



IMPORTANT: Please read these cover pages carefully before completing Form ETA 9035 - Labor Condition Application for H-1B nonimmigrants. These cover pages and instructions contain full explanations of attestations that you are required to make and are incorporated by reference into the form pages that you are required to complete and submit to ETA. A copy of these cover pages must be included in the public disclosure file and given to the H-1B nonimmigrant upon request.

Employers seeking to hire H-1B nonimmigrants in specialty occupations or as fashion models of distinguished merit and ability must submit the completed and dated original Form ETA 9035 to the designated certifying officer in the Department of Labor (Department or DOL), Employment and Training Administration (ETA) Application Processing Center. Labor condition applications should be submitted to an ETA Application Processing Center via facsimile transmission (FAX to 1-800-397-0478) or via mail to P.O. Box 13640 \* Philadelphia, PA \* 19101. If the application is submitted by FAX, the application containing the original signature shall be maintained by the employer. An application which is complete and has no obvious inaccuracies will be certified by the Department and returned to the employer, who may then file it in support of its petition for an H-1B nonimmigrant with the Immigration and Naturalization Service (INS).

The completed form will be electronically scanned. To ensure the accuracy of readability and avoid rejections, it is preferred that the form be completed using the ETA 9035 program available from the U.S. Department of Labor's web site at http://ows.doleta.gov. If you hand write the form, print legibly in ink using a medium to thick pen. Print only in CAPITAL LETTERS and avoid contact with the edge of the boxes. If you use a typewriter to complete the form, use a font equivalent to 12-14 pt. Center each letter in the box and use only CAPITAL LETTERS. Be sure to sign and date the form. The regulatory citations below refer to 20 CFR part 655, subparts H and I.

To knowingly and willingly furnish any false information in the preparation of the Form ETA 9035 and any supporting documentation, or to aid, abet, or counsel another to do so is a federal offense, punishable by fine or imprisonment up to five years, or both (18 U.S.C. 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 and 1621).

OMB Notice

Paperwork Reduction Project 1205-0310

Persons are not required to respond to this collection of information unless it displays a current, valid OMB control number. Respondent's obligation to reply to these reporting requirements is mandatory (INA, Section 212 (n)). Public reporting burden for this collection of information is estimated to average 1 hour per response, which includes 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 Employment and Training Administration at U.S. Department of Labor \* Room C-4318 \* 200 Constitution Avenue, NW \* Washington, DC \* 20210

Examples of how best to fill out Form ETA 9035

A. For optimum accuracy, please print in capital letters and avoid contact with the edge of the box.

The following will serve as an example:

Table with 2 rows and 13 columns containing letters A through Z.

B. For optimum accuracy, please print carefully and avoid contact with the edges of the box. The following will serve as an example:

Table with 1 row and 10 columns containing digits 1 through 0.

C. Shade Circles Like This--> ●

Not Like This--> ⊗ ⊙





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**Instructions for Section A**  
**Employers Information**

1. Return Fax Number: If you want the application to be returned via facsimile transmission, enter the fax number, area code first, to which you want the Department to send the final determination on the application. This may be the fax number of a person or entity other than the employer (e.g., an attorney or agent). **If you want the application mailed, leave the Return Fax Number blank.**
2. Employer's Full Legal Name: Enter the full legal name of the business, firm, or organization, or, if an individual, enter the name used on legal documents. Some abbreviation may be required for long names.
3. Employer's Address: Enter the address of the employer's principal place of business.
4. Employer's City, State, and Zip/Postal Code: Self - Explanatory
5. Employer's EIN Number: Enter the employer's Federal Employer Identification Number (EIN) (assigned by the Internal Revenue Service) (9 digits).
6. Employer's Phone Number and Extension: Enter the phone number, area code first, and extension, as appropriate, of the hiring or other designated official listed in Section H.

