

**Employment and Training Administration**

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## Calendar Year 2021

- **February 1, 2021. U.S. Department of Labor Announces Delay in Effective Date of Final Rule Affecting Wages for H-1B and PERM Workers**

The Department of Labor issued a *Federal Register* notice today informing the public that the [Final Rule, Strengthening Wage Protections for the Temporary and Permanent Employment of Certain Aliens in the United States](#), would be delayed from March 15, 2021 to May 14, 2021. On January 20, 2021, Ronald A. Klain, Assistant to the President and Chief of Staff, issued a memo titled “Regulatory Freeze Pending Review” that directed federal agencies to consider postponing the effective date of any rules published in the *Federal Register* but not yet taken effect to allow the new administration to review “any questions of fact, law, and policy” raised by the rule. This notice also informs the public that the Department will solicit comment on the final rule for a period of 15 days. Comments must be received by February 16, 2021.

- [View the \*Federal Register\* notice delaying the effective date to May 14, 2021](#)

- **January 22, 2021. OFLC Announces Plan for Reissuing Certain Prevailing Wage Determinations Issued under the Department's Interim Final Rule of October 8, 2020; Compliance with the District Court's Modified Order**

On January 20, 2021, the U.S. District Court for the District of Columbia in *Purdue University, et al. v. Scalia, et al.* (No. 20-cv-3006) and *Stellar IT, Inc., et al. v. Scalia, et al.* (No. 20-cv-3175) issued a modified order governing the manner and schedule in which the Office of Foreign Labor Certification (OFLC) will reissue certain prevailing wage determinations (PWDs) that were issued from October 8, 2020 through December 4, 2020, under the wage methodology 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), and at the request of employers under the H-1B, H-1B1, and E-3 temporary programs and PERM labor certification program.

The Department is taking necessary steps to comply with the modified order issued by the District Court. Accordingly, OFLC will be reissuing certain PWDs issued under the Department's IFR in two phases.

Employers that have already submitted a request in response to the December 3, 2020 announcement posted by OFLC have been issued a PWD and do not need to resubmit a second request for reissuance or take other additional action.

#### **PHASE I: High Priority PWDs**

***Within 15 working days of receiving the requested list of named Purdue Plaintiffs and Associational Purdue Plaintiffs from Plaintiffs' counsel***, OFLC will reissue all PWDs that have not yet been used in the filing of a Labor

Condition Application (LCA) or PERM application as of January 20, 2021, and that fall into one or more of the following categories:

1. PWDs issued to all named Plaintiffs in the Purdue case and members of the Associational Plaintiffs in that case;
2. PWDs that an employer requested to support the filing of a LCA under the H-1B, H-1B1, and E-3 visa classifications;
3. PWDs issued that resulted in the default wage rate of \$100.00 per hour or \$208,000 per year; and
4. PWDs issued for job opportunities in healthcare related occupations, as defined by the Standard Occupational Classification system codes 29-0000 and 31-0000 series.

OFLC will individually email each requestor's point-of-contact identified on the Form ETA-9141, *Application for Prevailing Wage Determination*, who received a PWD under the IFR and who falls into one or more of the four categories described above to provide notice that OFLC will reissue the applicable PWD automatically. Once completed, OFLC will email the requestor's point-of-contact a copy of the reissued PWD.

Finally, to provide the general public with transparency on the Department's commitment, OFLC will make publicly available on the Foreign Labor Application Gateway (FLAG) System website, at <https://flag.dol.gov/>, a list of all PWDs that are eligible for Phase I with weekly updates identifying the date on which OFLC reissued the applicable PWD.

#### **PHASE II: Emergency Situations**

***No later than March 2, 2021***, OFLC will reissue PWDs for all the requests ATIA Dec. No. 21012736 (Posted 2/1/21)