



Employment and Training Administration

Announcements

More in This Section >

- [Close](#)

Programs

Wage and Occupation Information

Seasonal Jobs

Policies and Regulations

Forms

Performance Data

Foreign Labor Recruiter List

Debarments List

Frequently Asked Questions (FAQs)

Announcements

News Archive

Foreign Labor Application Gateway (FLAG) Online Filing

Permanent Employment Certification (PERM) Online Filing

OFLC Help Desks

Contacts

Sitemap

Archive

Calendar Year 2020

- **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.

AILA Doc. No. 20100638. (Posted 10/6/20)