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**Instructions for Section B**  
**Rate of Pay**

1. Wage Rate (or Rate From) (Required): Enter the wage rate to be paid to H-1B nonimmigrants. If the wage offer is expressed as a range, enter the bottom of the wage range to be paid.
2. Rate Up To (Optional): Enter the top of the wage range to be paid to H-1B nonimmigrants.
3. Rate is Per: Enter whether the rate of pay is in terms of per year, month, two weeks, week, or hour.
4. Is this position part-time? Mark "Yes" or "No". If the position is part-time, the employer attests that the H-1B nonimmigrant(s) supported by the LCA will not regularly work more than the number of hours indicated (which may be a range of hours) on the INS Form(s) I-129 filed for the nonimmigrant(s). **Note: All H-1B nonimmigrants under the LCA must be part-time if question 4 is marked "Yes"; all H-1B nonimmigrants must be full-time if question 4 is marked "No".**

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**Instructions for Section C**  
**Period of Employment and Occupation Information**

1. Begin Date: Enter the beginning date (month, date, and 4 digit year) on which the H-1B nonimmigrant(s) will be employed under this application. For example, June 5, 2000 would be entered as 06-05-2000.
2. End Date: Enter the end date (month, date, and 4 digit year) on which the H-1B nonimmigrants will be employed. For example, June 5, 2000 would be entered as 06-05-2000.
3. Occupational Code: Enter the 3 digit code from Appendix 1 which most clearly describes the occupation to be performed.
4. Number of H-1B nonimmigrants: Enter the number of H-1B nonimmigrants that will be employed under this application. Use only numerals. Do NOT spell out the number: e.g., enter "001," not "ONE".
5. Job Title: Self - Explanatory





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## Instructions for Section D

### Information relating to Work Location for the H-1B nonimmigrant

1. City and State: Enter the city and state of the physical location where the work will actually be performed. See definition of "place of employment" in 20 CFR 655.175 and regulation concerning short-term placement in 20 CFR 655.735.
2. Prevailing Wage: Enter the prevailing wage rate. If the position is part-time, enter the prevailing wage on an hourly basis.
3. Wage is Per: Enter whether the prevailing wage is expressed in terms of per year, month, two weeks, week, or hour.
4. Wage Source: If the employer is relying on a wage determination obtained from a State Employment Security Agency, mark the SESA box. If the employer is using a collective bargaining agreement, mark that box. If the employer is using another source, mark the "Other" box and specify such other source in the space provided (question 6). This other source must be an appropriate survey. It may NOT be an established pay scale which has not been negotiated.
5. Year: Enter the 4 digit year in which the "other source" wage survey was published.
6. Other Wage Source: Enter the name of the published wage survey or other source used to determine the prevailing wage: e.g., "BLS Occupational Compensation Survey, Denver," "employer-conducted survey," etc. Any "other source" survey must meet all the criteria set forth in 20 CFR 655.731 (b) (3) (iii) (B) or (C), as appropriate.

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## Instructions for Section D - Subsection A

### Information for Additional or Subsequent Work Location

#### Subsection A of Section D is only necessary if filing for more than one location

If H-1B nonimmigrants are to be employed concurrently or sequentially in more than one location, fill out Subsection A using the instructions listed above for Section D.

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## Instructions for Section E

### Employer Labor Condition Statements

**The employer must read and agree to statements (1) through (4) below and demonstrate that agreement by marking "Yes" in Section E of Form ETA 9035 and by signing the application form.** The employer agrees to develop and maintain documentation supporting labor condition statements (1) and (4) as specified in 20 CFR 655.731 and 655.734, and to make this documentation available to DOL officials upon request. The employer also agrees to make available for public examination a copy of the labor condition application and necessary supporting documentation as specified in 20 CFR 655.760 within one (1) working day after the date on which the application has been filed with DOL. This documentation must be retained for public examination at the place of employment or the employer's principal place of business, as specified in Item G.

1. Wages: The employer attests that H-1B nonimmigrants will be paid wages which are at least the higher of the actual wage level paid by the employer to all other individuals with similar experience and qualifications for the specific employment in question or the prevailing wage level for the occupational classification in the area of intended employment. By marking "Yes" in section E of the Labor Condition Application for H-1B nonimmigrants (Form ETA 9035), the employer also attests that it will pay H-1B nonimmigrants the required wage for time in nonproductive status due to a decision of the employer or due to the H-1B nonimmigrant's lack of a permit or license. The employer further attests that H-1B nonimmigrants will be offered benefits and eligibility for benefits on the same basis, and in accordance with the same criteria, as offered to U.S. workers. See 20 CFR 655.731.

