

Temporary Foreign Workers - Service Canada Changes

Service Canada has recently implemented new advertising requirements and LMO application procedures, due to the government's insistence of a 'Canadian First' philosophy attributed to the economic recession and rising unemployment rates. For the most part, affected members either have their foreign workers already in the country, have foreign workers scheduled to arrive in the country shortly, or are waiting for the final processing of work permits/visas. Therefore, the more stringent conditions will not apply to most members this 2009 season.

However, the Service Canada changes may apply to some members who may still be applying late for foreign workers or who will be applying for Mexicans through the Seasonal Agricultural Work Program as a 'back-up plan', due to the significant delay attributed with processing of Filipino workers permits/visas. If this is the case and you will be submitting an application for LMO, please be aware of the following recent changes...

- 1.) Advertising must have been completed in the past 3 months, for a period of (14) days prior to submitting an application for LMO.
- 2.) Service Canada may further delay the advertising period an additional 1-2 weeks to allow the employer to follow up on interested 'Canadian' applicants.
3. Advertisements and your LMO application shall now state at a minimum, the 'Average' applicable wage in your regional area for the job NOC number. Consult Service Canada's Labour Market Information website at www.labourmarketinformation.ca .

Please consult the following update from the Alberta Pork Producers Alliance, outlining all the new Advertising and LMO application procedures, since any failure to fulfill the new conditions will result in a LMO application's refusal.

IMPORTANT UPDATE

New Service Canada Advertising Requirements and LMO Application Procedures

1. Advertising Requirements

Effective immediately Service Canada has implemented new advertising requirements. These changes must be met before a new LMO application can be submitted. Failure to meet these requirements will be one of the main reasons for application refusals.

The new requirements are as follows:

- Advertising submitted as evidence of recruitment effort must be carried out in the 3 months prior to a new LMO application.
- The advertising period must be a minimum of two weeks (14 days), preferably 3-4 weeks to allow for employer follow-up on application submissions. LMO applications should NOT be sent in prior, during, or immediately after the end of the advertising period. Service Canada requires a waiting period for responses to the ads. Failure to do so will result in refusals.
- Adverts must include the employer's name or business name, the address/location of the job (not of the company office, if different), the job title, a description of the job and the wage/salary plus any benefits such as housing or health benefits.
- Position salary or wage ranges may be quoted, but the wage quoted must equal to or greater than minimum level posted by Service Canada. (see details in "Wage Information").

- Proof of advertising must provide evidence of the dates on which it was carried out, for example, by showing the invoices with a copy of the advert. If advertising on the Canada Job Bank, then a copy of the advert showing the period when it was posted is required. A copy of an advert that is “pending” is NOT acceptable. Note that the Alberta Pork website shows the date adverts were placed. This meets the new requirement. If advertising is carried out in daily newspapers they must appear each day for a full 14-day period.
- If evidence of advertising is not considered adequate, or any of these requirements are not met, the application will be refused and the entire process, including advertising, may have to be started again. Note if a wage/salary is below the required minimum, Service Canada will now NOT phone the employer to recommend changes. Service Canada has stopped this service and simply will issue a refusal.

2. LMO Processing Times

The increased workload in other areas such as EI payments has impacted LMO processing times. Current processing times have increased to 6-8 weeks. Service Canada continues to receive about 2,300 LMO applications per month.

3. Wage Rates

Several years ago, the Alberta Pork Producers Alliance developed a grid of job categories and salary scales for the pork industry. This grid was accepted for use by Service Canada. This grid was updated in 2007 and salary scales increased. This grid change allowed LMO applications to proceed more quickly because Service Canada / HRSDC case workers had a salary reference from which to work.

In the absence of any up-to-date wage survey data for the pork industry, Service Canada has decided to use data from the government’s “Labour Market Information” unit, which relates to three categories – General Farm Workers (NOC Code 8431), Specialized Livestock Workers (NOC Code 8253) and Agricultural Managers (NOC Code 8251) – as the basis for the minimum wage rates that they require from January 1st, 2009. The published wage rates are applicable to all livestock sectors, not just pigs and are significantly higher than the previous rates. This may cause employers some difficulties or concerns.

Another difference from the previous grid is that the wage scales are shown by region, which means that care must be taken when applying for an LMO to enter the correct rate for your farm’s location. The new wage scales can be viewed at: www.labourmarketinformation.ca or a copy of the grid is available from Alberta Pork.

Note that the wages are shown as *average wage*, *low wage* and *high wage*. The minimum amount that must be paid to a foreign worker is the *average wage*. If the wage offered is below this amount, the LMO application will be refused.

4. Validity of LMOs and Work Visas

- LMOs are now only valid for a period of 6 months, rather than one year as previously allowed.

If the LMO is still valid at the time a visa application is received by the Embassy in a worker's home country, it will remain valid even if the visa processing time is extended.

- Pre-approved LMOs are now only VALID for a period of 6 months. The future of pre-approval usage is also in question. In the case of pre-approvals that are not used, previously it was possible to request to extend the valid time period. This is no longer permitted.
- As of October 2008, it is NOT possible to change the worker details on an LMO. If a candidate decides not to take the position, the LMO cannot be re-used. A new LMO application must be made.
- Irrespective of skill level, temporary work visas will now be issued for a period of one year ONLY, rather than two.

5. ***Future Changes***

It is likely that frequent changes will be made to the requirements of the Temporary Foreign Worker Program. It is essential to review these changes before making an LMO application. viewed at the HRSDC website:

http://www.hrsdc.gc.ca/eng/workplaceskills/foreign_workers/index.shtml