Calendar Year 2011

- **December 30, 2011.**

Additional Prevailing Wage Update for H-2B

On December 23, 2011, the President signed into law the Consolidated Appropriations Act, 2012. The legislation contains language prohibiting the Department from implementing the Wage Rule during the 2012 fiscal year. Based on Congressional intent to continue to implement the current H-2B regulations, the Department has published a Final Rule extending the effective date of the Wage Rule to apply to work performed on and after October 1, 2012. The Final Rule is accessible here.

In light of this postponement, the Department has also published a Federal Register Notice providing guidance regarding wage determinations previously issued under the H-2B Wage Rule. The guidance provided through the Federal Register Notice can be accessed here.

Please submit questions regarding the H-2B Wage Rule to the following e-mail box (established by the Department specifically for this purpose) H2Bwagerule@dol.gov

- **December 22, 2011.**

H-2A Adverse Effect Wage Rates (AEWRs)

The Department has published a notice in the Federal Register that announces the new Adverse Effect Wage Rates by State (AEWR Notice). Please note that unlike in prior years, this notice contains only the new AEWRs. The Department will publish a subsequent Federal Register Notice to announce the new Allowable Charges for Agricultural Workers' Meals, and Maximum Travel Subsistence Reimbursement for use in the H-2A program. To read the new AEWR Notice, please click here.

- **December 21, 2011**

The 2012 Adverse Effects Wage Rates are now available. Click here to view them.

- **December 20, 2011**

AILA InfoNet Doc. No. 12010361. (Posted 01/03/12)

Chicago NPC UPS Holiday Delivery Notice

United Parcel Service (UPS) announced that they will not be providing delivery or pick-up services on Friday, December 23, 2011. The public is encouraged to submit their correspondence timely to the Chicago National Processing Center, being mindful of the holiday schedule if using UPS. The Chicago National Processing Center will endeavor to ensure all H-2A and H-2B deadlines for December 23 and 26, 2011 will be met by December 22, 2011.

- **December 19, 2011**

  The OFLC Program Debarments List has been updated. Click here to view this list.

- **December 12, 2011**

  To assist prospective H-2A employers in preparing their agricultural job offers and applications, the Department of Labor has posted a new Employer Guide for Participating in the H-2A Temporary Agricultural Program. This guide summarizes and explains key regulatory requirements for a U.S. employer to participate in the H-2A Program, including what documents to file, important timeframes and deadlines, helpful filing tips, and how to contact the OFLC Chicago National Processing Center for further assistance. Please click here to obtain a copy of the new employer guide or go directly to the H-2A Program webpage.

- **December 6, 2011**

  To assist prospective H-2A employers in preparing their agricultural job offers and applications, the Department of Labor has posted a fourth round of Frequently Asked Questions (FAQ) providing clarifications on background check, contract impossibility, and surety bond requirements for H-2A Labor Contractors. These FAQs are available here and on the FAQs page of the OFLC Web site under the heading for the H-2A Program.

- **November 23, 2011.**

  The Office of Foreign Labor Certification has created a page from which you can access the OFLC 2010 Annual Report and offer comments. Please click here to access this page.

- **November 21, 2011.**

  United Parcel Service (UPS) announced that they will not be providing delivery or pick-up services on Thursday, November 24 (Thanksgiving Day) and Friday, November 25, 2011. The public is encouraged to submit their correspondence timely to the Chicago National Processing Center, being mindful of the holiday schedule if using UPS. The Chicago National Processing Center will endeavor to ensure all H-2A and H-2B deadlines for November 24th and 25th will be met by November 23, 2011.

- **November 17, 2011.**

  The Office of Foreign Labor Certification is providing this update to the public on issuing prevailing wage determinations.