Instructions for Section E are continued on page 4





Continued Instructions for Section E Employer Labor Condition Statements

- 2. Working Conditions: The employer attests that the employment of H-1B nonimmigrants in the named occupation will not adversely affect the working conditions of workers similarly employed.
3. Strike, Lockout, or Work Stoppage: The employer attests that on the date the application is signed and submitted, there is not a strike, lockout, or work stoppage in the course of a labor dispute in the named occupation at the place of employment and that, if such a strike, lockout, or work stoppage occurs after the application is submitted, the employer will notify ETA within three (3) days of such occurrence and the application will not be used in support of a petition filing with INS for H-1B nonimmigrants to work in the same occupation at the place of employment until ETA determines the strike, lockout, or work stoppage has ceased.
4. Notice: The employer attests that as of the date of filing, notice of the labor condition application has been or will be provided to workers employed in the named occupation.

Please note that you have read and agree to these conditions by marking "Yes" in Section E of the Labor Condition Application for H-1B nonimmigrants (Form ETA 9035).

Instructions for Section F - Subsection 1 Additional Employer Labor Condition Statements

Notice To Employers: If an employer is or becomes H-1B dependent or is found to have committed a willful violation or a misrepresentation of a material fact, any labor condition application for H-1B nonimmigrants that was certified by the Department of Labor prior to January 19, 2001 will be deemed invalid and may not be used in support of a new petition or an extension of a petition for an H-1B nonimmigrant.

Please Note: The determination as to whether an employer is H-1B dependent is a function of the number of H-1B nonimmigrants employed as a proportion of the total number of full-time equivalent employees employed in the U.S. The following table can be used to determine whether the employer is or is not H-1B dependent:

Table with 2 columns: Number of Full-Time Equivalent Employees (U.S. and H-1B workers) and Number of H-1B Nonimmigrant Employees. Rows show thresholds: 1 to 25 (8 or more), 26 to 50 (13 or more), 51 or more (15% or more of workforce).

See 20 CFR 655.736 for more detailed guidance as to what constitutes an "H-1B dependent employer" or a "willful violator".

Instructions for Section F - Subsection 1 are continued on page 5





**Continued Instructions for Section F - Subsection 1  
Additional Employer Labor Condition Statements**

- ! **All employers are required to choose one of the following alternatives. Please note the alternative chosen by marking A, B, or C in section F - Subsection 1 of the Labor Condition Application for H-1B nonimmigrants (Form ETA 9035).**

Alternative A - The employer is not H-1B dependent (as defined above) and has not been found to have committed a willful violation or a misrepresentation of a material fact during the five (5) year period preceding the date of this application (and after October 20, 1998). The employer agrees to maintain the documentation required by 20 CFR 655.736 where applicable.

**If an employer chooses Alternative A and is or becomes H-1B dependent or was found, prior to the date of filing, to have committed a willful violation or a misrepresentation, the submitted labor application shall be deemed invalid and may not be used in support of a new petition or extension of a petition for an H-1B nonimmigrant. By choosing Alternative A, the employer also acknowledges that if it uses this application despite its invalidity, it is required to comply with the Additional Employer Labor Condition Statements in Section F - Subsection 2.**

Alternative B - The employer is an H-1B dependent employer and/or the employer has been found during the five (5) year period preceding the date of this application (and after October 20, 1998) to have committed a willful violation or a misrepresentation of a material fact.

- ! **If Alternative B is chosen, Section F - Subsection 2 of Form ETA 9035 MUST be filled out.**

Alternative C - The employer is an H-1B dependent employer and/or the employer has been found during the five (5) year period preceding the submittal date of this application (and after October 20, 1998) to have committed a willful violation or a misrepresentation of a material fact, BUT the employer will use this labor condition application ONLY in support of petitions or extensions of status for exempt H-1B nonimmigrants who will receive wages at a rate equal to at least \$60,000 per year, or have attained a master's degree (or equivalent or higher degree) in a specialty related to the employment. The employer also agrees to maintain documentation required by 20 CFR 655.737.

