temporary Visa Program](#), [H-2A Temporary Agricultural Visa Program](#), and [H-2B Temporary Non-agricultural Visa Program](#). Reports are derived from program data as of 8/31/2014. The updated program factsheets may also be found on OFLC's Performance Data page.

- September 10, 2014.

The Office of Foreign Labor Certification has posted updated program factsheets containing the FY 2014 Q4 TD selected statistics for the [Permanent Labor Certification Program](#), [Prevailing Wage Determination Program](#), [H-1B Temporary Visa Program](#), [H-2A Temporary Agricultural Visa Program](#), and [H-2B Temporary Non-agricultural Visa Program](#). Reports are derived from program data as of 8/31/2014. The updated program factsheets may also be found on OFLC's Performance Data page.

- August 22, 2014.

**IMPORTANT!** The iCERT and PERM Systems will be unavailable during the following dates/times as the Department upgrades the databases to Oracle 11g:

Starting Friday, August 22 at 7:00 pm EST

Ending Monday, August 25 at 6:00 am EST

We apologize for any inconvenience this may cause. In the event that the Department's upgrade is delayed or canceled, we will post a revised or new technical announcement. We anticipate all systems returning to normal operations after 6:00 am EST on Monday, August 25.

- August 19, 2014.

The Office of Foreign Labor Certification has posted an updated program factsheet containing the Quarter 3 FY 2014 selected statistics for the [Prevailing Wage Determination Program](#), reflecting the correct number of Prevailing wage determinations FYTD. Reports are derived from program data as of 6/30/2014. The updated program factsheets may also be found on OFLC's Performance Data [page](#).

- August 19, 2014.

OFLC has posted updated versions of the PERM and Prevailing Wage Disclosure Datasets titled "PERM\_FY14\_Q3.xlsx" and "PWD\_FY14\_Q3.xlsx." These updated datasets include cumulative data covering October 1, 2013 through June 30, 2014. Click [here](#) to access the disclosure files and corresponding record layouts.

- July 31, 2014.

FY 2014 Q3 Cumulative Disclosure Data

The OFLC PERM, H-2A, H-2B, Prevailing Wage, and H-1B program disclosure data files for Quarter 3 of FY 2014 are now available. Click [here](#) to access the disclosure files and corresponding record layouts.

- July 21, 2014

The Office of Foreign Labor Certification has posted updated program factsheets containing the Quarter 3 FY 2014 selected statistics for the [Permanent Labor Certification Program](#), [Prevailing Wage Determination Program](#), [H-1B Temporary Visa Program](#), [H-2A Temporary Agricultural Visa Program](#), and [H-2B Temporary Non-agricultural Visa Program](#). Reports are derived from program data as of 6/30/2014. The updated program factsheets may also be found on OFLC's Performance Data [page](#).

- July 1, 2014

On July 1, 2014, OFLC uploaded the newest prevailing wage data from the Occupational Employment Survey as generated by the Bureau of Labor Statistics for the year from July 2014 - June 2015. The effective date is July 1, 2014. Prevailing wages issued from the National Prevailing Wage Center will reflect the new data.

- June 9, 2014

OFLC has become aware of an anomaly in the published LCA Disclosure dataset titled "H1B\_FY2014\_Q2". The error is with respect to the listing of the "PW\_SOURCE\_1" and "PW\_SOURCE\_2" data. The dataset erroneously listed a numeric code associated with a wage source; it has been corrected to display the actual wage source.

- June 5, 2014

The Office of Foreign Labor Certification has posted updated program factsheets containing the Quarter 3 TD FY 2014 selected statistics for the [Permanent Labor Certification Program](#), [Prevailing Wage Determination](#)

Permanent Labor Certification Program , Prevailing Wage Determination Program , H-1B Temporary Visa Program , H-2A Temporary Agricultural Visa Program , and H-2B Temporary Non-agricultural Visa Program . Reports are derived from program data as of 5/24/2014. The updated program factsheets may also be found on [OFLC's Performance Data page](#).

- June 2, 2014

OFLC has become aware of an anomaly in the published Prevailing Wage Disclosure datasets titled " **PWD\_FY 2013.xlsx** " and " **PWD\_FY 2014\_Q2.xlsx** ". The error is with respect to the listing of wage levels (Level I-IV) under the column "PwD\_Wage\_Level" for all H-2B wage determinations issued on or after April 24, 2013. Effective April 24, 2013 wage levels I-IV were no longer issued for all H-2B wages, and the wage level listed on the disclosure dataset is inaccurate. H-2B OES Wages were and are issued at the OES mean wage.

- April 21, 2014.

The Office of Foreign Labor Certification has posted a [Disclosure Data User Guide](#) on the Disclosure Data tab of the Performance Data section of their website that provides an example of how, using Microsoft Excel, the OFLC Disclosure Data files can be filtered or sorted to provide relevant information specific to your needs.

- April 17, 2014. Records Notice of Employer Applications Retained in the LCA Online System for H-1B, H-1B1 and E-3 Applications Eligible for Destruction

On July 8, 2013, the National Archives and Records Administration (NARA) approved OFLC's revised retention schedule following a 30-day period of public notice and review. As part of its review and approval process, NARA determined employer applications for labor certification and supporting documentation, whether retained in paper and electronic form, are temporary records and subject to destruction in accordance with an approved disposition schedule. The OFLC-approved disposition schedule authorizes the retention of records for a period of 5 years following the date a final determination letter is issued or final action occurs, such as a withdrawn application, subject to an active investigation or litigation hold.

The records NARA identified as permanent records are the annual disclosure data files currently located on the FLC Data Center at <http://www.flcdatacenter.com>, as well as the quarterly disclosure data files and the OFLC Annual Reports located on the OFLC Performance page at <http://www.foreignlaborcert.doleta.gov/performancecfm>.

