



## Changes to Labor Condition Application for Temporary Nonimmigrant Workers, ETA Form 9035/9035E

Under the Immigration and Nationality Act (INA), an employer seeking to employ a foreign worker in a specialty occupation or as a fashion model of distinguished merit and ability is required to file a Labor Condition Application (LCA) with, and receive a certified LCA from, the Department of Labor (DOL) before the Department of Homeland Security's U.S. Citizenship and Immigration Services may approve a petition authorizing admission of the foreign worker under the H-1B, H-1B1, or E-3 visa classifications. The LCA process is administered by the Office of Foreign Labor Certification (OFLC) within DOL's Employment and Training Administration (ETA). For the LCA, the employer attests to requirements for wages, working conditions, strikes or lockouts, and provisions of notice. DOL's Wage and Hour Division (WHD) enforces the terms and conditions of the LCA.

### Major Changes to ETA Form 9035/9035E

- ✚ **Change(s):** Merges *Section F, Rate of Pay* and *Section G, Employment and Prevailing Wage Information* on the current form into a newly revised *Section F, Employment and Wage Information*; restructured the prevailing wage source collection to make the wage section clearer and more organized.
  - **Result:** Aligns the collection of the employer's wage rate and prevailing wage for the specialty occupation in the same section with the place of intended employment for disclosure of the employer's wage obligation by worksite location.
- ✚ **Change:** Increases the number of worksites per LCA from three (3) to ten (10). Clarified that the employer must identify all intended places of employment on the LCA, *including intended places of employment that qualify as short-term placements under 20 CFR 655.735*.
  - **Result:** Allows employers to identify more worksites using a single LCA filing. Provides clarification of the employer's obligation to identify all worksites known at the time of the LCA filing.
- ✚ **Change(s):** Requires employers to: provide the estimated number of nonimmigrant workers that will perform work at each worksite location; disclose whether the worker(s) will be placed with a secondary entity at the worksite location(s); and disclose the identity of any secondary entity.
  - **Result(s):** Identifies and discloses secondary entities, i.e., those entities that are receiving placements of H-1B, H-1B1, and E-3 workers as a result of the LCA filing; and collects the estimated number of H-1B, H-1B1, and E-3 workers who will perform work at each place of intended employment known at the time of filing.
- ✚ **Change:** Clarifies additional attestations for H-1B employers and requirements related to non-displacement and recruitment of U.S. workers in Section H, subsection 2 (H-1B employers only).
  - **Result:** Designates the H-1B employer's basis for exemption from the H-1B dependent and willful violator statutory requirements related to the non-displacement and recruitment of U.S. workers.
- ✚ **Change:** Creates an Appendix A for the collection of academic credential details and degree documentation from H-1B dependent and willful violator employers claiming a degree-based exemption from the statutory requirements as the sole exemption.
  - **Result(s):** This new Appendix A collects the name of the accredited or recognized institution that awarded the degree, the field of study, the date the academic degree was awarded, and the number of H-1B nonimmigrant workers meeting the same degree requirements on the LCA.
- ✚ **Change & Result:** Revises the instruction, attestation, and employer obligation sections for clarity and increased understanding of existing regulatory requirements.

### Major changes to the Form WH-4

- ✚ Conversion from a Microsoft Word document to an Adobe Livecycle document for improved accessibility;
- ✚ Improvements to formatting and line editing for better usability; and
- ✚ Addition of data fields to better identify complaint details.