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Foreign Labor Certification

Helping U.S. employers fill jobs while protecting U.S. and foreign workers

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Calendar Year 2020

- **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 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](#)