Labor Condition Applications (LCA) retained in the LCA Online System: As of Thursday, April 17, 2014, the OFLC no longer has access to employer H-1B, H-1B1 or E-3 application records that are beyond the retention period of 5 years from a date of final determination or final action, and stored in the LCA Online System which is located at: <http://www.lca.doleta.gov>. The records have been destroyed in accordance with OFLC's Record Schedule DAA-0369-2013-0002. Prior to the destruction of the records, any records within the 5 year retention period, part of an active investigation, Freedom of Information Act requests, or mandatory litigation hold have been identified and were not destroyed.

Employers will still be able to access applications processed in 2009. The OFLC will no longer respond to inquiries to search for records in response to FOIA requests, or provide information for requests for duplicate certifications for LCA applications with a final determination issued in 2008 or earlier, in keeping with the OFLC records schedule.

- April 16, 2014. Staggered Crossing of Seafood Industry (through September 30, 2014)

On January 17, 2014, the President signed into law the Consolidated Appropriations Act of 2014 (the "2014 Appropriations Act"), Pub. L. 113-76, which includes a provision permitting staggered entry of H-2B workers employed by employers in the seafood industry under certain conditions. This provision expires on September 30, 2014; accordingly, no staggered entry of H-2B workers after September 30, 2014 will be permitted.

In order to use the "staggered crossing" provision established by the 2014 Appropriations Act, seafood industry employers must download, complete and sign the [official attestation](#), and provide it to the H-2B nonimmigrant worker for presentation, upon request, to the Department of State's Consular Officers and/or the Department of Homeland Security's Customs and Border Protection officers. The Frequently Asked Questions (FAQs) may be accessed [here](#).

- April 15, 2014

April 15, 2014 The iCERT System and the PERM Case Management System (CMS) will both be unavailable on Saturday, May 3, 2014, from 6:00 am until approximately 8:00 pm Eastern Time for required scheduled maintenance. While we do not at this time anticipate problems once the maintenance has been performed, filers may experience delays and/or continued unavailability immediately following the scheduled maintenance, and the Department will do everything possible to avoid or minimize any service issues. We apologize for the inconvenience.

- April 14, 2014. Staggered Crossing of Seafood Industry (through September 30, 2014)

On January 17, 2014, the President signed into law the Consolidated Appropriations Act of 2014 (the "2014 Appropriations Act"), Pub. L. 113-76, which includes a provision permitting staggered entry of H-2B workers

employed by employers in the seafood industry under certain conditions. This provision expires on September 30, 2014; accordingly, no staggered entry of H-2B workers after September 30, 2014 will be permitted.

In order to use the "staggered crossing" provision established by the 2014 Appropriations Act, seafood industry employers must download, complete and sign the official attestation, and provide it to the H-2B nonimmigrant worker for presentation, upon request, to the Department of State's Consular Officers and/or the Department of Homeland Security's Customs and Border Protection officers. The Frequently Asked Questions (FAQs) may be accessed [here](#).

- April 11, 2014.

The following case disclosure files cover determinations issued between January 1, 2014 through March 31, 2014. A small percentage of determinations are subject to change in subsequent quarterly releases due to appeal or redetermination decisions on employer applications.

<https://www.dol.gov/agencies/eta/foreign-labor/performance>

- April 11, 2014.

The Office of Foreign Labor Certification has posted updated program factsheets containing the Quarter 2 FY 2014 selected statistics for the [Permanent Labor Certification Program](#), [Prevailing Wage Determination Program](#), [H-1B Temporary Visa Program](#), [H-2A Temporary Agricultural Visa Program](#), and [H-2B Temporary Non-agricultural Visa Program](#). The updated program factsheets may also be found on OFLC's [Performance Data page](#).

- MARCH 25, 2014. CUSTOMER REMINDER REGARDING ICERT COMPATIBILITY WITH Internet Explorer.

This announcement is an important reminder that our iCERT System Web site at <http://icert.doleta.gov> is best viewed and optimized to work on Microsoft Internet Explorer 8 (IE). Although the iCERT System is functional using other versions of IE or alternative browsers such as Firefox, Chrome, or Safari, please be aware that you may experience technical issues with screen navigation or other certain "pop-up" windows (e.g., occupation or industry code pop-up functions) appearing within the iCERT System, especially in the Prevailing Wage, H-2A and H-2B modules.

Until we release an upgrade to the iCERT System in the coming months, customers with IE 9, IE 10, or higher installed on their computers can fix these screen navigation or other technical issues by performing the following minor adjustments to their browser:

- Step 1: Under the "Tools" option at the top of your IE browser, choose the "F12 developer tools" function
- Step 2: When the function bar is displayed, click on the "Browser Mode: IE# Compat View" option
- Step 3: From the drop down menu, choose "Internet Explorer 8"

Once you completed these basic steps, your browser will be compatible with IE 8 and the iCERT System technical issues should be resolved. Please do not hesitate to contact the iCERT System Help Desk at [oflc.portal@dol.gov](mailto:oflc.portal@dol.gov) if you are continuing to have difficulties accessing the system. Thank you.

- March 25, 2014.

LCAs Approved, But Email Notifications Not Always Getting to Submitter: Please be advised that OFLC's iCERT system is experiencing an IT glitch with respect to the issuance of confirmation emails for Labor Condition Applications (LCAs).

OFLC is working to resolve this issue. We strongly recommend that submitters continue to check their iCERT accounts to confirm LCA status and to retrieve and print certified LCAs.

- March 14, 2014. Federal Register Notice Announcing Notification of Status of the 2011 H-2B Wage Rule.

The Department of Labor has published a Notification in the Federal Register to provide notice to the regulated community of the status of the Wage Methodology for the Temporary Non-agricultural Employment H-2B Program, published January 19, 2011, (2011 Wage Rule) in the Federal Register. To read the Notice, please click [here](#).

- March 5, 2014. Federal Register Notice Announcing the 2014 Allowable Charges for Agricultural Workers' Meals and Travel Subsistence Reimbursement, Including Lodging for the H-2A Program.

