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## Office of Foreign Labor Certification

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### Announcements

Oct  
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#### OFLC Stakeholder Notice regarding handling of applications and responses after government shutdown

OFLC appreciates the challenges the regulated community has experienced as a result of the lapse in appropriations, which resulted in the cessation of the operation of OFLC's electronic systems, and further resulted in a backlog of documents submitted to OFLC during that period by mail, hand-delivery, or email. As a result of the government shutdown, OFLC is implementing the following temporary changes to its standard procedures related to document timeliness:

##### 1. Submissions mailed, hand-delivered, or emailed to OFLC and received between October 1 and October 18:

Submissions are applications that the National Processing Centers (Chicago, Atlanta, or Prevailing Wage Center) could not receive electronically through the iCERT system during the shutdown, and were mailed, hand-delivered or emailed to OFLC. These include Applications for Permanent Employment Certification (PERM, ETA 9089), Applications for Temporary Employment Certification (H-2B, H-2A ETA 9142), and Applications for Prevailing Wage Determinations (ETA 9141).

Because of the backlog in submissions that were mailed, hand-delivered or emailed to OFLC for shutdown-related reasons or otherwise, **all submissions received by OFLC between October 1 and October 18 will be considered received on October 18**. For example, a PERM application mailed to the Atlanta National Processing Center on October 5 will be given a receipt date of October 18, 2013. If an October 18 receipt date on an application would otherwise render out-of-date the recruitment or prevailing wage determination used for the application, the application will be deemed to have been timely filed for the purpose of the recruitment or the prevailing wage determination.

##### 2. PERM and H-2B submissions with time-sensitive recruitment or prevailing wage determinations NOT mailed or hand-delivered to OFLC during the shutdown:

Employers that decided not to mail or hand-deliver PERM or H-2B submissions to OFLC because of the shutdown may now have recruitment or prevailing wage determinations that are out-of-date because of the shutdown-related delay. These employers may now mail, hand-deliver, email or file electronically in iCERT (see note below about iCERT filing) submissions **NO LATER THAN November 14, 2013**. This accommodation applies only to PERM and H-2B applications that had timely recruitment or prevailing wage determinations during the shutdown period and are now unsuitable for filing due to expired recruitment or prevailing wage determinations. Employers with time-sensitive recruitment or prevailing wage determinations who delayed their filings until after October 18, 2013 will be deemed to have been timely filed for the purpose of the recruitment or the prevailing wage determination. For mailed and hand-delivered submissions, please include a pink sheet of paper as a cover page for the submission and label that cover sheet as a "shutdown pre-empted submission" so that it is properly handled in our mailrooms.

**Note for PERM and H-2B iCERT filers:** PERM and H-2B applications with out-of-date recruitment or prevailing wage determinations may also submit electronically. The system will warn the user that the application contains information that will cause the application to be denied, but such an application will not be denied for this reason. As with PERM and H-2B submissions with out-of-date recruitment or prevailing wage determinations that are mailed, hand-delivered or emailed, no application with expired recruitment or prevailing wage determinations will be accepted after November 14, 2013.

##### 3. Employer responses to OFLC directives that were due between October 1 and October 18, 2013 but were NOT transmitted to OFLC:

In the H-2A, H-2B and PERM programs, some employers may have been directed by OFLC to respond by a deadline that occurred from October 1, 2013 to October 18, 2013. **Responses that were due to the OFLC during this period but NOT transmitted will have their due dates extended to November 14, 2013.** The deadline extension applies to the following documents in the following programs:

**For Prevailing Wage Determinations:**

- Responses to Requests For Information

**In H-2A and H-2B:**

- Responses to Notices of Deficiencies
- Audit Responses
- Responses to Notices of Intent to Debar

**In PERM:**

- Responses to information requests related to employer sponsorship
- Audit/AAIR responses
- Responses to Requests For Information
- Responses to requests for review of advertisements in supervised recruitment
- Responses to supervised recruitment (Recruitment Instructions Letters)
- Responses to Notices of Intent to Revoke or to Debar

**4. Employer responses to OFLC directives that were due between October 1 and October 18, 2013 but were transmitted to OFLC:**

Responses to OFLC directives in the H-2A, H-2B and PERM programs (those noted in no. 3 above) that were due between October 1 and October 18, 2013, and were transmitted via mail, hand-delivery or email during that time will be **considered received on October 18.**

If an applicant transmitted an application or response by mail, hand-delivery or email between October 1 and October 18, 2013, and the employer has not received notice that the transmission was undeliverable, the employer should **NOT** re-submit it.