  PERM: Became current the week of October 23, 2011
  H-1B: Became current the week of November 6, 2011
  H-2B: Anticipated becoming current the week of November 27, 2011

AILA InfoNet Doc. No. 12010361. (Posted 01/03/12)

"Current" carries a different meaning in each program. A prevailing wage determination is "current" in the PERM and H-1B programs when it is issued within 60 days of submission. For H-2B prevailing wage determinations, "current" is within 30 days of submission in accordance with the program's regulations. These dates may be subject to change based on actions not anticipated by the Department at this time, such as any additional judicial determinations or legislative actions. PWD appeals (redeterminations and Center Director Reviews) are being processed as resources allow, with priority placed on becoming current on initial PWD requests in each of the respective program areas.

- **November 7, 2011.**

  The Department of Labor has posted a revised Frequently Asked Question (FAQ) regarding the Permanent (PERM) Program and listing job requirements not normal to the occupation on both the ETA Form 9141 Prevailing Wage Request and ETA Form 9089. This FAQ, which replaces the previous notice that had references to the State Workforce Agency (SWA), is available here and on the FAQs page of the OFLC Web site under the heading PERM Program and subheading Job Requirements/Duties.

- **October 24, 2011**

  The Department of Labor is working to incorporate new and/or revised Standard Occupational Classification (SOC) codes into the Permanent (PERM) Program online application system. Until the new codes are fully integrated, filers may experience situations where the new and/or revised, SOC codes are not available in the PERM online application system. Until such time as the new codes are incorporated, the Atlanta National Processing Center (ANPC) will accept the older SOC codes even though they may not match the code indicated on the Prevailing Wage Determination. Filers may also consider placing the new SOC job title in section H.3, and the new SOC code in section H.14 of the ETA Form 9089.

- **October 24, 2011. Prevailing Wage Determinations - Update**

  The Office of Foreign Labor Certification is providing this update to the public on its plans for becoming current on issuing prevailing wage determinations:

  PERM: Week of October 23, 2011
  H-1B: Week of November 6, 2011
  H-2B: Week of December 18, 2011

  "Current" carries a different meaning in each program. A prevailing wage determination is "current" in the PERM and H-1B programs when it is issued within 60 days of submission. For H-2B prevailing wage determinations, "current" is within 30 days of submission in accordance with the program's regulations. These dates may be subject to change based on actions not anticipated by the Department at this time such as any additional judicial determinations. The PWD appeals are being processed as resources allow with priority being placed on becoming current on initial PWD requests in each of the respective program areas.

- **October 21, 2011**

  The Office of Foreign Labor Certification has redesigned its H-2A program website to make it more user-friendly. The new design combines many useful links and features into a single portal. You can view this newly redesigned site by clicking here.

AILA InfoNet Doc. No. 12010361. (Posted 01/03/12)

- **October 12, 2011**

  To assist prospective H-2A employers in preparing their agricultural job offers, the Office of Foreign Labor Certification (OFLC) has established a dedicated webpage providing available information on prevailing employment practices as well as acceptable experience requirements for agricultural jobs. This information is collected through the State Workforce Agencies (SWAs) and used by the OFLC's Chicago National Processing Center staff in reviewing employer job requirements under the H-2A program to ensure no adverse impact on the wages and working conditions of U.S. workers similarly employed.

  Please click here to access the Agricultural Employment Practice Survey Library on the OFLC website.

- **October 12, 2011**

  To assist prospective H-2A employers in preparing their agricultural job offers, the Office of Foreign Labor Certification (OFLC) has established a dedicated webpage providing available information on prevailing employment practices as well as acceptable experience requirements for agricultural jobs. This information is collected through the State Workforce Agencies (SWAs) and used by the OFLC's Chicago National Processing Center staff in reviewing employer job requirements under the H-2A program to ensure no adverse impact on the wages and working conditions of U.S. workers similarly employed.

  Please click here to access the Agricultural Employment Practice Survey Library on the OFLC website.

- **October 7, 2011**

  The Department of Labor has posted a revised Frequently Asked Question (FAQ) regarding the Permanent (PERM) Program and obtaining prevailing wage determinations for college and university teachers from the National Prevailing Wage Center (NPWC) and not the State Workforce Agency (SWA). This FAQ, which replaces the previous notice, is available here and on the FAQs page of the OFLC website under the heading PERM Program and subheading College and University Teachers-Recruitment.