The Department of Labor has published a Notice in the Federal Register to announce the allowable charges for 2014 that employers seeking H-2A workers may charge their workers when the employer provides three meals a day, and the maximum travel subsistence meal reimbursement that a worker with receipts may claim in 2014. The Notice also includes a reminder regarding employers' obligations with respect to overnight lodging costs as part of required subsistence for the H-2A program. To read the Notice, please click [here](#).

- February 24, 2014.

The Office of Foreign Labor Certification has replaced an incorrect link

The Office of Foreign Labor Certification has replaced an incorrect link previously located on the OFLC's Performance Data Page, Disclosure Data Tab. The Fiscal Year 2012 PW\_Case\_Data\_FY2012 link has been updated and now directs users to the correct FY 2012 Prevailing Wage Disclosure Data File.

- February 21, 2014. New FAQ regarding notification and consideration of laid-off U.S. workers for PERM applications.

New Frequently Asked Question (FAQ). This FAQ addresses how an employer is to demonstrate that it notified and considered laid-off U.S. workers for the job opportunity listed on the ETA Form 9089. To read the FAQ, please click [here](#) and scroll to the PERM / Recruitment Report subheading.

- February 18, 2014.

The Office of Foreign Labor Certification has posted updated program factsheets containing the Quarter 1 FY 2014 selected statistics for the [Permanent Labor Certification Program](#), [Prevailing Wage Determination Program](#), [H-1B Temporary Visa Program](#), [H-2A Temporary Agricultural Visa Program](#), and [H-2B Temporary Non-agricultural Visa Program](#). The updated program factsheets may also be found on OFLC's Performance Data [page](#).

The OFLC PERM, H-2A, H-2B, Prevailing Wage, and H-1B program disclosure data files for Quarter 1 of FY 2014 are now available. Click [here](#) to access the disclosure files and corresponding record layouts.

- February 4, 2014. Deactivation of Select H-2A and H-2B Mailboxes.

In order to implement the Department's IT modernization initiative and new cloud computing requirements, the OFLC Chicago National Processing Center (NPC) deactivated the following email boxes on February 3, 2014:

- H2A.Amend-Extend.Chicago@dol.gov
- H2A.Abandonment-Termination.Chicago@dol.gov
- H-2B.Amend-Extend.Chicago@dol.gov
- H2B.Abandonment-Termination.Chicago@dol.gov

Accordingly, H-2A and H-2B employers who need to request amendments/extensions or submit notices of worker abandonments and terminations must use the TLC.Chicago@dol.gov mailbox. Please remember to include "Amend and Extend" or "Abandonment and Termination", as applicable, in the "Subject" line of your e-mail.

Employers may also continue to submit these requests via fax on (312) 886-1688 or U.S. mail at the following address:

U.S. Department of Labor  
Office of Foreign Labor Certification  
Chicago National Processing Center  
11 West Quincy Court Chicago, IL 60604-2105  
Attention: H-2A Program Unit

- January 31, 2014. Maintaining Integrity in PERM: Program Compliance and Audits.

Section 212(a)(5)(A) of the Immigration and Nationality Act requires the Secretary to certify the admissibility of a foreign national for employment only when the Secretary can certify that the employment of that foreign worker will not adversely impact the wages and working conditions of US workers similarly employed, and that there is a job opportunity for which a US worker is unavailable. As the regulated community knows, the Department of Labor's Office of Foreign Labor Certification (OFLC) is responsible for maintaining the



integrity and compliance of the primarily attestation-based PERM Program through the use of certain measures, including audit and supervised recruitment, under a broad integrity review authority. At the time of PERM's implementation, the Department stated that OFLC would select certain applications for audit, employing "auditing techniques that can be adjusted as necessary to maintain program integrity", as well as for quality control. 69 Fed. Reg. 77326, 77328 (Dec. 27, 2004). The Department noted at the time the need for changing audit criteria to focus integrity efforts on program abuse and adjust the audit mechanism as necessary as we gained program experience. 69 Fed. Reg. 77359. Finally, the Department reserved the process of supervised recruitment for a broad application "in any case in which the C[ertifying] O[fficer] deems it appropriate" as a reasonable quality control mechanism. 69 Fed. Reg. 77360, 77362.

In response to a recent Freedom of Information Act (FOIA) request, we are releasing and making available to all of the regulated community the following documentation regarding the areas in the PERM Program that have in the past warranted this closer examination. Click [here](#) to view the OFLC Audit Plan. These areas were deliberately chosen to ensure we are carrying out our statutory responsibilities while also recognizing the evolving nature of program integrity and quality control.

We hope the publication of this information assists filers, especially first-time filers, comply with the PERM Program's various requirements.

- January 24, 2014. The Department has released its Foreign Labor Certification Annual Report for FY 2012.

The 2012 Annual Report presents information on the Prevailing Wage Determination Process, Permanent Labor Certification, and Temporary Nonimmigrant Labor Certification for FY 2012. The report also contains State Employment-Based Labor Certification Profiles, information on STEM-related

occupations in the labor certification programs, H-2A Agricultural Certification Statistics, and top Country Employment-Based Immigration Profiles. Click [here](#) to view the 2012 Annual Report.

- January 3, 2014. New 2014 H-2A Adverse Effect Wage Rates (AEWRs).

The Department has published a notice in the Federal Register announcing new Adverse Effect Wage Rates (AEWRs) for each state, based on the Farm Labor Survey conducted by the U.S. Department of Agriculture. The AEWRs are the minimum hourly wage rates the Department has determined must be offered and paid by employers to H-2A workers and workers in corresponding employment for a particular agricultural job and area, so that the wages of similarly employed U.S. workers will not be adversely affected. To read the Federal Register notice please click [here](#).

