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Announcements

APR 17

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for a period of 5 years following the date a final determination letter is issued or final action occurs, such as a withdrawn application, subject to an active investigation or litigation hold.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.

APR 16

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](#).

APR 11

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. <http://www.foreignlaborcert.doleta.gov/performancecfm>

APR

11

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](#).

MAR

25

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 if you are continuing to have difficulties accessing the system. Thank you.

MAR

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March 25, 2014.

LCA's 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.

MAR

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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](#).

MAR

5

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](#).

FEB

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February 24, 2014.

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.

FEB

21

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

FEB

18

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](#).

[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.

FEB

4

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

JAN

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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.

JAN

24

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.

JAN

3

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](#).

DEC

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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.

DEC

4

The Office of Foreign Labor Certification's National Prevailing Wage Center (NPWC) will accept wage source changes to PWD requests in H-2Bs

The NPWC is experiencing an unprecedented number of prevailing wage determination requests (PWDRs) for H-2B labor certifications, many of which include surveys. The lingering effect of the government shutdown, coupled with the complexity of reviewing new surveys, has resulted in increasing wait times for PWDs with survey requests. Employers' needs may not be able to accommodate the longer processing times, although the NPWC is working to reduce the processing time of these surveys as quickly as possible. Accordingly, for a limited time, an employer wishing to abandon the survey request made at the time of submitting the PWDR and accept in its place a prevailing wage based on the OES may do so without losing the receipt date of the original PWDR. To take advantage of this, the requestor must email the NPWC Helpdesk at FLC.PWD@dol.gov. The email should be titled "REQUEST TO CHANGE H-2B SURVEY REQUEST" and must include the following information: the PWD request number, the name of the requestor, the name of the employer, the occupation, and the statement "By submitting this request I give the NPWC permission to modify the 9141 and I understand and accept the requirement to pay the OES prevailing wage to be provided to me, in accordance with H-2B regulations." Such requests will be accepted only until December 31, 2013. Once the request has been made, an employer may not revert to the survey request by requesting its use in a Redetermination or Center Director Review on that determination.

NOV

20

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.

NOV

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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](#).

NOV

14

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](#).

NOV

12

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.

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, couriered, 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, delivered by private courier (Federal Express, etc.) 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, 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 delivered to OFLC during the shutdown:

Employers that decided not to mail or 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 or file electronically in PERM or iCERT (see note below about iCERT filing) submissions for receipt **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 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 be submitted 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, no application with expired recruitment or expired 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 or Requests for Further Information
- 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 and were transmitted to OFLC during that period:

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 and timely**.

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
30**

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
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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
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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
30

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
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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
24

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>.

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Employment and Training Administration

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