Employers are reminded that if they view a PERM application as erroneously denied during this period based on out-of-date recruitment, they may submit the request for reconsideration to the attention of the government error queue.

None of the temporary procedures established in this notice apply to appeals to the BALCA. Employers are encouraged to contact the BALCA for information related to deadlines applicable to appeals.

Oct  
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**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/performance/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.

Oct  
28

**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.

Oct  
28

**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](#).

Oct  
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**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.

Oct  
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#### **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.

Sept  
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#### **Notice to Stakeholders Regarding Lapse in Appropriations**

The Administration is working very hard to avoid a government shutdown and believes there is sufficient time to avoid such an occurrence; however, prudent management requires the Department to plan for the possibility that it may need to suspend operations should Congress be unable to pass a funding bill by midnight on Monday, September 30, 2013.

OFLC functions are not "excepted" from a shutdown and its employees would be placed in furlough status should a lapse in appropriated funds occur. Consequently, in the event of a government shutdown, OFLC will neither accept nor process any applications or related materials (such as audit responses) it receives, including Labor Condition Applications, Applications for Prevailing Wage Determination, Applications for Temporary Employment Certification, or Applications for Permanent Employment Certification. OFLC's web site, including the iCERT Visa Portal System, would become static and unable to process any requests or allow authorized users to access their online accounts.

The Department has posted to its website information on the potential shutdown that can be accessed [here](#).

Sept  
26

#### **Records Notice of Employer applications retained in Paradox database**

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/performance/cfm>.

Permanent program applications retained in Paradox Database - As of September 26, 2013, the OFLC no longer has access to employer application records or screen shots of such records filed in 2002 or earlier stored in the Paradox database. The Paradox database, which was the system used by the ETA Regional Offices and which is no longer used in the administration of the Permanent Program, was destroyed. This database contained information related to employer applications (screenshots of text) filed in 2002 or earlier where the records have been destroyed. In accordance with OFLC Records Schedule Number DAA-0369-2013-0002, the Paradox database and information contained in this database was destroyed on September 26, 2013. Prior to destruction of this database, the OFLC completed searches related to these records in response to Freedom of Information Act requests that were pending within the office. Any records subject to an active investigation or litigation hold have been identified and were not destroyed. The OFLC is no longer able to respond to inquiries to confirm priority dates, search for records in response to FOIA requests, or provide information for requests for duplicate certifications.

Sept  
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#### **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 <http://www.foreignlaborcert.doleta.gov/performance/cfm>.

Sept  
18

#### 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](#)

AUG  
29

#### 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](#).

AUG  
15

#### Selected Statistics Update

The Office of Foreign Labor Certification has posted revised program factsheets containing the FY 2012 selected statistics for the Permanent Labor Certification Program, and the FY 2013 YTD Prevailing Wage Determination Program. The revised program factsheets may also be found on OFLC's Performance Data page. In addition, the Office of Foreign Labor Certification has also posted updated historical case disclosure data for FY 2012 for the Permanent Labor Certification Program and FY 2013 YTD for the Prevailing Wage Determination Program.

AUG  
12

#### 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  
26

#### 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** 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 3 of FY 2013 are now available. Click [here](#) to access the disclosure files and corresponding record layouts.

JULY  
18

#### 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](#)

JULY  
1

#### 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

#### 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](#).

JUNE  
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#### OFLC Help Desk Contacts

The Office of Foreign Labor Certification is making available a centralized listing of all program and technical Help Desks. This list is located on the permanent left navigation bar under the "Office of Foreign Labor Certification" heading, and is also available [here](#).

JUNE  
18

#### Revised Form 9141

A revised version of the ETA Form 9141 will be implemented in the iCERT Portal on June 18. The form changes were pursued through the Paperwork Reduction Act process and have been reviewed and approved by the Office of Management and Budget. Minor changes were made to clarify information needed for more efficient application processing. A fillable copy of the form is available [here](#).

The 9141 is a form that is electronically fillable and fileable through the Department's online iCERT system. Requests submitted prior to June 18 using the iCERT Portal based on the previous ETA Form 9141 will be completed and returned using that version of the form. Any form initiated in a user's system but not submitted, however, will not be able to be submitted. In addition, requests on the previous ETA Form 9141 can no longer be "reused" in iCERT to submit a new request for processing. Users can complete a new form by logging into your iCERT Portal account, clicking on "Begin New ETA Form 9141" and completing all the mandatory fields. Click [here](#) to access iCERT.