- **September 30, 2011**

  In light of the Department's recent decision to postpone the effective date of the Wage Rule until November 30, 2011, we have published this subsequent Federal Register Notice to provide guidance to those employers who received supplemental prevailing wage determination that have now been delayed. The notice confirms that employers who received a supplemental H-2B prevailing wage determination in anticipation of the September 30, 2011 effective date are not required to pay, and the Department's Wage and Hour Division will not enforce, the wage provided in those supplemental prevailing wage determinations for work performed through November 29, 2011. To read the text of the Notice, please click here.

- **September 28, 2011**

  The Department of Labor has posted a revised Frequently Asked Question (FAQ) regarding the Permanent Program and the use of an electronic or web-based national professional journal instead of a print journal when conducting recruitment under 20 CFR § 656.18. This FAQ, which replaces the recently posted FAQ permitting the use of an

AILA InfoNet Doc. No. 12010361. (Posted 01/03/12)

electronic journal, which contained a requirement that has been removed, is available here and on the FAQs page of the OFLC website under the heading PERM Program and subheading College and University Teachers-Recruitment.

- **September 27, 2011**

  The OFLC's National Prevailing Wage Center (NPWC) has reissued wage determinations on more than 3,400 previously certified H-2B applications to comply with the June 15, 2011 order of the U.S. District Court for the Eastern District of Pennsylvania in Comite de Apoyo a los Trabajadores Agricolas v. Solis. OFLC continues to work expeditiously to process pending determination requests for new H-2B, H-1B and PERM prevailing wages.

  On September 26, 2011, the District Court for the Northern District of Florida in the action Bayou Lawn & Landscape Services et al v. Solis, 3:11-cv-00445-MCR-EMT, issued a temporary restraining order to prohibit the Department from implementing the Wage Final Rule and to require the Department to issue prevailing wages in the H-2B program in accordance with the methodology of the 2008 H-2B rule. The Department will comply with the terms of the Court's order, which is in effect for 14 days.

  The Department has announced a 60-day postponement of the effective date for the final rule concerning the wage methodology for the H-2B program; please see here for the FRN. Further guidance and advice with respect to actions regarding H-2B prevailing wages will be posted on this Web site and in the *Federal Register*.

- **September 23, 2011**

  US Labor Department postpones revising wage calculations for H-2B program. Delay avoids administering the H-2B program under potentially conflicting court orders. Press release available here.

- **September 9, 2011, H-2A FAQs:**

  The Department has posted new Frequently Asked Questions (FAQs) to assist employers and others with the H-2A program. The FAQs discuss H-2A application amendments, post-certification changes to the end date of work, and post-certification notification to the Department regarding workers who have abandoned or have been terminated from positions. The FAQs are available here and on the FAQs page of the OFLC website under the H-2A heading.

- **September 9, 2011. H-2A Employer Filing Tips:**

  The Department has posted H-2A Employer Filing Tips to assist employers with the H-2A program. Based on 16 months of processing experience at the Chicago National Processing Center, the filing tips are reminders to employers of common mistakes that may result in processing delays. The H-2A Employer Filing Tips are available here and on the H-2A program page under Additional Resources.

- **September 8, 2011**
  The Department has updated a Frequently Asked Question (FAQ) regarding the Permanent Program and counting recruitment timelines and time periods as outlined by the regulation. This FAQ, which replaces the previous notice, is available here and on the FAQs page of the OFLC website under the heading PERM Program and subheading Time Frame.

AILA InfoNet Doc. No. 12010361. (Posted 01/03/12)

- **August 31, 2011**

  The Department has replaced a PERM program Frequently Asked Question (FAQ) regarding the use of an electronic or web-based national professional journal instead of a print journal when conducting recruitment for College and University Teachers as specified under 20 CFR 656.18. The FAQ is available here and on the FAQs page of the OFLC website under the heading PERM Program and subheading College and University Teachers - Recruitment.

- **August 31, 2011**

  OFLC has updated its data disclosure links. Data Disclosure will now navigate the user to OFLC's current quarterly and FY data. FLC Data Center (under Info. & Resources) will navigate the user to the Foreign Labor Certification Data Center.

