Certifications
Temporary Agricultural Labor
Termination for Cause for H–2A

DEPARTMENT OF LABOR
Employment and Training Administration

Information about the DOL Notification Process for Worker Abandonment, or Termination for Cause for H–2A Temporary Agricultural Labor Certifications

AGENCY: Employment and Training Administration, Department of Labor.

ACTION: Notice.

SUMMARY: This Notice announces specific instructions employers must follow when notifying the Department of Labor’s (Department) Office of Foreign Labor Certification (OFLC) that an H–2A worker certified on an Application for Temporary Employment Certification or a worker in corresponding employment has voluntarily abandoned employment, or was terminated for cause before the end of the work contract period.

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

FOR FURTHER INFORMATION CONTACT: William L. Carlson, PhD, Administrator, Office of Foreign Labor Certification, 200 Constitution Avenue, NW., Washington, DC 20210; telephone (202) 693–3010 (this is not a toll-free number).

SUPPLEMENTARY INFORMATION: I. Background


Occasionally, H–2A workers or workers in corresponding employment voluntarily leave their employment or are terminated for cause before the specified contract term expires. The 2010 Final Rule provides that an employer will not be responsible for transportation and subsistence expenses and/or the three-fourths guarantee related to such an H–2A worker or worker in corresponding employment, where the H–2A worker or worker in corresponding employment abandons employment or is terminated for cause before the end date of the contract period, as specified in the Application for Temporary Employment Certification, if the employer notifies OFLC’s National Processing Center (NPC) (and the Department of Homeland Security (DHS) in the case of an H–2A worker) of such abandonment or termination.

As set out in 20 CFR 655.122(n), in such instances, the employer must notify the NPC (and DHS in the case of an H–2A worker) in writing, or by any other method specified by the Department or DHS in a manner specified in a notice published in the Federal Register, no later than 2 working days after the abandonment or termination occurs. An abandonment begins after an H–2A worker or worker in corresponding employment fails to report for work at the regularly scheduled time for 5 consecutive work days without consent of the employer.

II. Notification Process

Beginning on the effective date of this Notice, the written notification, as set forth in 20 CFR 655.122(n), must be provided by one of the following means:

1. By electronic mail (e-mail) to: H2A.abandonment@termination.chicago@ dol.gov, or
2. Employers without internet access may instead send written notification by:

(a) Facsimile to: (312) 353–6666; or
(b) U.S. Mail to: U.S. Department of Labor, Employment and Training Administration, Office of Foreign Labor Certification, Chicago National Processing Center, 536 South Clark Street, 9th floor, Chicago, Illinois 60605–1509.

In order to ensure prompt and effective processing of the notification, the Department requests that the employer’s notice include at a minimum the following information:

1. The reason(s) for notification or late notification, if applicable;
2. The date of abandonment or termination;
3. The number of H–2A worker(s) and/or other worker(s) in corresponding employment who abandoned or were/were terminated for cause, and the name of each such H–2A worker and/or worker in corresponding employment, each employee’s last known address (other than employer-provided housing);
4. The Application/Certification number(s); and
5. The employer’s name; address, telephone number, and Federal Employer Identification Number (FEIN).

The NPC will also accept a copy of the written notification of abandonment or termination for cause submitted by the employer to DHS as long as it contains all of the information listed above and is submitted to the NPC via one of the means enumerated in this Notice. Failure to provide notice or failure to provide timely notice may lead to a finding of noncompliance with the transportation and subsistence expenses and/or the three-fourths guarantee provisions as set forth in 20 CFR 655.122(n).

DEPARTMENT OF LABOR
Employment and Training Administration

Request for Certification of Compliance—Rural Industrialization Loan and Grant Program

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice.

SUMMARY: The Employment and Training Administration is issuing this