Attestation by Employers Using Alien Crewmembers for Longshore Activities in U.S. Ports

U.S. Department of Labor
Employment and Training Administration
U.S. Employment Service

1. Full Legal Name of Company	5. Name of U.S. Agent	OMB Approval No. 1205-0309 Expires: 04/30/2004
2. Headquarters Address (No., St., City, Town, State, ZIP Code, Country)	6. U.S. Business Address of Agent (No., St., City, State, ZIP Code)	
3. Telephone (Area Code and Number)	7. Telephone (Area Code and Number)	
4. Name of Chief Executive Officer	Fax (Area Code and Number)	

8. EMPLOYER ATTESTATION

☐ There is no collective bargaining agreement in effect in the port covering at least 30 percent of the longshore workers.

(If accompanying documentation supporting each one of the following three attestation elements (8(a), 8(b), and 8(c)) is not attached, attestation will be deemed incomplete and will be returned without action.)

☐ (a) Alien crewmembers will be used beginning _____ (Month/Day/Year) to perform the following activities of longshore work at the port of _____ (Name of Port, City, and State), and it is the prevailing practice to use alien crewmembers for each of the following activities to be performed at this port, i.e., those marked "Yes" **(a "Yes" or "No" box must be checked for each activity):**

Yes	No		
☐	☐	(i)	Loading cargo
☐	☐	(ii)	Unloading cargo
☐	☐	(iii)	Operation of cargo-related equipment
☐	☐	(iv)	Handling of mooring lines
	☐	(v)	Check this box if claiming an unanticipated emergency **(Include documentation to support claim).**

☐ (b) On the date this attestation is signed and submitted, 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, I will not use alien crewmembers in my 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.

☐ (c) 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).

9. 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 officials of the Department of Labor, upon such official's request, during any investigation under this attestation or the Immigration and Nationality Act.

_____ Signature of Chief Executive Officer (or Such Officer's U.S. Agent or Designee

_____ Date

FOR U.S. GOVERNMENT AGENCY USE ONLY: By virtue of my signature below, I acknowledge that this attestation is accepted for filing on _____ (date) and will be valid for the longshore activities herein attested to from _____ (beginning date) through _____ (date twelve months from beginning date).

_____ Signature of Authorized DOL Official

_____ ETA Case No.

Subsequent DOL action: Suspended _____ Invalidated _____ Withdrawn _____

The Department of Labor is not the guarantor of the accuracy, truthfulness or adequacy of an attestation accepted for filing.

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 Workforce Security, 200 Constitution Avenue, N.W., Room C-4318, Washington, D.C. 20210 (Paperwork Reduction Project 1205-0309).

ATTESTATION BY EMPLOYERS USING ALIEN CREWMEMBERS FOR LONGSHORE ACTIVITIES AT U.S. PORTS

IMPORTANT: READ CAREFULLY BEFORE COMPLETING FORM

An employer may file an attestation only when there is no collective bargaining agreement in effect in the local port covering at least 20 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, Alien Certification Unit, no later than 14 days prior to the first performance of the longshore activity unless the employer is claiming an unanticipated emergency. Attestations for ports located on the Atlantic Coast, Puerto Rico, and the Virgin Islands, must be submitted to the Boston Regional Office at One Congress Street, 10th Floor, Boston, Massachusetts 02114; attestations for ports located on the Pacific Coast, Alaska, Hawaii, and Guam, must be submitted to the Seattle Regional Office at 1111 3rd Avenue, Suite 900, Seattle, Washington 98101; attestations for ports located on the Gulf of Mexico must be submitted to the Dallas Regional Office at Federal Building, Room 317, 525 Griffin Street, Dallas, Texas 75202; and attestations for ports located on the Great Lakes must be submitted to the Chicago Regional Office at 230 S. Dearborn Street, 6th Floor, Chicago, Illinois 60604.

To knowingly furnish any false information in the preparation of this form and any supporting documentation thereto, or to aid, abet or counsel another to do so is a felony, punishable by $10,000 fine or five years in the penitentiary, or both (18 U.S.C. 1001). Other penalties apply as well to fraud and misuse of this Immigration document (18 U.S.C. 1546) and to perjury with respect to this form (18 U.S.C. 1546 and 1621).

Print legibly in ink or use a typewriter. Sign and date one form in original signature. Citations below to "regulations" are citations to the identical provisions at 20 CFR Part 655, Subparts F and G, and at 29 CFR Part 506, Subparts F and G.

Item 1. Name of Company. Enter full legal name of business, firm or organization, or, if an individual, enter name used for legal purposes on documents.

Item 2. Address of Company. Self Explanatory.

Item 3. Telephone Number. Include area code or international calling code.

Item 4. Name of Chief Executive Officer. Self explanatory.

Item 5. Name of U.S. Agent. Self explanatory.

Item 6. Address of Agent. This address must be in the U.S.

Item 7. Telephone Number. Include fax number, if available.

Item 8. Employer Attestation. 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. An employer must also attest to the conditions listed in elements (a) through (c). The attestation will only be accepted for filing if the required documentation supporting these elements is attached to the Form ETA 9033. See § ___ .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.

Item 8(a). Prevailing Practice. The employer must attest that it is the prevailing practice to use alien crewmembers for a particular activity of longshore work at the U.S. port where the employer intends to employ alien crewmembers. The employer must include the date of the first performance of the longshore activity. If claiming an unanticipated emergency, the appropriate box must be checked. The employer must also include the name of the port, and the city and state in which it is located. 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. For each activity, the employer must check either the "Yes" or "No" box, depending on whether the employer intends to perform such activity. The employer must attach documentation to support each activity it intends to perform under this attestation element. See § ___ .510(d) for detailed explanation.

Item 8(b). 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 a 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. The employer must attach documentation to support this attestation element. See § ___ .510(e) for detailed explanation.

Item 8(c). 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 the filing has been provided to longshore workers employed at the local port through posting in conspicuous locations and through other appropriate means. The employer must check the appropriate box under 8(c). The employer must attach documentation to support this attestation element. See § ___ .510(f) for detailed explanation.

Item 9. Declaration of Employer. One copy of this form must bear the original signature of the chief executive officer (or the chief executive officer's designee) unless filing by facsimile transmission. See § ___ .510(c)(1) of the regulations if filing by facsimile transmission. By signing this form, the chief executive officer is attesting to the conditions listed in items 8(a) through (c) and to the accuracy of the information provided elsewhere on the form and in the 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 Department of Labor may accept the attestation for filing and shall document such acceptance on each of the three Form ETA 9033's submitted. A copy of the attestation form indicating the Department's acceptance, or 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 Immigration and Naturalization Service 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 Division of Foreign Labor Certifications, United States Employment Service, Room N-4456, 200 Constitution Avenue, N.W., Washington, D.C. 20210.