**By Choosing Alternative C, the employer acknowledges that if it uses this application in support of a petition or extension of a petition of an H-1B nonimmigrant who is not exempt, it is required to comply with the Additional Employer Labor Condition Statements in Section F - Subsection 2 with respect to all H-1B nonimmigrants supported by this application.**

**Instruction for Section F - Subsection 2  
Additional Employer Labor Condition Statements**

All employers (1) that are H-1B dependent (as defined above) and/or (2) that have been found to have committed a willful violation or a misrepresentation of a material fact during the five (5) year period preceding the date of this application (and after October 20, 1998), **must read and agree to statements (A) through (C) below and demonstrate that agreement by marking "Yes" in Section F - Subsection 2 of Form ETA 9035 and by signing the application form.** The employer agrees to develop and maintain documentation supporting labor condition statements (A), (B), and (C) as specified in 20 CFR 655.738 and 655.739 and to make this documentation available to DOL officials upon request. The employer also agrees to make available for public examination a copy of the labor condition application and necessary supporting documentation as specified in 20 CFR 655.760 within one (1) working day after the date on which the application has been filed with DOL. This documentation must be retained for public examination at the place of employment or the employer's principal place of business as identified in Item A. In addition, the employer agrees to maintain documentation supporting compliance with requirements on:

**Instructions for Section F - Subsection 2 are continued on page 6**

- ! **Do Not Fax these cover pages (Form ETA 9035CP). Fax ONLY the completed Labor Condition Application for H-1B nonimmigrants - Form ETA 9035.**





**Instruction for Section F - Subsection 2**  
**Additional Employer Labor Condition Statements**

- (A) Displacement: The employer will not displace any similarly employed U.S. worker within the period beginning 90 days before and ending 90 days after the date of filing a petition for an H-1B nonimmigrant supported by the application. See 20 CFR 655.738.
- (B) Secondary Displacement: The employer will not place any H-1B nonimmigrant employed pursuant to this application with any other employer or at another employer's worksite UNLESS the employer applicant first makes a bona fide inquiry as to whether the other employer has displaced or intends to displace a similarly employed U.S. worker within the period beginning 90 days before and ending 90 days after the placement, and the employer applicant has no contrary knowledge.

**If the other employer displaces a similarly employed U.S. worker during such period, the displacement will constitute a failure to comply with the terms of the labor condition application and the employer applicant may be subject to civil money penalties and debarment. See 20 CFR 655.738.**

- (C) Recruitment and Hiring: Prior to filing any petition for an H-1B nonimmigrant pursuant to this application, the employer took or will take good faith steps meeting industry-wide standards to recruit U.S. workers for the job for which the nonimmigrant is sought, offering compensation at least as great as required to be offered to the H-1B nonimmigrant. The employer will (has) offer(ed) the job to any U.S. worker who (has) applied and is equally or better qualified than the H-1B nonimmigrant. See 20 CFR 655.739.

**This labor condition statement "C" does not apply to the employment of an H-1B nonimmigrant who is a "priority worker" (defined as a person with extraordinary ability, or outstanding professors or researchers, or certain multi-national executives or managers) within the meaning of Section 203 (b)(1)(A), (B), or (C) of the Immigration and Nationality Act, 8 U.S.C. 1153.**

**Instructions for Section G**  
**Public Disclosure Information**

Mark the appropriate circle identifying where documentation concerning this application will be maintained.

**Instructions for Section H**  
**Declaration of Employer**

- ! The application must be signed by an official designated by the employer and authorized by the employer to agree to the statements herein on the employer's behalf.**

False statements are subject to Federal criminal penalties, as stated above. Failure to meet a condition of the application or misrepresentation of a material fact may result in civil money penalties, debarment, and other appropriate relief.

**Instructions for Section I**  
**Contact Information**

Enter information in this section only if the person to whom questions regarding this application should be directed is different from the hiring or other designated official signing the application on behalf of the employer.

