

AAM Company, Inc., Salem, Ohio (TA-W-72,735A), who became totally or partially separated from employment on or after October 28, 2008, through March 17, 2012, and all workers in the group threatened with total or partial separation from employment on date of certification through two years from the date of certification, are eligible to apply for adjustment assistance under Chapter 2 of Title II of the Trade Act of 1974, as amended.

Signed in Washington, DC, this 4th day of April 2011.

Del Min Amy Chen,

Certifying Officer, Office of Trade Adjustment Assistance.

[FR Doc. 2011-8977 Filed 4-13-11; 8:45 am]

BILLING CODE 4510-FN-P

DEPARTMENT OF LABOR

Employment and Training Administration

Application of the Prevailing Wage Methodology in the H-2B Program

AGENCY: Employment and Training Administration, Department of Labor.

ACTION: Notice.

SUMMARY: On January 19, 2011, the Department of Labor (Department) published a final rule, Wage Methodology for the Temporary Non-agricultural Employment H-2B Program (Wage Final Rule),¹ promulgating a new prevailing wage methodology, as proposed in the Department's October 5, 2010 Notice of Proposed Rulemaking (NPRM). The prevailing wage methodology set forth in the Wage Final Rule applies to wages paid for work performed on or after January 1, 2012. Employers whose work commences in 2011 and continues into 2012 will have to pay a prevailing wage determined under the new prevailing wage methodology for the work performed in 2012. In order to ensure that employers accurately attest to their need to pay a different wage when the Wage Final Rule is effective, the Department has amended the ETA Form 9142, Application for Temporary Employment Certification, Appendix B.1, to reflect the employer's obligation to pay at least the highest of the most recent prevailing wage that the Department issues to the employer and is in effect at the time the work is performed.

DATES: This Notice is effective on April 14, 2011.

FOR FURTHER INFORMATION CONTACT: William L. Carlson, PhD, Administrator,

Office of Foreign Labor Certification, U.S. Department of Labor, 200 Constitution Avenue, NW., Room C-4312, Washington, DC 20210; telephone: (202) 693-3010 (this is not a toll-free number). Individuals with hearing or speech impairments may access the telephone number above via TTY by calling the toll-free Federal Information Relay Service at 1-800-877-8339.

SUPPLEMENTARY INFORMATION:

Background

On August 30, 2010, the U.S. District Court in the Eastern District of Pennsylvania in *Comite' de Apoyo a los Trabajadores Agrícolas (CATA) v. Solis*, Civil No. 2:09-cv-240-LP, 2010 WL 3431761 (E.D. Pa. Aug. 30, 2010), ordered the Department to "promulgate new rules concerning the calculation of the prevailing wage rate in the H-2B program that are in compliance with the Administrative Procedure Act no later than 120 days from the date of this order."² The Court ruled that the Department had violated the Administrative Procedure Act when it did not adequately explain its reasoning for using skill levels as part of the H-2B prevailing wage determinations, and when it failed to consider comments relating to the choice of appropriate data sets in deciding to rely on data from the Bureau of Labor Statistics' Occupational Employment Survey (OES) rather than wage rates established by the Davis-Bacon Act (DBA) and McNamara O'Hara Service Contract Act (SCA) in setting the prevailing wage rates.

In order to comply with the Court-mandated deadline, on October 5, 2010, the Department issued an NPRM, Wage Methodology for the Temporary Non-agricultural Employment H-2B Program, 75 FR 61578, Oct. 5, 2010. The NPRM proposed to revise the methodology by which prevailing wages are determined in the H-2B program. The Department issued a Final Rule on January 19, 2011. In the Wage Final Rule, the Department acknowledged that employers already may have made contractual arrangements based on the wage methodology in place before the issuance of the Wage Final Rule and, in order to provide employers with sufficient planning time and to minimize disruption, the Department delayed implementation "so that the prevailing wage methodology set forth in this Rule applies only to wages paid for work performed on or after January

1, 2012." 76 FR 3452, 3462, Jan. 19, 2011.

