

September 12, 2011.

On January 19, 2011, the Department published a final rule revising the methodology for calculating the prevailing wages to be paid by employers to H-2B workers and U.S. workers recruited in connection with an H-2B temporary labor certification. The Department recognized that many employers already may have planned for their labor needs and operations through calendar year 2011 in reliance on the existing prevailing wage methodology. Accordingly, the Department delayed implementation of the final rule so that the revised prevailing wage methodology only would apply to work performed on or after January 1, 2012.

On June 15, 2011, the U.S. District Court for the Eastern District of Pennsylvania in *Comite de Apoyo a los Trabajadores Agricolas v. Solis* issued a ruling that invalidated the January 1, 2012, effective date of the final rule and ordered the Department to announce a new effective date within 45 days from June 15, 2011. In order to comply with this court order, the Department issued a Notice of Proposed Rulemaking (NPRM) on June 28, 2011, in the Federal Register requesting public comments on a new effective date for the final rule. The Department completed a review of comments in response to the NPRM and on August 1, 2011, published a new final rule to amend the effective date to all work performed on or after September 30, 2011.

Based on a review of H-2B program data and a shift in the effective date of the final rule to September 30, 2011, the Office of Foreign Labor Certification's (OFLC) National Prevailing Wage Center (NPWC) is re-issuing wage determinations on more than 3,500 previously certified H-2B applications which must be completed prior to September 30th. The Department is committed to meeting this deadline to ensure workers entitled to these new wages, and employers required to pay them, are fully apprised.

The OFLC has reallocated significant staff resources within its organization to focus on completing the 3,500 H-2B wage redeterminations as expeditiously as possible, while simultaneously implementing plans designed to minimize delays in processing pending employer requests for H-1B, H-2B, and PERM prevailing wages. For the H-1B program, employers are reminded that they can obtain a prevailing wage on their own without the assistance of the NPWC and immediately file H-1B applications. Prevailing wage lookups for the Occupational Employment Statistics (OES) wage survey are available at <http://www.flcdatacenter.com>.

For additional information on delays regarding issuance of prevailing wage determinations and H-1B labor condition applications, please click [here](#).