- **August 31, 2011. H-2B Prevailing Wage FAQ:**

  The Department has posted a new Frequently Asked Question (FAQ) to assist employers and others in understanding how the Service Contract Act (SCA) wages are used by the OFLC in issuing H-2B prevailing wage determinations. The FAQs is available here and on the FAQs page of the OFLC website under the Prevailing Wage heading, H2B Prevailing Wages sub-heading.

- **August 31, 2011**

  The Department has replaced a PERM program Frequently Asked Question (FAQ) regarding the use of an electronic or web-based national professional journal instead of a print journal when conducting recruitment for college and university Teachers as specified under 20 CFR 656.18. The FAQ is available here and on the FAQs page of the OFLC website under the heading PERM Program and subheading College and University Teachers-Recruitment.

- **August 23, 2011. H-2A FAQs:**

  The Department has posted new Frequently Asked Questions (FAQ) to assist employers and others regarding the H-2A program. The FAQs are available here and on the FAQs page of the OFLC website under the H-2A heading.

- **August 22, 2011.**

  The OFLC PERM, H-2A, H-2B, Prevailing Wage, and H-1B program disclosure data files for Quarter 3 of FY 2011 are now available in Microsoft Access. Click here to access the disclosure files and corresponding record layouts. Historical OFLC program disclosure files for prior fiscal years are available on our Foreign Labor Certification Data Center website at www.flcdatacenter.com.

- **August 15, 2011.**

  The Department has posted new Frequently Asked Questions (FAQ) to assist employers and others regarding the Prevailing Wages in the H-2B program, specifically the issuance of supplemental prevailing wages in accordance with the June 15, 2011 order of the Eastern District of Pennsylvania. The FAQs are available here and on the FAQs page of the OFLC website under the Prevailing Wages Heading (under the subheading of H-2B Prevailing Wages).

AILA InfoNet Doc. No. 12010361. (Posted 01/03/12)

- **August 9, 2011: USCIS Notice - Certain Fees May Not Be Collected From H-2A and H-2B Workers**

  As the traditional harvest season approaches, USCIS reminds petitioners that certain fees may not be collected from H-2A and H-2B workers, according to 8 C.F.R. § 214.2(h)(5)(xi)(A) and § 214.2(h)(6)(i)(B).
  We realize that delays in adjudicating these petitions may affect employers' ability to place workers in time-sensitive jobs. To avoid delays, USCIS urges petitioners to submit sufficient information regarding their recruitment efforts and the nature of fees collected from H-2A and H-2B workers. Read more.

- **August 4, 2011. New H-2A Special Procedures for Beekeepers.**

  The Department has published in the Federal Register a notice announcing the establishment of special procedures for beekeeping employers. The special procedures have been established through Training and Employment Guidance Letter (TEGL) No. 33-10: *Special Procedures: Labor Certification Process for Itinerant Commercial Beekeeping Employers in the H-2A Program* and is effective for applications with a date of need beginning October 1, 2011.

  To read the Federal Register notice regarding Training and Employment Guidance Letter No. 33–10; Special Procedures: Labor Certification Process for Itinerant Commercial Beekeeping Employers in the H–2A Program, 47241–47243 [2011–19751], please click [TEXT] [PDF]. The TEGL is available under the ETA Advisories here.

- **August 4, 2011. Revised H-2A Special Procedures for Multi-State Custom Combiners.**

  The Department has published in the Federal Register a notice announcing the revision of special procedures for multi-state custom combine owners and/or operators. The special procedures have been revised through the Training and Employment Guidance Letter (TEGL) No. 16-06, Change 1, *Special Procedures: Labor Certification Process for Multi-State Custom Combine Owners/Operators under the H-2A Program* and is effective for applications with a start date of need of October 1, 2011.

  To read the Federal Register notice regarding Training and Employment Guidance Letter No. 16–06, Change 1, Special Procedures: Labor Certification Process for Multi-State Custom Combine Owners/Operators under the H–2A Program, 47248–47251 [2011–19752] please click here [TEXT] [PDF]. This TEGL is available under the ETA Advisories here.