The Department will require all employers who apply for an H-2B labor certification (or on whose behalf an H-2B labor certification is filed) after the effective date of this Notice to agree, as a condition of receiving the H-2B labor certification, to pay the prevailing wage rate in effect for the period of work encompassed by their application. Since the wages resulting from the Wage Final Rule's methodology will be different from the wages under the current methodology, this may result in two wage rates being applicable to a single application. Because many employers will apply for H-2B workers for periods of up to 10 months, applications covering work to be performed both before and after January 1, 2012, could now begin to be filed.

Therefore, to ensure that an employer agrees to pay the prevailing wage rate in effect for the period of work encompassed by their application, the Department has received approval of a revised Appendix B.1 (Office of Management and Budget Control Number 1205-0466) of the *Application for Temporary Employment Certification*, which the employer must sign and submit with its filed Application signifying its agreement to the condition above. The revised form follows this Notice. As of the effective date of this Notice, the Department will require this amended Appendix B.1 to be submitted with an *Application for Temporary Employment Certification* in order to ensure the employer attests to these wage obligations. Where the employer fails to submit the signed correct Appendix B.1 and/or where necessary, the National Processing Center will send the employer a Request for Information requesting the submission of the revised Appendix.

Persons are not required to respond to this collection of information unless it displays a currently valid OMB control number. Respondent's reply to these reporting requirements is mandatory to obtain the benefits of temporary employment certification (Immigration and Nationality Act, Section 101(a)(15)(H)(ii)). Public reporting burden for this collection of information is estimated to average 2 hours 10 minutes per response for H-2A and 2 hours 45 minutes for H-2B, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate to the Office of Foreign Labor Certification, U.S. Department of Labor,

¹ Wage Methodology for the Temporary Non-agricultural Employment H-2B Program, 76 FR 3452, Jan. 19, 2011.

² The Court later extended the deadline for the publication of the Wage Methodology for the Temporary Non-agricultural Employment H-2B Program Final Rule until January 18, 2011. *CATA v. Solis*, Civil No. 2:09-cv-240-LP, 2010 WL 3431761, Oct. 27, 2010.

Room C4312, 200 Constitution Avenue, NW., Washington, DC 20210. Do NOT send the completed application to this address. All of the forms that comprise this collection of information can be found at *http://*

www.foreignlaborcert.doleta.gov/form.cfm.

Signed in Washington, DC, this 8th day of April 2010.

Jane Oates,

Assistant Secretary, Employment and Training Administration.

BILLING CODE 4510-FP-P

OMB Control Number: 1205-0466
Expiration Date: 11/30/2011

Application for Temporary Employment Certification

ETA Form 9142 – APPENDIX B.1
U.S. Department of Labor



For Use in Filing Applications Under the H-2B Non-Agricultural Program ONLY

A. Attorney or Agent Declaration

I hereby certify that I am an employee of, or hired by, the employer listed in Section C of the ETA Form 9142, and that I have been designated by that employer to act on its behalf in connection with this application. I also certify that to the best of my knowledge the information contained herein is true and correct. I understand that to knowingly furnish false information in the preparation of this form and any supplement hereto or to aid, abet, or counsel another to do so is a felony punishable by a \$250,000 fine or 5 years in a Federal penitentiary or both (18 U.S.C. 1001).

1. Attorney or Agent's last (family) name	2. First (given) name	3. Middle initial
4. Firm/Business name		
5. E-Mail address		
6. Signature		7. Date signed

B. Employer Declaration

By virtue of my signature below, **I HEREBY CERTIFY** the following conditions of employment:

1. The job opportunity is a bona fide, full-time temporary position, the qualifications for which are consistent with the normal and accepted qualifications required by non-H-2B employers in the same or comparable occupations.
2. The job opportunity is not vacant because the former occupant(s) is (are) on strike or locked out in the course of a labor dispute involving a work stoppage.
3. The job opportunity is open to any qualified U.S. worker regardless of race, color, national origin, age, sex, religion, handicap, or citizenship, and the employer has conducted the required recruitment, in accordance with regulations, and has been unsuccessful in locating sufficient numbers of qualified U.S. applicants for the job opportunity for which certification is sought. Any U.S. workers who applied or apply for the job were or will be rejected only for lawful, job-related reasons, and the employer must retain records of all rejections.
4. The offered terms and working conditions of the job opportunity are normal to workers similarly employed in the area(s) of intended employment and are not less favorable than those offered to the foreign worker(s) and are not less than the minimum terms and conditions required by Federal regulation at 20 CFR 655, Subpart A.
5. The offered wage equals or exceeds the highest of the most recent prevailing wage that is or will be issued by the Department to the employer for the time period the work is performed, or the applicable Federal, State, or local minimum wage, and the employer will pay the offered wage.
6. The offered wage is not based on commissions, bonuses or other incentives, unless the employer guarantees a wage paid on a weekly, bi-weekly, or monthly basis that equals or exceeds the prevailing wage, or the legal Federal or State minimum wage, whichever is highest.
7. During the period of employment that is the subject of the labor certification application, the employer will comply with applicable Federal, State and local employment-related laws and regulations, including employment-related health and safety laws;
8. The employer has not laid off and will not lay off any similarly employed U.S. worker in the occupation that is the subject of the Application for Temporary Employment Certification in the area of intended employment within the period beginning 120 days before the date of need, except where the employer also attests that it offered the job opportunity that is the subject of the application to those laid-off U.S. worker(s) and the U.S. worker(s) either refused the job opportunity or was rejected for the job opportunity for lawful, job-related reasons.

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Expiration Date: 11/30/2011



Application for Temporary Employment Certification

ETA Form 9142 – APPENDIX B.1
U.S. Department of Labor

9. The employer and its agents and/or attorneys have not sought or received payment of any kind from the employee for any activity related to obtaining labor certification, including payment of the employer's attorneys' fees, application fees, or recruitment costs. For purposes of this paragraph, payment includes, but is not limited to, monetary payments, wage concessions (including deductions from wages, salary, or benefits), kickbacks, bribes, tributes, in kind payments, and free labor.
10. Unless the H-2B worker is being sponsored by another subsequent employer, the employer will inform H-2B workers of the requirement that they leave the U.S. at the end of the period certified by the Department or separation from the employer, whichever is earlier, as required under § 655.35, and that if dismissed by the employer prior to the end of the period, the employer is liable for return transportation.
11. Upon the separation from employment of any foreign worker(s) employed under the labor certification application, if such separation occurs prior to the end date of the employment specified in the application, the employer will notify the Department and DHS in writing or any other method specified of the separation from employment not later than forty-eight (48) hours after such separation is discovered by the employer.
12. The employer will not place any H-2B workers employed pursuant to this application outside the area of intended employment listed on the Application for Temporary Employment Certification unless the employer has obtained a new temporary labor certification from the Department.
13. The dates of temporary need, reason(s) for temporary need, and number of worker positions being requested for certification have been truly and accurately stated on the application.
14. If the application is being filed as a job contractor, the employer will not place any H-2B workers employed pursuant to the labor certification application with any other employer or at another employer's worksite unless:
 - (i) The employer applicant first makes a bona fide inquiry as to whether the other employer has displaced or intends to displace a similarly employed U.S. worker within the area of intended employment within the period beginning 120 days before and throughout the entire placement of the H-2B worker, the other employer provides written confirmation that it has not so displaced and does not intend to displace such U.S. workers; and
 - (ii) All worksites are listed on the certified Application for Temporary Employment Certification

I hereby designate the agent or attorney identified in section D (if any) of the ETA Form 9142 to represent me for the purpose of labor certification and, by virtue of my signature in Block 3 below, **I take full responsibility** for the accuracy of any representations made by my agent or attorney.

I declare under penalty of perjury that I have read and reviewed this application and that to the best of my knowledge the information contained therein is true and accurate. *I understand that to knowingly furnish false information in the preparation of this form and any supplement thereto or to aid, abet, or counsel another to do so is a felony punishable by a \$250,000 fine or 5 years in the Federal penitentiary or both (18 U.S.C. 1001).*

1. Last (family) name	2. First (given) name	3. Middle initial
4. Title		
5. Signature		6. Date signed

[FR Doc. 2011-8968 Filed 4-13-11; 8:45 am]

BILLING CODE 4510-FP-C

DEPARTMENT OF LABOR**Employment and Training
Administration****Investigations Regarding Certifications
of Eligibility To Apply for Worker
Adjustment Assistance and Alternative
Trade Adjustment Assistance**

Petitions have been filed with the Secretary of Labor under Section 221 (a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Division of Trade Adjustment Assistance, Employment

and Training Administration, has instituted investigations pursuant to Section 221 (a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment

Assistance, at the address shown below, not later than April 25, 2011.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than April 25, 2011.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, Room N-5428, 200 Constitution Avenue, NW., Washington, DC 20210.