## Calendar Year 2013

- December 20, 2013, Island Holdings

On December 3, 2013, The Board of Alien Labor Certification Appeals (BALCA) issued an *en banc* decision in *The Matter of Island Holdings LLC* (2013-PWD-00002). That decision vacated the supplemental prevailing wage determinations issued in light of the Department's Interim Final H-2B Wage Rule (78 Fed. Reg. 24047, April 24, 2013). A class action complaint has been filed in the district court in the Eastern District of Pennsylvania, challenging the

*Island Holdings* decision, *CATA v. Perez*, 13-CV-07213. After a full review of the *Island Holdings* decision and the district court complaint, the Department has decided to postpone action on the *Island Holdings* decision pending judicial review, as permitted by the Administrative Procedure Act, 5 U.S.C. § 705. This action is in the interest of justice, given the confusion and substantial disruption that would be created if the Department implemented the decision and it was subsequently overturned by the district court. Accordingly, all OFLC actions related to the resolution of appeals in the supplemental prevailing wage decisions will be stayed, pending the resolution of the district court action. Please continue to check back on this site for additional information.

- November 20, 2013: Selected Statistics Update.

The Office of Foreign Labor Certification has posted revised program factsheets containing the FY 2013 selected statistics for the Permanent Labor Certification Program, and the FY 2013 H-2A Temporary Agricultural Labor Certification Program. The revised program factsheets may be found on OFLC's Performance Data page.

- November 20, 2013: The Department published three final rules eliminating OFLC regulations that have been made obsolete by statutory or regulatory changes.

The H-1A nursing visa (20 CFR 655 subparts D and E) and the F-1 student off-campus work permit (20 CFR 655 subparts J and K) regulations were based on statutes that sunset September 30, 1997 and September 30, 1996, respectively; the programs sunset at later dates and have now been completed. The logging provisions in 20 CFR subpart C were incorporated into the H-2A regulations published in the Department of Labor's final rule, Temporary Agricultural Employment of H-2A Aliens in the United States, 75 FR 6884 (Feb. 12, 2010). To see the H-1A rule, click [here](#). To see the F-1 rule, click [here](#). To see the logging rule, click [here](#).

- November 14, 2013: USDA Postpones Release of 2014 H-2A AEWR Wage Data.

On October 17, 2013, the United States Department of Agriculture (USDA) announced a change in the schedule for the release of certain reports due to the lapse in Federal appropriations resulting in the Government shutdown. Among the affected reports is the Farm Labor Survey (FLS) report upon which the Department relies in order to establish the Adverse Effect Wage Rates in the H-2A program. The new release date for the FLS report will be December 5, 2013. To learn more, please read the [USDA News Release](#).

- November 13, 2013:

The Office of Foreign Labor Certification has posted updated program factsheets containing the Quarter 4 FY 2013 selected statistics for the Permanent Labor Certification Program, Prevailing Wage Determination Program, H-1B Temporary Visa Program, H-2A Temporary Agricultural Visa Program, and H-2B Temporary Non-agricultural Visa Program. The updated program factsheets may also be found on OFLC's Performance Data page.

- Records Notice of Employer Applications Retained in Permanent Backlog System (PBLs) Eligible for Destruction

On July 8, 2013, the National Archives and Records Administration (NARA) approved OFLC's revised retention schedule following a 30-day period of public notice and review. As part of its review and approval process, NARA determined employer applications for labor certification and supporting documentation, whether retained in paper and electronic form, are temporary records and subject to destruction in accordance with an approved disposition schedule.

The OFLC-approved disposition schedule authorizes the retention of records for a period of 5 years following the date a final determination letter is issued, subject to an active investigation or litigation hold.

The records NARA identified as permanent records are the annual disclosure data files currently located on the FLC Data Center at <http://www.flcdatacenter.com>, as well as the quarterly disclosure data files and the OFLC Annual Reports located on the OFLC Performance page at <http://www.foreignlaborcert.doleta.gov/performancecdm.cfm>.

Permanent program applications retained in the OFLC Permanent Backlog System (PBLs): As of October 25, 2013 the OFLC no longer has access to employer application records that are beyond the retention period of 5 years from the date a final determination was issued and stored in the PBLs system. The PBLs system, which was previously used by the OFLC Backlog Processing Centers, has now been destroyed in accordance with OFLC Records Schedule Number DAA-0369-2013-0002. Prior to destruction of the PBLs system software and database, any records within the 5-year retention period, active investigation, Freedom of Information Act requests, or mandatory litigation hold have been identified and were not destroyed.

The OFLC will no longer respond to inquiries to confirm priority dates, search for records in response to FOIA requests, or provide information for requests for duplicate certifications for permanent labor certification applications with a final determination issued in 2008 or earlier, in keeping with the OFLC records schedule.

- October 28, 2013: Notice to H-2A Stakeholders: Accommodation PDFs will Continue Through November 18th

On October 21st, OFLC announced, as a temporary accommodation not to exceed 30 days, it would send an Adobe PDF of an approved certification to H-2A employers and authorized representatives. That accommodation will be continued through November 18, 2013.

- October 28, 2013: Revised ETA Forms 232 and 232A for the H-2A Program

The Department has revised the ETA Form 232, Domestic Agricultural In-Season Wage Report and ETA Form 232-A, Wage Survey Interview Record which are used by State Workforce Agencies (SWA) to collect wage information from agricultural employers for the H-2A program. This enhanced survey and reporting mechanism will allow for a more accurate data collection by the SWAs in support of the direct administration of the foreign labor certification programs. As of the date of this announcement, State Workforce Agencies should use the new forms for future H-2A program wage reporting to the Office of Foreign Labor Certification. To access the revised forms please click [here](#).

- USCIS Announces Temporary Accommodation for Form I-129 H-2A Petitions  
On October 23, 2013, USCIS issued the following alert:

With the reopening of the federal government, USCIS has been informed that the Department of Labor's (DOL) Office of Foreign Labor Certification is once again accepting and processing applications, including Temporary Labor Certifications (TLCs).