- **August 4, 2011. Revised H-2A Special Procedures for the Itinerant Animal Shearing Industry.**

  The Department has published in the Federal Register a notice announcing the revision of special procedures for the itinerant animal shearing industry. The special procedures have been revised through the Training and Employment Guidance (TEGL) Letter No. 17-06, Change. 1, *Special Procedures: Labor Certification Process for Employers in the Itinerant Animal Shearing Industry under the H-2A Program* and is effective for applications with a date of need beginning October 1, 2011.

  To read the Federal Register notice regarding Training and Employment Guidance Letter No. 17–06, Change 1, Special Procedures: Labor Certification Process for Employers in the

AILA InfoNet Doc. No. 12010361. (Posted 01/03/12)

Itinerant Animal Shearing Industry under the H–2A Program, 47251–47256 [2011–19753], please click [TEXT] [PDF]. This TEGL is available under the ETA Advisories here.

- **August 4, 2011. Revised H-2A Special Procedures for Open Range Production of Livestock Occupations.**

  The Department has published in the Federal Register a notice announcing the revision of special procedures for the occupations involved in the open range production of livestock. The special procedures have been revised through the Training and Employment Guidance (TEGL) Letter No. 15-06, Change 1, *Special Procedures: Labor Certification Process for Occupations Involved in the Open Range Production of Livestock under the H-2A Program* and is effective for applications with a start date of need of October 1, 2011.

  To read the Federal Register notice regarding Training and Employment Guidance Letter No. 15–06, Change 1, Special Procedures: Labor Certification Process for Occupations Involved in the Open Range Production of Livestock under the H–2A Program, 47243–47248 [2011–19754] , please click [TEXT] [PDF]. This TEGL is available under the ETA Advisories here.

- **August 4, 2011.Revised H-2A Special Procedures for Sheepherders and Goatherders.**

  The Department has published in the Federal Register a notice announcing the revision of special procedures for employers engaged in sheepherding and goatherding occupations. The special procedures have been revised through theTraining and Employment Guidance Letter (TEGL) No. 32-10: *Special Procedures: Labor Certification Process for Employers Engaged in Sheepherding and Goatherding Occupations under the H-2A Program* and is effective for applications with a date of need beginning October 1, 2011.

  To reach the Federal Register notice regarding Training and Employment Guidance Letter No. 32–10; Special Procedures: Labor Certification Process for Employers Engaged in Sheepherding and Goatherding Occupations under the H–2A Program, 47256–47262 [2011–19755], please click [TEXT] [PDF]. This TEGL is available under ETA Advisories here.

- **August 1, 2011. H-2B Program: Wage Methodology Final Rule.**

  The Department has published in the Federal Register a Final Rule to amend the effective date of the Wage Methodology for Temporary Non-agricultural Employment in the H-2B Program. The Final Rule makes the change in the methodology effective for all work performed on or after September 30, 2011. To read or download the Final Rule please click here.

- **July 26, 2011. The Department has posted a new Frequently Asked Question (FAQ) to assist employers and others regarding the H-2B program.**

  The FAQ is available here and on the FAQs page of the OFLC website under the H-2B Heading (under the subheading of Job Contractors).

- **July 22, 2011. OFLC is pleased to present the first in a series of Permanent Labor Certification Program-Selected Statistics.**

  This Fact Sheet presents statistics regarding Permanent Labor Certification program applications submitted during the first six months of FY 2011. This Fact Sheet is now available on the iCERT Portal under the "PERM Processing Times" tab and will be routinely updated in the future.

AILA InfoNet Doc. No. 12010361. (Posted 01/03/12)

- **July 22, 2011. H-2A FAQ.**

  The Department has posted a new Frequently Asked Question (FAQ) to assist employers and others regarding the H-2A program. The FAQ is available here on the FAQs page of the OFLC website under the H-2A heading.

