

Employers' Attestation to Use Alien Crewmembers for
Longshore Activities in U.S. Ports
Form ETA 9033
U.S. Department of Labor



A. Employer Information

1. Legal business name		
2. Trade name/Doing Business As (DBA), if applicable		
3. Address 1		
4. Address 2		
5. City	6. State	7. Postal code
8. Country	9. Province	
10. Telephone number, including area code	11. E-mail address	
12. Employer point of contact name	13. Contact's job title	

B. Employer's U.S. Agent or Representative Information

Complete this section if the application is filed by employer's U.S. agent or representative.

1. Name of U.S. Agent or Representative		
2. U.S. Business Address		
3. City	4. State	5. Postal code
6. Telephone number	7. Extension	8. E-Mail address

C. Location and Job Information

1. Name of Port, City and State		
2. Begin date of performance of the first activity by the alien crewmember (mm/dd/yyyy)		3. Does employer claim an unanticipated emergency? <input type="checkbox"/> Yes <input type="checkbox"/> No (If "Yes", include documentation to support claim)
4. Total number of crewmembers being requested		
5. Identify activities to be performed by alien crewmembers: (Choose all that apply)		
<input type="checkbox"/> a. Loading cargo		
<input type="checkbox"/> b. Unloading cargo		
<input type="checkbox"/> c. Handling of mooring lines		
<input type="checkbox"/> d. Operation of cargo-related equipment		
<input type="checkbox"/> e. Use of automated equipment (For the automated vessel prevailing practice exception only)		

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D. Employer Attestation

As of this date, there is no collective bargaining agreement in effect in the port covering at least 30 percent of the longshore workers.

Important Note: Employer must submit two copies of its facts and evidence to show compliance with the following three attestation elements. **If accompanying documentation supporting each one of the following attestation elements is not attached, attestation will be deemed incomplete and will be returned without action.**

- 1. On the date this attestation is signed and submitted, the performance of the activity by alien crewmembers is permitted under the prevailing practice of the port.
- 2. As of this date, there is not a strike or lockout in the course of a labor dispute at this port and, during the period of this attestation's validity, the employer will not use alien crewmember in its employ to perform any longshore activity during a strike or lockout; and the employment of such aliens is not intended or designed to influence an election for a bargaining representative for longshore workers at the port.
- 3. As of this date, notice of this attestation has been provided to longshore workers in the port by (check appropriate box):
 - (i) Notice of this filing has been provided to the bargaining representative of longshore workers in the port (include copy of actual notice); or
 - (ii) Where there is no such bargaining representative, notice of this filing has been provided to the port authority, and to longshore workers employed at the port through posting in conspicuous locations (include copy of actual notice posted).

E. Declaration of Employer

Pursuant to 28 U.S.C. 1746, I declare under penalty of perjury that the information provided on this form and accompanying documentation is true and correct. In addition, I declare that I will comply with the Department of Labor regulations governing this program and, in particular, that I will make this attestation, supporting documentation, and other records, files and documents available to official's request, during any investigation under this attestation or the Immigration and Nationality Act.

Employer Signature (or employer's U.S. agent or representative)

Date

F. FOR U.S. GOVERNMENT AGENCY USE ONLY

By virtue of the signature below, the Department of Labor hereby acknowledges that this program attestation for the longshore activities is accepted for filing. The Department of Labor is not the guarantor of the accuracy, truthfulness or adequacy of an attestation accepted for filing.

This attestation is valid from _____ to _____

Case number

Case Status

Department of Labor, Office of Foreign Labor Certification

Acceptance Date (date signed)

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GENERAL INSTRUCTIONS

IMPORTANT: Please read these instructions carefully before completing the form. These instructions contain full explanations of the questions and attestations that make up the Form ETA 9033. **In accordance with Federal Regulations, incomplete or obviously inaccurate applications will not be accepted by the Department of Labor.**

Form ETA 9033 with required accompanying documentation must be filed for each port. An employer may file an attestation only when there is no collective bargaining agreement in effect in the local port covering at least 30 percent of the number of individuals employed in performing longshore work. Submit the completed original Form ETA 9033 along with two copies of the form and two sets of accompanying documentation. Attestations must be received by the Employment and Training Administration, Office of Foreign Labor Certification no later than 14 days before the first performance of the longshore activity unless the employer is claiming an unanticipated emergency. Attestations must be submitted to the Office of Foreign Labor Certification, Employment and Training Administration, U.S. Department of Labor, 11 West Quincy Court, Chicago, IL 60604-2105.

Anyone, who knowingly and willingly furnishes any false information in the preparation of Form ETA 9033 and any supporting documentation, or aids, abets, or counsels another to do so is committing a federal offense, punishable by fine or imprisonment up to five years or both (18 U.S.C. §§ 2, 1001). Other penalties apply as well to fraud or misuse of this immigration document and to perjury with respect to this form (18 U.S.C. §§ 1546, 1621).