On Oct. 21, 2013, DOL issued an [announcement](#) to H-2A stakeholders stating that once the TLC is certified, the Chicago National Processing Center will send an email to the employer and its authorized representative containing an Adobe PDF of the labor certification. The employer would need to print, sign and date the PDF version for submission to USCIS with the Form I-129, Petition for Nonimmigrant Worker.

USCIS usually requires that a petitioner submit the certified TLC on blue security paper with original signatures. Beginning today, USCIS in consultation with DOL, has determined that USCIS will temporarily accept Form I-129 H-2A petitions that are filed with a copy of the certified TLC. During this temporary accommodation, the signatures on the TLC submitted to USCIS do not need to be original. This temporary accommodation is being implemented because of the unique time sensitivities associated with agricultural work.

H-2A petitioners must submit the original Form I-129 petition, all required fees, and supporting documentation with a copy of the signed, certified TLC. DOL has indicated that this accommodation should last no longer than 30 days. USCIS will provide further guidance on when this accommodation will expire. At that time, H-2A petitioners will once again be required to submit the signed original of the certified TLC with their H-2A petition.

- October 21, 2013: Notice to Stakeholders Regarding H-2A Certifications.

As a result of the unique perishable nature of agricultural commodities in the H-2A program, OFLC will temporarily (for a period not to exceed 30 days) implement the following mailing procedure:

1. Upon certification of an H-2A application, the Chicago National Processing Center will send the employer and its authorized representative an Adobe PDF of the labor certification via e-mail. The employer would need to print, sign and date the PDF version for submission to USCIS with the I-129 Petition for Nonimmigrant Worker(s).
2. The original (secure) H-2A labor certification will be delivered overnight to the employer or its authorized representative in line with normal OFLC practices.

- September 24, 2013: The Office of Foreign Labor Certification (OFLC) updates its records retention schedule to include case management systems and electronic records

On July 8, 2013, the National Archives and Records Administration (NARA) approved OFLC's revised record retention schedule following a 30-day period of public notice and review. During its review and approval process, NARA determined employer application files and supporting documentation, whether retained in paper or electronic form, to be temporary records and subject to destruction in accordance with an approved disposition schedule. The OFLC approved disposition schedule authorizes retention of records for a period of 5 years following the date a final determination letter is issued, subject to an active investigation or litigation hold. Employer applications that are part of an active investigation or pending litigation are exempted from the approved disposition schedule and will be retained until the investigation and/or litigation matters are closed. This approved disposition schedule limits retention of both paper and electronic records to a 5-year period. Records retained by the OFLC beyond the 5-year period will be destroyed on at least an annual schedule or as determined by the OFLC.

Furthermore, this approved disposition schedule authorizes the destruction of case management systems and software as they become obsolete and are no longer needed to administer the program(s). For example, the Paradox database, formerly used by the ETA Regional Offices, and which is no longer needed in the administration of the Permanent Program, will be destroyed by September 26, 2013. This database contains texts of information related to employer applications filed in 2002 or earlier where the records have been

destroyed. The text is called screenshots. As the OFLC implements its approved disposition schedule, we will provide notice to the public identifying the records and, where applicable, the associating case management systems and software being destroyed.

The records NARA identified as permanent records are the annual disclosure data files currently located on the FLC Data Center at <http://www.flcdatacenter.com>; as well as the quarterly disclosure data files and the OFLC Annual Reports located on the OFLC Performance page at <https://www.dol.gov/agencies/eta/foreign-labor/performance>.

- **September 18, 2013: H-2A and H-2B Ombudsman Customer Service On-line Survey**

The OFLC Ombudsman is pleased to announce a new on-line survey intended to encourage stakeholder feedback on their experience with Ombudsman Program. Survey questions are designed to promote the enhancement of customer service and overall satisfaction with the Program. The survey is located on both the H-2A and H-2B Ombudsman webpages: H-2A [Ombudsman Webpage](#) H-2B [Ombudsman Webpage](#).

- **August 29, 2013: Final Rule in H-2B Program**

On August 30, 2013, the Department of Labor (Department) will publish in the Federal Register a final rule to delay indefinitely the effective date of the Wage Methodology for the Temporary Non-Agricultural Employment H-2B Program final rule (2011 Wage Rule), which was published on January 19, 2011, 76 FR 3452. This final rule is being published in order to comply with recurrent legislation that prohibits the Department from using any funds to implement the 2011 Wage Rule, and also to permit time for consideration of the public comments that were sought in conjunction with a separate H-2B wage interim final rule (IFR) published April 24, 2013, 78 FR 24047. This final rule does not

affect the IFR, which establishes the current prevailing wage methodology for the H-2B program; that rule remains in effect. To see the final rule, please click [here](#).

- **August 12, 2013: ETA-9033 and ETA-9033A Proposed Changes.**

The Department has published a Notice in the Federal Register announcing a 60-day comment period on its proposed changes to the form ETA-9033, Attestation by Employers Using Alien Crewmembers for Longshore Activities in U.S. Ports and ETA-9033A, Attestation by Employers Using Alien Crewmembers for Longshore Activities in the State of Alaska. To read the Notice, please click [here](#). To obtain a copy of the forms with proposed changes and the supporting documentation please submit your request to [ETA.OFLC.Forms@dol.gov](mailto:ETA.OFLC.Forms@dol.gov), subject line: Revised Form ETA-9033. Comments to the package must be submitted on or before October 7, 2013.

- **July 18, 2013. Notice of Proposed Rulemaking in H-2B Program:**

The Department of Labor (Department) is issuing a Notice of Proposed Rulemaking (NPRM) to delay indefinitely the effective date of the 2011 H-2B Wage Rule. The NPRM is being published in order to comply with recurrent legislation that prohibits the Department from using any funds to implement the 2011 H-2B Wage Rule, and also to permit time for consideration of the public comments that were sought in conjunction with a separate H-2B wage interim final rule published April 24, 2013, 78 FR 24047. Comments are being accepted on the NPRM until August 9, 2013. To see the NPRM please click [here](#).