Signed at Washington, DC this 6th day of April 2011.

Michael W. Jaffe,

Certifying Officer, Office of Trade Adjustment Assistance.

APPENDIX

[27 TAA petitions instituted between 3/21/11 and 4/1/11]

TA-W	Subject firm (petitioners)	Location	Date of institution	Date of petition
80057	Orchard Brands (Workers)	Athens, GA	03/21/11	03/17/11
80058	Alliance One International, Inc. (Workers)	Morrisville, NC	03/21/11	03/18/11
80059	Tyco Electronics (Company)	Fuquay-Varina, NC	03/22/11	03/21/11
80060	The Valspar Corporation (Workers)	High Point, NC	03/22/11	03/16/11
80061	Sara Lee (Workers)	Bensenville, IL	03/22/11	03/21/11
80062	Ericsson (State/One-Stop)	Kansas City, MO	03/22/11	03/21/11
80063	Stream International, Inc. (State/One-Stop)	Richardson, TX	03/23/11	03/22/11
80064	Wayne Trademark Printing and Packaging (Workers)	High Point, NC	03/23/11	03/22/11
80065	Genesis Furniture Industries (Workers)	Pontotoc, MS	03/23/11	03/22/11
80066	Ivex Packaging, LLC (Union)	Joliet, IL	03/23/11	03/18/11
80067	Lane Punch Corporation (Company)	Salisbury, NC	03/24/11	03/08/11
80068	New Enterprise Stone & Lime (Workers)	Erie, PA	03/24/11	03/16/11
80069	Hydro Aluminum North America (Company)	Ellenville, NY	03/25/11	03/24/11
80070	Reno Radiological Associates (State/One-Stop)	Reno, NV	03/25/11	03/24/11
80071	PCS Administration (USA), Inc. (Company)	Northbrook, IL	03/25/11	03/25/11
80072	Alcoa Rockdale Operations (State/One-Stop)	Rockdale, TX	03/25/11	03/24/11
80073	Ikano Communications (Workers)	Salt Lake City, UT	03/25/11	03/24/11
80074	AES Westover (Union)	Johnson City, NY	03/28/11	03/25/11
80075	Golden Technologies (Workers)	Old Forge, PA	03/29/11	03/29/11
80076	Nexergy, Inc. (Company)	Columbus, OH	03/29/11	03/28/11
80077	Federal Broach And Machine Company, LLC (Company)	Tempe, AZ	03/30/11	03/29/11
80078	First Boston Pharma (State/One-Stop)	Brockton, MA	03/30/11	03/28/11
80079	The Loomis Company (Workers)	Wyomissing, PA	03/30/11	03/29/11
80080	ViaTech Publishing Solutions (State/One-Stop)	Kalama, WA	03/30/11	03/28/11
80081	SuperMedia, LLC (State/One-Stop)	Dallas, TX	03/30/11	03/29/11
80082	United Furniture Industries (Workers)	Amory, MS	03/31/11	03/30/11
80083	The Genie Company (Union)	Shenandoah, VA	03/31/11	03/31/11

[FR Doc. 2011-8975 Filed 4-13-11; 8:45 am]

BILLING CODE 4510-FN-P

DEPARTMENT OF LABOR**Employment and Training
Administration**

[TA-W-75,135]

**Flowserve Corporation, Albuquerque,
NM; Notice of Affirmative
Determination Regarding Application
for Reconsideration**

By application dated March 23, 2011, a State of New Mexico workforce official requested administrative reconsideration of the Department of

Labor's negative determination regarding eligibility to apply for Trade Adjustment Assistance (TAA), applicable to workers and former workers of the subject firm. The Department's Notice was issued on February 28, 2011 and published in the **Federal Register** on March 17, 2010 (76 FR 14693).

The negative determination of the TAA petition filed on behalf of workers at the subject firm was based on the finding that Criterion (1) has not been met because no workers were totally or