MAY  
30

#### 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.

MAY  
6

#### May 6, 2013. FY 2013 Q2 Disclosure Files.

The OFLC PERM, H-2A, H-2B, Prevailing Wage, and H-1B program disclosure data files for Quarter 2 of FY 2013 are now available. Click [here](#) to access the disclosure files and corresponding record layouts.

APR  
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#### 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](#).

APR  
25

#### April 25, 2013. H-2B Wage Methodology Interim Final Rule and Frequently Asked Questions.

On April 24, 2013, the Department of Labor and the Department of Homeland Security published in the *Federal Register* a joint Interim Final Rule, Wage Methodology for the Temporary Non-Agricultural Employment H-2B Program, Part 2. The joint Interim Final Rule, revises the prevailing wage methodology used by the Department of Labor to calculate certain prevailing wages paid to H-2B workers and U.S. workers recruited in connection with an H-2B Application for Temporary Employment Certification, and has been published in response to a court order issued by the U.S. District Court for the Eastern District of Pennsylvania on March 21, 2013, in *Comite de Apoyo a los Trabajadores Agrícolas et al v. Solis*, 09-cv-00240 (E.D. Pa). The court order vacated a portion of the 2008 wage methodology rule dealing with the way the Department of Labor determines the prevailing wage when relying on the Bureau of Labor Statistics' Occupational Employment Statistics (OES) survey, and provided the Department of Labor with 30 days to come into compliance.

On April 24, 2013, the effective date of the Interim Final Rule, the Department of Labor also resumed processing both pending H-2B prevailing wage requests and H-2B applications for temporary labor certification based on the OES wage survey data, in accordance with standards set in the Interim Final Rule. To learn more about the revised H-2B prevailing wage methodology, please read the [Interim Final Rule](#).

In addition, the Department of Labor is making available Frequently Asked Questions (FAQs) to assist filers with complying with the requirements of the joint Interim Final Rule. The FAQs address the applicability of the new prevailing wage methodology, employer wage obligations, requests for review and the processing of pending H-2B prevailing wage requests and H-2B applications for temporary labor certification. To learn more, please read the [FAQs](#). **Important Note:** These FAQs have been updated as of April 25, 2013.

We encourage stakeholders to sign up to receive e-mail alerts to ensure receipt of most recent updates affecting the H-2B Temporary Non-agricultural Visa Program. 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.

APR  
11

#### 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](#).

APR  
4

**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>.

APR  
2

**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 Agrícolas 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](#).

APR  
1

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 Agrícolas 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.

MAR  
29

**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](#).

MAR  
28

**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 sheepherding and goatherding occupations in Arizona, Nevada, Oregon and Washington. In the absence of the January 8 prevailing wage rates for sheepherding and goatherding, the Department is reverting to previously established prevailing wage rates for these occupations. To learn more, please read the Federal Register [notice](#).

MAR  
28

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 Agrícolas 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.

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**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](#).

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**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.

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**Prevailing Wage Frequently Asked Questions.**

The Department of Labor has posted new FAQs for the Prevailing Wage Center. Topics include electronic form issues, multiple worksite issues, employer surveys, special skills, and withdrawals. These FAQs are available on the FAQs page of the OFLC website under the Prevailing Wage heading.

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**New iCERT System Enhancement: Reuse ETA Form 9035E Function.**

On Monday, February 25th, the Office of Foreign Labor Certification will implement an enhancement to its Labor Condition Application (LCA) Electronic Filing Module within the iCERT System allowing employers or their authorized attorneys or agents to reuse previously filed LCAs under the H-1B, H-1B1, and E-3 visa programs. This new feature is expected to significantly reduce the administrative time and cost of preparing and submitting the ETA Form 9035E. To learn more about the new reuse feature please read this [factsheet](#).

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**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.

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**FY 2013 Selected Statistics by Program.**

The Office of Foreign Labor Certification has posted updated program factsheets containing the FY 2013 Q1 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 2013 Fiscal Year Q1 (October 1, 2012 - December 31, 2012). The updated program factsheets may also be found on OFLC's Performance Data [page](#).

[Archive](#)

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