§ 655.142 Submission of modified applications.

(a) Submission requirements and certification delays. If the employer chooses to submit a modified Application for Temporary Employment Certification, the CO’s Final Determination will be postponed by 1 calendar day for each day that passes beyond the 5 business-day period allowed under §655.141(b) to submit a modified Application for Temporary Employment Certification, up to maximum of 5 days. The Application for Temporary Employment Certification will be deemed abandoned if the employer does not submit a modified Application for Temporary Employment Certification within 12 calendar days after the notice of deficiency was issued.

(b) Provisions for denial of modified Application for Temporary Employment Certification. If the modified Application for Temporary Employment Certification is not approved, the CO will deny the Application for Temporary Employment Certification in accordance with the labor certification determination provisions in §655.164.

(c) Appeal from denial of modified Application for Temporary Employment Certification. The procedures for appealing a denial of a modified Application for Temporary Employment Certification are the same as for a non-modified Application for Temporary Employment Certification as long as the employer timely requests an expedited administrative review or de novo hearing before an ALJ by following the procedures set forth in §655.171.

§ 655.143 Notice of acceptance.

(a) Notification timeline. When the CO determines the Application for Temporary Employment Certification and job order are complete and meet the requirements set forth in this subpart, the CO will notify the employer within 7 calendar days of the CO’s receipt of the Application for Temporary Employment Certification. A copy will be sent to the SWA serving the area of intended employment.

(b) Notice content. The notice must:

1. Authorize conditional access to the interstate clearance system and direct the SWA to circulate a copy of the job order to other such States the CO determines to be potential sources of U.S. workers;
2. Direct the employer to engage in positive recruitment of U.S. workers in a manner consistent with §655.154 and to submit a report of its positive recruitment efforts as specified in §655.156;
3. State that positive recruitment is in addition to and will occur during the period of time that the job order is being circulated by the SWA(s) for interstate clearance under §655.150 of this subpart and will terminate on the actual date on which the H-2A workers depart for the place of work, or 3 calendar days prior to the first date the employer requires the services of the H-2A workers, whichever occurs first; and
4. State that the CO will make a determination either to grant or deny the Application for Temporary Employment Certification no later than 30 calendar days before the date of need, except as provided for under §655.144 for modified Applications for Temporary Employment Certification.

§ 655.144 Electronic job registry.

(a) Location of and placement in the electronic job registry. Upon acceptance of the Application for Temporary Employment Certification under §655.143, the CO will promptly place for public examination a copy of the job order on an electronic job registry maintained by the Department, including any required modifications approved by the CO, as specified in §655.142. This procedure will be implemented once the Department initiates operation of the registry.

(b) Length of posting on electronic job registry. Unless otherwise provided, the Department will keep the job order posted on the Electronic Job Registry until the end of 50 percent of the contract period as set forth in §655.135(d).

§ 655.145 Amendments to applications for temporary employment certification.

(a) Increases in number of workers. The Application for Temporary Employment