1. Contact First Name and Middle Initial (MI): Self-Explanatory
2. Contact Last Name: Self-Explanatory
3. Contact Phone Number and Extension: Self-Explanatory





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**Appendix 1**  
**Three - Digit Occupational Groups**  
**Professional, Technical, and Managerial Occupations and Fashion Models**

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**Occupations in Architecture, Engineering, and Surveying**

- 001 ARCHITECTURAL OCCUPATIONS
- 002 AERONAUTICAL ENGINEERING OCCUPATIONS
- 003 ELECTRICAL/ELECTRONICS ENGINEERING OCCUPATIONS
- 005 CIVIL ENGINEERING OCCUPATIONS
- 006 CERAMIC ENGINEERING OCCUPATIONS
- 007 MECHANICAL ENGINEERING OCCUPATIONS
- 008 CHEMICAL ENGINEERING OCCUPATIONS
- 010 MINING AND PETROLEUM ENGINEERING OCCUPATIONS
- 011 METALLURGY AND METALLURGICAL ENGINEERING OCCUPATIONS
- 012 INDUSTRIAL ENGINEERING OCCUPATIONS
- 013 AGRICULTURAL ENGINEERING OCCUPATIONS
- 014 MARINE ENGINEERING OCCUPATIONS
- 015 NUCLEAR ENGINEERING OCCUPATIONS
- 017 DRAFTERS
- 018 SURVEYING/CARTOGRAPHIC OCCUPATIONS
- 019 OTHER OCCUPATIONS IN ARCHITECTURE, ENGINEERING, AND SURVEYING

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**Occupations in Mathematics and Physical Sciences**

- 020 OCCUPATIONS IN MATHEMATICS
- 021 OCCUPATIONS IN ASTRONOMY
- 022 OCCUPATIONS IN CHEMISTRY
- 023 OCCUPATIONS IN PHYSICS
- 024 OCCUPATIONS IN GEOLOGY
- 025 OCCUPATIONS IN METEOROLOGY
- 029 OTHER OCCUPATIONS IN MATHEMATICS AND PHYSICAL SCIENCES

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**Computer - Related Occupations**

- 030 OCCUPATIONS IN SYSTEMS ANALYSIS AND PROGRAMMING
- 031 OCCUPATIONS IN DATA COMMUNICATIONS AND NETWORKS
- 032 OCCUPATIONS IN COMPUTER SYSTEM USER SUPPORT
- 033 OCCUPATIONS IN COMPUTER SYSTEM TECHNICAL SUPPORT
- 039 OTHER COMPUTER-RELATED OCCUPATIONS

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**Occupations in Life Sciences**

- 040 OCCUPATIONS IN AGRICULTURAL SCIENCES
- 041 OCCUPATIONS IN BIOLOGICAL SCIENCES
- 045 OCCUPATIONS IN PSYCHOLOGY
- 049 OTHER OCCUPATIONS IN LIFE SCIENCES

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**Occupations in Social Sciences**

- 050 OCCUPATIONS IN ECONOMICS
- 051 OCCUPATIONS IN POLITICAL SCIENCE
- 052 OCCUPATIONS IN HISTORY
- 054 OCCUPATIONS IN SOCIOLOGY
- 055 OCCUPATIONS IN ANTHROPOLOGY
- 059 OTHER OCCUPATIONS IN SOCIAL SCIENCES





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**Appendix 1 Continued**  
**Three - Digit Occupational Groups**  
**Professional, Technical, and Managerial Occupations and Fashion Models**

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**Occupations in Medicine and Health**

- 070 PHYSICIANS AND SURGEONS
- 071 OSTEOPATHS
- 072 DENTISTS
- 073 VETERINARIANS
- 074 PHARMACISTS
- 075 REGISTERED NURSES
- 076 THERAPISTS
- 077 DIETICIANS
- 078 OCCUPATIONS IN MEDICAL AND DENTAL TECHNOLOGY
- 079 OTHER OCCUPATIONS IN MEDICINE AND HEALTH

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**Occupations in Education**

- 090 OCCUPATIONS IN COLLEGE AND UNIVERSITY EDUCATION
- 091 OCCUPATIONS IN SECONDARY SCHOOL EDUCATION
- 092 OCCUPATIONS IN PRESCHOOL, PRIMARY SCHOOL, AND KINDERGARTEN EDUCATION
- 094 OCCUPATIONS IN EDUCATION OF PERSONS WITH DISABILITIES
- 096 HOME ECONOMISTS AND FARM ADVISERS
- 097 OCCUPATIONS IN VOCATIONAL EDUCATION
- 099 OTHER OCCUPATIONS IN EDUCATION

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**Occupations in Museum, Library, and Archival Sciences**