- **DOL Open Government Initiative: Labor Certification Registry Goes Live!**

The Department is pleased to announce the implementation of the Labor Certification Registry (LCR) on the Office of Foreign Labor Certification's (OFLC) iCERT Visa Portal System web site. The LCR provides the public with access to appropriately redacted copies of H-1B, H-1B1, E-3, H-2A, H-2B and permanent labor certification documents issued by OFLC, as well as quarterly and annual case disclosure data. To learn more about the LCR, please read the Department's Federal Register [notice](#). To access the LCR, please click [here](#).

- **June 27, 2013. Q3 FY 2013 Selected Statistics by Program**

The Office of Foreign Labor Certification has posted updated program factsheets containing the Quarter 3 FY 2013 selected statistics as of June 15, 2013, for the [Permanent Labor Certification Program](#), [Prevailing Wage Determination Program](#), [H-1B Temporary Visa Program](#), [H-2A Temporary Agricultural Visa Program](#), and [H-2B Temporary Non-agricultural Visa Program](#). The updated program factsheets may also be found on OFLC's Performance Data [page](#).

- **May 30, 2013. USCIS Publishes a Revised Version of Form G-28, Notice of Entry of Appearance as Attorney or Accredited Representative.**

The U.S. Citizenship and Immigration Services (USCIS) announced that it will no longer accept prior versions of Form G-28 after May 26, 2013. The new version of the Form G-28 and its instructions, which were published on March 28, 2013, can be accessed by clicking [here](#). All fields of the Form G-28 must be completed and signed by both the client and the attorney or accredited representative. Each individual application or petition must be accompanied by a separate, completed and signed Form G-28.

- **April 25, 2013. USCIS Resumes Adjudication of All H-2B Petitions Following Publication of Interim Final Rule.**

As announced by USCIS on April 25, 2013, USCIS has resumed processing of all Form I-129, H-2B petitions for temporary non-agricultural workers. Read the USCIS [Alert](#).

- **April 11, 2013. Quarter 2 FY 2013 Selected Statistics by Program.**

The Office of Foreign Labor Certification has posted updated program factsheets containing the Quarter 2 FY 2013 selected statistics for the [Permanent Labor Certification Program](#), [Prevailing Wage Determination Program](#), [H-1B Temporary Visa Program](#), [H-2A Temporary Agricultural Visa Program](#), and [H-2B Temporary Non-agricultural Visa Program](#). The updated program factsheets may also be found on OFLC's Performance Data [page](#).

- **April 4, 2013. Update on Suspension of Adjudication of Most H-2B Petitions Following Court Order.**

As announced by USCIS on April 2, 2013, USCIS has temporarily suspended adjudication of certain Form I-129 H-2B petitions for temporary non-agricultural workers.

For more complete information, please visit <http://go.usa.gov/2uRT>.

- **April 2, 2013. USCIS Suspends Adjudication of H-2B Petitions.**

Effective March 22, U.S. Citizenship and Immigration Services (USCIS) is temporarily suspending adjudication of most Form I-129 H-2B petitions for temporary non-agricultural workers while the government considers appropriate action in response to the Court order entered March 21, 2013 in *Comite de Apoyo a los Trabajadores Agricolas et al v. Solis*, 2:09-cv-00240-LDD

(E.D. Pa). That order granted a permanent injunction against the operation of the portion of the Department of Labor's (DOL) 2008 wage rule related to certain prevailing wage determinations and gave DOL 30 days to come into compliance with the Court order. Read [the alert](#).

- **April 1, 2013.**

Effective March 22, the Department is holding in abeyance the issuance of final determinations on most pending H-2B applications for temporary labor certification and those it received after March 22, while it considers appropriate action in response to the Court order entered March 21, 2013 in *Comite de Apoyo a los Trabajadores Agricolas et al v. Solis*, 2:09-cv-00240-LDD (E.D. Pa). That order granted a permanent injunction against the operation of the portion of the 2008 wage rule related to certain prevailing wage determinations and gave the Department 30 days to come into compliance with the Court order.

The Department will, however, continue to process and issue final determinations on H-2B applications for temporary labor certification where the employer's wage offer is based upon a prevailing wage not enjoined by the court order: those utilizing applicable Collective Bargaining Agreements, acceptable private wage surveys or Service Contract Act or Davis Bacon Act wage determinations. The Department intends to promulgate a revised wage rule within 30 days of the date of the Court order. This will allow the Department to resume providing employers with both prevailing wage determinations and final determinations on their H-2B applications for temporary labor certification.

We encourage stakeholders to sign up to receive e-mail updates through the Department's Office of Foreign Labor Certification (OFLC) web site. Instructions for signing up for e-mail updates are provided below.

**E-Mail Update Instructions:** On the home page of the OFLC web site, under the E-mail Updates heading, enter your e-mail address and then click the "Subscribe" button. You will be directed to the Department's E-mail Subscription Service page. On that page, under the Employment and Training Administration heading, please select a checkbox next to "Foreign Labor Certification Website" and then click the "Submit" button.

- **March 29, 2013. H-2B Wage Final Rule Update: Delay of Effective Date.**

The Department of Labor has published a notice in the Federal Register delaying the effective date of the Wage Methodology for the Temporary Non-agricultural Employment H-2B Program final rule (2011 Wage Final Rule), which was published on January 19, 2011, 76 FR 3452. In light of the enactment of the Consolidated and Further Continuing Appropriations Act, 2013, Pub. L. 113-6, which establishes the Department's appropriations through September 30, 2013, and also continues the prohibition of the expenditure of the Department's appropriated funds to implement, administer, and enforce the 2011 Wage Final Rule, the Department is delaying the effective date of the 2011 Wage Final Rule. To read the Final Rule please click [here](#).