Section A. Employer Information

1. Enter full legal name of business, firm or organization, or if an individual, enter name used for legal purposes on documents.
2. Enter the full trade name or "Doing Business As" (DBA) name, if applicable, of the business, person, association, firm, corporation, or organization, i.e., the employer filing this application.
3. Enter the street address of the employer's principal place of business.
4. If additional space is needed for the street address, use this line to complete the employer's street address.
5. Enter the city of the employer's principal place of business. If the city and country are the same, the name must still be entered in both fields.
6. Enter the state of the employer's principal place of business.
7. Enter the postal (zip) code of the employer's principal place of business.
8. Enter the country of the employer's principal place of business. If the city and country are the same, the name must still be entered in both fields.
9. Enter the province of the employer's principal place of business, if applicable.
10. Enter the area code and telephone number for the employer's principal place of business. Include country code, if applicable.
11. Enter the e-mail address of the employer point of contact in the format name@emailaddress.top-level domain.
12. Enter name of the employer point of contact. An employer point of contact is an employee of the employer whose position authorizes the employee to provide information and supporting documentation concerning this Employer's Attestation to Use Alien Crewmembers for Longshore Activities in U.S. Ports and to communicate with the Department of Labor on behalf of the employer. The employer point of contact should be the individual most familiar with the content of this application and circumstances of the foreign worker's employment.
13. Enter the job title of the employer point of contact.

Section B. Employer's U.S. Agent or Representative Information (if applicable)

Note: The U.S. agent/representative information in this Section, specifically the name, telephone number, and e-mail address, must be different from the employer point of contact information in Section A.

1. Enter the full name of the agent/representative.
2. Enter the street address of the attorney/agent (address must be a U.S. address).
3. Enter the city of the attorney/agent.
4. Enter the state of the attorney/agent.
5. Enter the postal (zip) code of the attorney/agent.
6. Enter the area code and telephone number of the attorney/agent.
7. Enter the extension of the telephone number of the attorney/agent, if applicable.
8. Enter the e-mail address of the attorney/agent.

Section C. Location and Job Information

1. Enter the name of the port, and the city and state in which the port is located.
2. Enter the date on which the longshore activity will begin.
3. Check appropriate box if claiming an unanticipated emergency.
4. Enter an estimate of the total number of crewmembers that the employer anticipates requesting for the activity specified for this attestation.
5. Longshore work is defined as activity relating to (1) loading of cargo, (2) unloading of cargo, (3) operation of cargo-related equipment, and (4) handling of mooring lines on the dock when a vessel is made fast or let go. The employer must check each activity it intends the alien crewmembers to perform.

Section D. Employer Attestation

An employer must attest to the conditions listed in elements 1 through 4. The attestation will only be accepted for filing if the required documentation supporting the first three elements is attached to the Form ETA 9033. See §655.510(d) through (f) of the regulations for guidance on the documentation that must be attached to the Form ETA 9033 to support each of the elements.

1. Prevailing Practice. The employer must attest that it is the prevailing practice to use alien crewmembers for the particular activity or activities of longshore work at U.S. port where the employer intends to employ alien crewmembers.
2. No Strike or Lockout; No Intention or Design to Influence Bargaining Representative Election. The employer must attest that, at the time of submitting the attestation, there is not a strike or lockout in the course of labor dispute covering the employer's activity, and that it will not use alien crewmembers during a strike or lockout after filing the attestation. The employer must also attest that the employment of such aliens is not intended or designed to influence an election for a bargaining representative for workers in the local port.
3. Notice of filing. The employer must attest that at the time of filing the attestation, notice of filing has been provided to the bargaining representative of the longshore workers in the local port, or, where there is no such bargaining representative, notice of filing has been provided to the port authority for distribution to the public on request and to the longshore workers employed at the local port through a posting in conspicuous locations. The notice must comply with the requirements of 20 CFR 655.10(f). The employer must check the appropriate box under D.3.
4. In order to be eligible to use alien crewmembers for longshore activities at a U.S. port, an employer must attest that there is no collective bargaining agreement in effect in the local port covering at least 30 percent of individuals employed in performing longshore work. An employer is not required to submit documentation to support this condition.

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E. Declaration of Employer

One copy of this form must bear the original signature of the employer or the employer's designated agent or representative unless filing by facsimile transmission. See §655.510(c)(1) of the regulations if filing by facsimile transmission. By signing this form, the employer or the

employer's designated agent or representative is attesting to the conditions listed in item D.1 through 4 and to the accuracy of the information provided elsewhere on the form and in supporting documentation. False statements are subject to federal criminal penalties, as stated above.

If the attestation bears the necessary entries of information and documentation, the Certifying Officer will accept the attestation for filing, and shall document such acceptance on each of the three Form ETA 9033 submitted. The Department will notify the office of the Department of Homeland Security having jurisdiction over the port where longshore work will be performed of the acceptance. A copy of the attestation form indicating the Department's acceptance will be returned to the employer. If the attestation is not accepted because it is incomplete or inaccurate, a notification of nonacceptance will be returned to the employer. The employer may then use alien crewmembers for longshore work at the port for which this attestation has been accepted in accordance with the Department of Homeland Security regulations, unless the Department subsequently acts to suspend or invalidate the attestation.

A copy of this attestation, along with accompanying documentation, will be available for public inspection at the Office of Foreign Labor Certification, Box 12-200, 200 Constitution Avenue, N.W., Washington, D.C. 20210 or OFLC website at <http://www.foreignlaborcert.doleta.gov>.

OMB Public Burden Statement - Persons are not required to respond to this collection of information unless it displays a currently valid OMB control number. Respondents' obligation to reply to these reporting requirements are required to obtain or retain benefits (8 U.S.C. 1101 et seq.) Public reporting burden for this collection of information is estimated to average 4 hours per response, 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 or any other aspect of this collection of information, including suggestions for reducing this burden, to the U.S. Department of Labor, Office of Foreign Labor Certification, 200 Constitution Avenue, N.W., Room C4312, Washington, D.C. 20210 (OMB Control Number 1205-0309).