

U.S. Department of Labor
Employment and Training Administration

Implementation FAQs

Interim Final Rule, *Strengthening Wage Protections for the Temporary and Permanent Employment of Certain Aliens in the United States*

Q. I have previously filed ETA Form-9141 with the National Prevailing Wage Center and have yet to receive a Prevailing Wage Determination. Does the Interim Final Rule, Strengthening Wage Protections for the Temporary and Permanent Employment of Certain Aliens in the United States (85 FR 63872) affect the outcome of my previously filed Prevailing Wage Determination?

A. Yes, if you have filed ETA Form-9141 before October 8, 2020, the effective date of the Interim Final Rule, *Strengthening Wage Protections for the Temporary and Permanent Employment of Certain Aliens in the United States* ([85 FR 63872](#)), and yet to receive a determination from the National Prevailing Wage Center, your subsequently issued wage will be based on the methodology for calculating prevailing wages in the Interim Final Rule, *Strengthening Wage Protections for the Temporary and Permanent Employment of Certain Aliens in the United States* ([85 FR 63872](#)).

Q. I have previously filed and received certification of ETA Form-9035/9035E from the Chicago National Processing Center and have yet to file a nonimmigrant petition with the U.S. Citizenship and Immigration Services. Does the Interim Final Rule, Strengthening Wage Protections for the Temporary and Permanent Employment of Certain Aliens in the United States (85 FR 63872) affect the outcome of my previously filed and approved ETA Form-9035/9035E?

A. No, if you have already received a certified ETA Form-9035/9035E before October 8, 2020, the effective date of the Interim Final Rule, *Strengthening Wage Protections for the Temporary and Permanent Employment of Certain Aliens in the United States* ([85 FR 63872](#)), but have yet to file a nonimmigrant petition with the U.S. Citizenship and Immigration Services your certified ETA Form-9035/9035E and the attestations made are still valid for the period identified and the wage identified on the ETA Form-9035/9035E.

Q. I have previously filed ETA Form 9089, which is pending with the Atlanta National Processing Center. Does the Interim Final Rule, Strengthening Wage Protections for the Temporary and Permanent Employment of Certain Aliens in the United States (85 FR 63872) affect the outcome of my previously filed and pending ETA Form 9089?

A. No, even if you have not previously filed your ETA Form 9089, so long as you possess a valid prevailing wage determination issued on Form ETA-9141 before October 8, 2020, the effective date of the Interim Final Rule, *Strengthening Wage Protections for the Temporary and Permanent Employment of Certain Aliens in the United States* ([85 FR 63872](#)), your subsequently filed ETA Form 9089 is not affected.

Q. Does the Interim Final Rule, Strengthening Wage Protections for the Temporary and Permanent Employment of Certain Aliens in the United States (85 FR 63872). change the method of setting a prevailing wage with ETA Form 9141 or adjudication of ETA Form 9089 or ETA Form-9035/9035E?

A. No, the Interim Final Rule, *Strengthening Wage Protections for the Temporary and Permanent Employment of Certain Aliens in the United States* ([85 FR 63872](#)) only changes how the wage levels are calculated under [8 U.S.C. 1182\(p\)\(4\)](#). OFLC will continue to process prevailing wage requests and issue prevailing wage determinations for H-1B/H1-B1/E-3, and PERM according to all current policies and procedures.

Q. I have filed but have not received certification of ETA Form-9035/9035E before October 8, 2020, the effective date of the Interim Final Rule, Strengthening Wage Protections for the Temporary and Permanent Employment of Certain Aliens in the United States (85 FR 63872). Will this rule affect the adjudication of my Labor Condition Application?

A. No, if you have previously submitted but not received certification of ETA Form-9035/9035E before October 8, 2020, the effective date of October 8, 2020, and your Labor Condition Application meets regulatory requirements at the time of submission, it will be certified under the regulations in place at the time it was submitted.