- **March 28, 2013. H-2A Program: Prevailing Wage Rates for Certain Occupations Processed under H-2A Special Procedures, Correction/Rescission Notice.**

The Department has published in the Federal Register a notice correcting certain prevailing wage rates established by the January 8, 2013 notice for H-2A workers and workers in corresponding employment engaged in the open range production of livestock in Texas, Wyoming, Idaho, Montana, North Dakota,

South Dakota, and Oklahoma. In addition, this notice rescinds prevailing wage rates established by the January 8, 2013 notice for H-2A workers and workers in corresponding employment engaged in shepherding and goatherding occupations in Arizona, Nevada, Oregon and Washington. In the absence of the January 8 prevailing wage rates for shepherding and goatherding, the Department is reverting to previously established prevailing wage rates for these occupations. To learn more, please read the Federal Register [notice](#).

- **March 28, 2013.**

Effective March 22, the Department is holding in abeyance most pending H-2B prevailing wage requests and those it received after March 22, while it considers appropriate action in response to the Court order entered March 21, 2013 in *Comite de Apoyo a los Trabajadores Agricolas et al v. Solis*, 2:09-cv-00240-LDD (E.D. Pa). That order granted a permanent injunction against the operation of the portion of the 2008 wage rule related to prevailing wage determinations and gave the Department 30 days to come into compliance with the Court order. The result is that the Department can no longer make prevailing wage determinations based on the Occupational Employment Statistics (OES) survey four tier wage system. The Department will, however, continue to process prevailing wage requests not enjoined by the court order: those utilizing applicable Collective Bargaining Agreements, acceptable private wage surveys or Service Contract Act or Davis Bacon Act wage determinations. The Department intends to comply with the Court order within 30 days by promulgating a revised wage rule. This will allow the Department to resume providing employers with prevailing wage determinations.

We encourage stakeholders to sign up to receive e-mail updates through the Department's Office of Foreign Labor Certification (OFLC) web site. Instructions for signing up for e-mail updates are provided below.

**E-Mail Update Instructions:** On the home page of the OFLC web site, under the E-mail Updates heading, enter your e-mail address and then click the "Subscribe" button. You will be directed to the Department's E-mail Subscription Service page. On that page, under the Employment and Training Administration heading, please select a checkbox next to "Foreign Labor Certification Website" and then click the "Submit" button.

- **March 12, 2013. H-2A Program: 2013 Allowable Meal Charges and Travel Subsistence.**

The Department has published in the Federal Register a notice establishing the 2013 allowable meal charges and maximum travel subsistence reimbursement amounts. The 2013 allowable charge for providing three meals a day is set at \$11.42 per day, although employers may petition the Chicago National Processing Center for a higher charge if justified by documentation of actual costs. Similarly, the 2013 minimum subsistence charge for meals during travel is set at \$11.42 a day. The maximum travel subsistence for meals will remain set at \$46.00 per day again this year for those workers who submit receipts substantiating a higher expense. Workers may claim up to \$34.50 with receipts for travel subsistence when traveling less than a full day. The new 2013 amounts are effective upon publication in the Federal Register. To learn more, please read the Federal Register [notice](#).

- **March 1, 2013. H-2A Program: 2013 Allowable Meal Charges and Travel Subsistence.**

The Department expects to publish within a week a notice in the Federal Register establishing the 2013 allowable meal charges and maximum travel



subsistence reimbursement amounts. The new 2013 amounts will become effective upon publication in the Federal Register, which the Department will announce on this website.

- **February 13, 2013. H-2A Program Frequently Asked Questions, Round 8.**

The Department of Labor has posted new FAQs for the H-2A program. Topics include custom combine activities, housing inspections, filing an application, rates of pay, reimbursable costs, surety bonds, and recruitment. These FAQs are available [here](#) and on the FAQs page of the OFLC website under the H-2A heading.

- **February 4, 2013. H-2A Program Frequently Asked Questions, Round 7.**

The Department of Labor has posted new FAQs for the H-2A program. Topics include signatures, job preferences, and fees. These FAQs are available [here](#) and on the FAQs page of the OFLC website under the H-2A heading.

- **February 1, 2013. H-2A Prevailing Wage Rates for the Shepherding/Goatherding and the Open Range Production of Livestock Occupations: UPDATE.**

On January 8, 2013, the Department published a notice in the Federal Register establishing new 2013 prevailing wage rates for certain occupations processed under H-2A special procedures, including for shepherding/goatherding and open range production of livestock occupations which became effective immediately. See, 78 FR 1260 (Jan. 8, 2013). The Department is hereby updating prevailing wage rates for these occupations that must be offered and paid in certain states effective as of January 8, 2013. To access these prevailing wage rates please click [here](#).

- **January 8, 2013. New 2013 H-2A Adverse Effect Wage Rates (AEWRs).**

The Department has published a notice in the *Federal Register* announcing new Adverse Effect Wage Rates (AEWRs) for each state based on the Farm Labor Survey conducted by the U.S. Department of Agriculture. The AEWRs are the minimum hourly wage rates the Department has determined must be offered and paid by employers to H-2A workers and workers in corresponding employment for a particular agricultural job and area so that the wages of similarly employed U.S. workers will not be adversely affected. To read the Federal Register notice please click [here](#).

**Important Note:** The Department will publish a separate Federal Register Notice to announce the allowable charges for 2013 that employers seeking H-2A workers may charge for meals as well as the maximum travel subsistence reimbursement that a worker can claim. Until that Federal Register Notice is published, employers should continue to use the current meal charges and maximum travel subsistence which may be accessed [here](#).

- **January 8, 2013. New Prevailing Wage Rates for Certain Occupations Processed Under H-2A Special Procedures.**

The Department has published a notice in the Federal Register establishing new prevailing wage rates for certain occupations processed under H-2A special procedures. The wage rates established by this Federal Register notice apply only to the following activities: open range production of livestock, itinerant animal shearing, shepherding and goatherding, and custom combine operations. To read the *Federal Register* notice please click [here](#).