- 100 LIBRARIANS
- 101 ARCHIVISTS
- 102 MUSEUM CURATORS AND RELATED OCCUPATIONS
- 109 OTHER OCCUPATIONS IN MUSEUM, LIBRARY, AND ARCHIVAL SCIENCES

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**Occupations in Law and Jurisprudence**

- 110 LAWYERS
- 111 JUDGES
- 119 OTHER OCCUPATIONS IN LAW AND JURISPRUDENCE

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**Occupations in Religion and Theology**

- 120 CLERGY
- 129 OTHER OCCUPATIONS IN RELIGION AND THEOLOGY

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**Occupations in Writing**

- 131 WRITERS
- 132 EDITORS: PUBLICATION, BROADCAST, AND SCRIPT
- 139 OTHER OCCUPATIONS IN WRITING

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**Occupations in Art**

- 141 COMMERCIAL ARTISTS: DESIGNERS AND ILLUSTRATORS, GRAPHIC ARTS
- 142 ENVIRONMENTAL, PRODUCT, AND RELATED DESIGNERS
- 149 OTHER OCCUPATIONS IN ART





**Appendix 1 Continued**  
**Three - Digit Occupational Groups**  
**Professional, Technical, and Managerial Occupations and Fashion Models**

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**Occupations in Entertainment and Recreation**

- 152 OCCUPATIONS IN MUSIC
- 159 OTHER OCCUPATIONS IN ENTERTAINMENT AND RECREATION

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**Occupations in Administrative Specializations**

- 160 ACCOUNTANTS, AUDITORS, AND RELATED OCCUPATIONS
- 161 BUDGET AND MANAGEMENT SYSTEMS ANALYSIS OCCUPATIONS
- 162 PURCHASING MANAGEMENT OCCUPATIONS
- 163 SALES AND DISTRIBUTION MANAGEMENT OCCUPATIONS
- 164 ADVERTISING MANAGEMENT OCCUPATIONS
- 165 PUBLIC RELATIONS MANAGEMENT OCCUPATIONS
- 166 PERSONNEL ADMINISTRATION OCCUPATIONS
- 168 INSPECTORS AND INVESTIGATORS, MANAGERIAL AND PUBLIC SERVICE
- 169 OTHER OCCUPATIONS IN ADMINISTRATIVE OCCUPATIONS

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**Managers and Officials**

- 180 AGRICULTURE, FORESTRY AND FISHING INDUSTRY MANAGERS AND OFFICIALS
- 181 MINING INDUSTRY MANAGERS AND OFFICIALS
- 182 CONSTRUCTION INDUSTRY MANAGERS AND OFFICIALS
- 183 MANUFACTURING INDUSTRY MANAGERS AND OFFICIALS
- 184 TRANSPORTATION, COMMUNICATION, AND UTILITIES INDUSTRY MANAGERS AND OFFICIALS
- 185 WHOLESALE AND RETAIL TRADE MANAGERS AND OFFICIALS
- 186 FINANCE, INSURANCE, AND REAL ESTATE MANAGERS AND OFFICIALS
- 187 SERVICE INDUSTRY MANAGERS AND OFFICIALS
- 188 PUBLIC ADMINISTRATION MANAGERS AND OFFICIALS
- 189 MISCELLANEOUS MANAGERS AND OFFICIALS

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**Miscellaneous Professional, Technical, and Managerial Occupations**

- 195 OCCUPATIONS IN SOCIAL AND WELFARE WORK
- 199 MISCELLANEOUS PROFESSIONAL, TECHNICAL, AND MANAGERIAL OCCUPATIONS

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**Sales Promotion Occupations**

- 297 FASHION MODELS

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**Miscellaneous**

- 137 INTERPRETERS AND TRANSLATORS
- 143 OCCUPATIONS IN PHOTOGRAGPHY
- 144 FINE ARTISTS
- 150 OCCUPATIONS IN DRAMATICS
- 151 OCCUPATIONS IN DANCING
- 153 OCCUPATIONS IN ATHLETICS AND SPORTS
- 191 AGENTS AND APPRAISERS
- 193 RADIO OPERATORS
- 194 SOUND, FILM
- 196 AIRPLANE PILOTS
- 197 SHIP CAPTAINS
- 198 RAILROAD CONDUCTORS

