

Fact Sheet #62Y: What are the requirements to participate in the E-3 program?

This fact sheet provides general information concerning the temporary employment of foreign nationals from Australia in specialty occupations under the E-3 program. The E-3 visa classification is limited to 10,500 nationals of Australia. The period of employment is up to a maximum of two years. Renewals beyond the two year period for the E-3 visa will require the filing of a new Labor Condition Application (LCA).

All employers who employ an E-3 nonimmigrant must comply with the following:

- Maintain an LCA (Form ETA 9035 and/or ETA 9035E) with true and accurate information for each permanent work site;
- Pay the E-3 worker the “required wage rate” applicable to each permanent work site;
- Offer the E-3 worker the same working conditions and fringe benefits as are offered to similarly employed U.S. workers;
- Attest that the employer does not employ an E-3 worker where there is a strike/lockout in progress in the worker’s occupation;
- Notify workers or their bargaining representative of the intent to employ an E-3 worker at any location where other workers are in the same occupational classification for which an E-3 worker is sought or placed;
- Provide a copy of the applicable LCA to each E-3 worker;
- Maintain and make available for public examination the LCA and other required documents;
- Must not allow the E-3 worker to pay the Department of Homeland Security’s U.S. Citizenship and Immigration Services (USCIS) petition filing fee. The petition fee is \$1,500 for each petition filed by an employer with more than 25 full-time equivalent employees, and \$750 for each petition filed by an employer with fewer than 25 full-time equivalent employees employed in the United States;
- Must not allow the E-3 worker to pay the \$500 fraud prevention and detection fee;
- Must not allow the E-3 worker to pay any early cessation penalty (see [WH Fact Sheet #62H](#));
- Must not retaliate or discriminate against any worker who (a) discloses information that (the worker believes) shows a violation of this program or (b) cooperates with any proceeding concerning the employer’s compliance with this program (see [WH Fact Sheet #62R](#));
- Must provide the E-3 worker with payment for all work-related expenses;

- Must notify the USCIS of any changes in the E-3 nonimmigrant's work status (e.g., wherever the Department of Labor requires a new LCA, or when the work is terminated for whatever reason) and
- Portability provisions are inapplicable to E-3 nonimmigrants (see [WH Fact Sheet #62W](#)).

All requirements listed above can be found in 20 CFR § 655 Subparts H & I and the Immigration and Nationality Act § 212(n).

Where to Obtain Additional Information

For additional information, visit our Wage and Hour Division Website: <http://www.wagehour.dol.gov> and/or call our toll-free information and helpline, available 8 a.m. to 5 p.m. in your time zone, 1-866-4USWAGE (1-866-487-9243).

This publication is for general information and is not to be considered in the same light as official statements of position contained in the regulations.

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