# Calendar Year 2012

- **December 17, 2012. The Department has released its Foreign Labor Certification Annual Report for FY 2011.**

The 2011 Annual Report presents information on the Prevailing Wage Determination Process, Permanent Labor Certification and Temporary Nonimmigrant Labor Certification for FY 2011. The report also contains State Employment-Based Labor Certification Profiles, information on STEM-related occupations in the labor certification programs, H-2A Agricultural Certification Statistics, and Country Employment-Based Immigration Profiles. Click the [here](#) to view the Annual Report.

- **November 15, 2012. FY 2012 Q4 Disclosure Files.**

The OFLC PERM, H-2A, H-2B, Prevailing Wage, and H-1B program disclosure data files for Quarter 4 of FY 2012 are now available in CSV format. Click [here](#) to access the disclosure files and corresponding record layouts. Historical OFLC program disclosure files for prior fiscal years prior to 2008 are available on our Foreign Labor Certification Data Center website at [www.flcdatacenter.com](http://www.flcdatacenter.com).

- **September 28, 2012. Prevailing Wage Update for H-2B:**

The Department, in anticipation of the enactment of H.J.Res 117, which prohibits the Department from expending funds to implement the 2011 H-2B Wage Rule for the duration of that Continuing Resolution, will publish in the Federal Register a Final Rule extending the effective date of the 2011 Wage Rule to March 27, 2013. The Final Rule is posted on the Federal Register's web site September 28, 2012 and it is accessible [here](#).

- **September 26, 2012. FY 2012 Selected Statistics by Program.**

The Office of Foreign Labor Certification has posted updated program factsheets containing the FY 2012 selected statistics for the:

- [Permanent Labor Certification Program](#)
- [Prevailing Wage Determination Program](#);
- [H-1B Temporary Visa Program](#);
- [H-2A Temporary Agricultural Visa Program](#);
- [H-2B Temporary Non-agricultural Visa Program](#).

The program information included in the factsheets is for the 2012 Fiscal Year to date (September 16, 2012). The updated program factsheets may also be found on OFLC's Performance Data [page](#).

- **September 26, 2012. Implementation of Electronic Filing in the H-2A and H-2B Programs.**

The Department has made available for public inspection a *Federal Register* notice formally announcing the implementation of electronic filing in the H-2A and H-2B visa programs through the Department's iCERT Visa Portal System. As indicated in the notice, electronic filing in the H-2B program will begin on **October 15, 2012**. Electronic filing in the H-2A program will begin on **December 10, 2012**. In advance of these implementation dates, the Department will conduct four webinar training sessions to orient the public to electronic filing in the H-2A and H-2B programs. To read the *Federal Register* notice please click [here](#). To learn more about the implementation of electronic filing, including how to participate in the upcoming webinar training sessions

ning, including how to participate in the upcoming webinar training sessions, please click [here](#).

- **September 25, 2012**

The Department is announcing the implementation of electronic filing in the H-2A and H-2B visa programs through the Department's iCERT Visa Portal System. We believe this new electronic filing capability will enhance the accessibility and quality of labor certification services, reduce the data collection and reporting burden on small employers, facilitate more streamlined business processes, and establish greater transparency in the Department's decisions.

Electronic filing in the H-2B program will begin on **October 15, 2012**.

Electronic filing in the H-2A program will begin on **December 10, 2012**. In advance of these implementation dates, the Department will publish a *Federal Register* notice formally announcing implementation of electronic filing, and then conduct four webinar training sessions to orient the public to electronic filing in the H-2A and H-2B programs. To learn more about the implementation of electronic filing, including how to participate in the upcoming webinar training sessions, please click [here](#).

- **August 16, 2012.**

The OFLC PERM, H-2A, H-2B, Prevailing Wage, and H-1B program disclosure data files for Quarter 3 of FY 2012 are now available in CSV format. Click [here](#) to access the disclosure files and corresponding record layouts. Historical OFLC program disclosure files for prior fiscal years are available on our Foreign Labor Certification Data Center website at [www.flcdatacenter.com](http://www.flcdatacenter.com).

- **August 15, 2012.**

A *Federal Register* notice was published today soliciting comment from the public regarding the merger of two Information Collection Requests (ICR) and the creation of two additional ICRs. OMB control number 1205-0466 contains

ETA Form 9141, *Application for Prevailing Wage Determination*, and ETA Form 9142, *Application for Temporary Employment Certification*. These forms are set to expire on October 31, 2012. OMB control number 1205-0404 contains the H-2A Certification Letter. This information collection is also set to expire on October 31, 2012. The Department is proposing to separate out the three different ICRs that were formerly all contained in 1205-0466 as well as discontinue 1205-0404 by merging it into the new 1205-0466. Obtain a copy of the notice [here](#). Comments are due by October 15, 2012.

- **August 3, 2012. The Chicago National Processing Center has moved!**

The Chicago National Processing Center (CNPC) has a new address. Beginning on August 2, 2012, please direct your hard copy filings for the D-1, H-2A and H-2B programs to the CNPC's new addresses provided below. Please note that the CNPC move does not affect the electronic filing of LCAs but any employer with permission to file by hard copy should direct its LCA filing(s) to the new address.

Please also remember to direct your payments of H-2A labor certification fees to the new P.O. Box address (also listed below).

**For application filings:**

U.S. Department of Labor  
Employment and Training Administration  
Office of Foreign Labor Certification  
Chicago National Processing Center  
11 West Quincy Court

Chicago, IL 60604-2105

**P.O. Box Address for the Receipt of H-2A Related Filing Fees:**

U.S. Department of Labor  
Employment and Training Administration  
Office of Foreign Labor Certification  
Chicago National Processing Center  
PO Box A3804  
Chicago, IL 60690-3804

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