- **July 19, 2011. New Standard Occupational Classification (SOC) 2010**

  In January 2010 the BLS Standard Occupational Classification (SOC) was updated. This year the BLS Occupational Employment Statistics (OES) began issuing prevailing wages using the new SOC occupations and a few transitional occupations. The OFLC iCERT system and FLC Data Center incorporated this data as of July 5, 2011. To read the full text, please click here.

- **May 5, 2011.**

  The OFLC PERM, H-2A, H-2B, Prevailing Wage, and H-1B program disclosure data files for Quarter 2 of FY 2011 are now available in Microsoft Access. Click here to access the disclosure files and corresponding record layouts. Historical OFLC program disclosure files for prior fiscal years are available on our Foreign Labor Certification Data Center website at www.flcdatacenter.com.

- **April 14, 2011. Procedure for Department of Labor Notification of Worker Abandonment or Termination for Cause for H-2A Temporary Labor Certifications.**

  The Department has published in the Federal Register a notice outlining procedures for notifying the Department that an H-2A worker certified on an Application for Temporary Employment Certification or a worker in corresponding employment has voluntarily abandoned employment, or was terminated for cause. Read the text of the notice here.

- **April 14, 2011. Application of the Prevailing Wage Methodology in the H-2B Program; Amendment of Appendix B.1**

  The Department has published in the Federal Register a notice announcing an amendment to the Appendix B.1 of the ETA Form 9142, Application for Temporary Employment Certification. The amendment reflects an employer's obligation to pay a prevailing wage determined under the new prevailing wage methodology promulgated by the Wage Methodology for the Temporary Non-agricultural Employment H-2B Program Final Rule, which published in the Federal Register on January 19, 2011, and applies to wages paid for work performed on or after January 1, 2012. As of the date of this notice, all employers utilizing the H-2B program must submit the new Appendix B.1 with their applications. Read the text of the notice here.

- **April 5, 2011. H-2B FAQs: Job Contractors Filing Requirements.**

  The Department has posted new "Frequently Asked Questions" (FAQs) to assist job contractor employers and their clients with applying for H-2B labor certifications following the U.S. District Court for the Eastern District of Pennsylvania decision in *CATA v. Solis*, et al., Civil No. 2:09-cv-240-LP, 2010 WL 3431761 (2010). The new H-2B FAQs are available here on the FAQs page of the OFLC website under the H-2B heading. The FAQs are dated and posted under the Job Contractors subheading.

AILA InfoNet Doc. No. 12010361. (Posted 01/03/12)

- **April 5, 2011. Frequently Asked Question on Requesting an Extension from Atlanta National Processing Center when documentation can not be timely submitted**

  The Department has posted today in the FAQs section of the OFLC website a new FAQ addressing how an employer can request an extension from Atlanta National Processing Center when documentation can not be timely submitted. Requests should be submitted in writing by either e-mail or mail to the Certifying Officer providing a legitimate reason for the request. To read the FAQ, please click here or it can be found under the Requests for Extension section.

- **March 18, 2011. Temporary Non-agricultural Employment of H-2B Aliens in the United States; Notice of Proposed Rulemaking**

  The Department has published today in the Federal Register a Notice of Proposed Rulemaking (NPRM) regarding the Temporary Non-agricultural Employment of H-2B Aliens in the United States (H-2B program). The NPRM proposes to amend the H-2B regulations at 20 CFR Part 655, Subpart A which govern the process by which employers apply for a temporary labor certification from the Department of Labor (Department) to be able to hire foreign workers in H-2B status. The Department is accepting comments on the proposed rulemaking until May 17, 2011. To read the full text of the NPRM and learn how to submit comments, please click here. To read a fact sheet from the Department regarding the NPRM, please click here.

- **March 15, 2011, Prevailing Wage FAQs:** The Department has posted new Frequently Asked Questions (FAQs) to assist employers and others regarding prevailing wage requests and determinations. The FAQs are available here on the FAQs page of the OFLC website under the Prevailing Wage heading. The FAQs are organized by subject subheadings and each FAQ includes the relevant posting date.

