

<b>EMPLOYMENT AND TRAINING ADMINISTRATION          ADVISORY SYSTEM          U.S. DEPARTMENT OF LABOR          Washington, D. C. 20210</b>	<b>CLASSIFICATION</b> H-2B Non-Agricultural Program
	<b>CORRESPONDENCE SYMBOL</b> OFLC
	<b>ISSUE DATE</b> April 4, 2007

**ADVISORY: FOREIGN LABOR CERTIFICATION  
 TRAINING AND EMPLOYMENT GUIDANCE LETTER NO. 21-06**

**TO: OFLC-NATIONAL PROCESSING CENTER DIRECTORS  
 STATE WORKFORCE AGENCY ADMINISTRATORS**

**FROM: EMILY STOVER DeROCCO /s/  
 Assistant Secretary**

**SUBJECT: Procedures for H-2B Temporary Labor Certification in Non-Agricultural  
 Occupations**

- Purpose.** To update procedures for State Workforce Agencies and ETA National Processing Centers to process H-2B labor certification applications in non-agricultural occupations.
- References.** Immigration and Nationality Act (INA) Section 101 (a)(15)(H)(ii)(b), Title 20 Code of Federal Regulations (CFR) Parts 652 and 655; Title 8 CFR 214.2 (h)(6); Federal Register Notice, Volume 70, Number 137, pages 41430-41438; General Administration Letter (GAL) 01-95, Procedures for H-2B Temporary Labor Certification in Nonagricultural Occupations; GAL 01-95, Change 1, Procedures for H-2B Temporary Labor Certification in Nonagricultural Occupations; and Field Memorandum (FM) 25-98, H-2B Temporary Non-Agricultural Labor Certification Program Requirements.
- Background.** The H-2B non-immigrant program permits employers to hire foreign workers to come to the United States (U.S.) and perform temporary non-agricultural services or labor on a one-time, seasonal, peakload, or intermittent basis. The H-2B visa classification requires a temporary labor certification from the Secretary of Labor advising the Department of Homeland Security's United States Citizenship and Immigration Services (USCIS) as to whether qualified U.S. workers are available and whether the alien's employment will adversely affect the wages and working conditions of similarly employed U.S. workers, or a notice that such certification cannot be made, prior to filing an H-2B visa petition with USCIS. Historically, H-2B applications for non-agricultural occupations were processed through the Employment and Training Administration's (ETA) Regional Offices.

<b>RESCISSIONS</b> GAL 01-95; GAL 01-95, Change 1; FM 25-98	<b>EXPIRATION DATE</b> Continuing
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However, in December 2004, the Department opened two new National Processing Centers (NPCs), one each located in Atlanta and Chicago. These Centers have been designated to process applications to employ foreign workers for temporary positions under the H-2B program. The Department published a notice in the Federal Register (Vol. 70, No. 137, pages 41430-41438) on July 19, 2005, clarifying that employers must file two (2) originals of the ETA Form 750, Part A, directly with the State Workforce Agency (SWA) serving the area of intended employment and, once reviewed, the SWA will send the complete application to the appropriate NPC. That process does not apply to employer applications for boilermakers, entertainers, logging, and professional team sports, which were given special filing instructions in the notice.

4. **Procedures for H-2B Applications.** Attachment A outlines procedures that the SWAs and NPCs must use in making temporary labor certification determinations under the H-2B program. This guidance replaces and supersedes prior operating procedures issued under GAL 01-95, GAL 01-95, Change 1, and FM 25-98. It works in concert with the new centralized filing process at the NPCs to ensure greater consistency in the processing of H-2B applications. Special handling procedures for certain non-agricultural occupations, such as forestry workers and boilermakers, will be issued through separate guidance letters by the National Office.
5. **Action Required.** NPC Directors and SWA Administrators are directed to provide Center and SWA staff involved in the processing of H-2B applications with a copy of these procedures.
6. **Inquiries.** Questions from State Workforce Agency staff should be directed to the appropriate NPC Certifying Officer.
7. **Attachments.**

Attachment A: Procedures for H-2B Certification of Temporary Non-Agricultural Occupations