- **February 28, 2011. H-2A 2011 Adverse Effect Wage Rates (AEWRs)**
  The Department has placed on the table today a notice which will be published in the Federal Register on March 1, 2011 that announces the 2011 Adverse Effect Wage Rates, Allowable Charges for Agricultural Workers' Meals, and Maximum Travel Subsistence Reimbursement for use in the H-2A program. This notice provides (1) the 2011 AEWRs for employers seeking H-2A workers; (2) the allowable maximum amount for 2011 that employers may charge their H-2A workers for providing them with three meals a day; and (3) the maximum travel subsistence reimbursement which a worker with receipts may claim in 2011. To see the Notice, click here.

- **February 17, 2011. H-1B, H-1B1, E-3 Round 1 FAQs:** The Department has posted new Frequently Asked Questions (FAQs) for the H-1B, H-1B1 and E-3 Programs. To view or download a PDF copy of the FAQs, please click here. The new FAQs are also separately available here on the FAQs page of the OFLC website under the Temporary Programs heading.

- **February 14, 2011. OFLC Case Disclosure Data**. In an effort to push more and better data out to the public, the OFLC is now making available quarterly disclosure files covering employer applications processed under the PERM, H-1B, H-2A, and H-2B visa programs. Additionally, the OFLC is publishing a new set of case level data covering employer requests for prevailing wage determinations processed by the OFLC National Prevailing Wage Center, which opened in January 2010 in Washington, DC. Historical data files cumulated on a Federal Fiscal Year reporting cycle will continue to be available in easily accessible formats for the

AILA InfoNet Doc. No. 12010361. (Posted 01/03/12)

purpose of performing more in-depth longitudinal research and analysis. Click here to access the latest OFLC public disclosure data.

- **February 11, 2011:** Professional Recruitment Occupations. Appendix A to the Preamble Professional Recruitment Occupations has been posted to the Forms & Instructions section of the Permanent Labor Certification portion of the website. Click here to see this Appendix.

- **February 7, 2011: Email Address to Submit Comments**. On January 19, 2011, The Department published a Final Rule with a request for comments on specific issues (76 FR 3452), which are identified in the Final Rule. The Department has established an email address for the convenience of those who wish to submit comments through this mechanism. Comments may be submitted to the email address at H-2BWageFinalRule@dol.gov. Comments may also be submitted as indicated in the Final Rule to William L. Carlson, Ph.D., Administrator, Office of Foreign Labor Certification, ETA, U.S. Department of Labor, 200 Constitution Avenue, NW., Room C-4312, Washington, DC 20210. All comments must be submitted by March 21, 2011. To see a copy of the Final Rule, please click here.

- **January 19, 2011. H-2B Program: Wage Methodology Final Rule**. The Department has published in the Federal Register a Final Rule on the Wage Methodology for Temporary Non-agricultural Employment in the H-2B Program. The Final Rule revises the methodology by which the Department calculates the prevailing wages to be paid to H-2B workers and U.S. workers recruited in connection with a temporary labor certification. The Final Rule is effective for wages paid for all work performed on or after January 1, 2012. To read or download the Final Rule please click here.

- **January 18, 2011. H-2B Program: Wage Methodology Final Rule**. The Department has placed on the table to be published in the Federal Register a Final Rule on the Wage Methodology for Temporary Non-agricultural Employment in the H-2B Program. The Final Rule revises the methodology by which the Department calculates the prevailing wages to be paid to H-2B workers and U.S. workers recruited in connection with a temporary labor certification. The Final Rule is effective for wages paid for all work performed on or after January 1, 2012.

Calendar Year 2010

- **December 21, 2010**
  The Department has posted new PERM Frequently Asked Questions addressing "business days" requirements. To view the Updated PERM FAQs, please click here.

- **December 1, 2010**
  The FY 2010 disclosure files are now available in Microsoft Access for the PERM, H-2A, H-2B, and H-1B programs. Click here to access the disclosure files and corresponding file structures. OFLC program disclosure files for prior fiscal years are available on our Foreign Labor Certification Data Center website at www.flcdatacenter.com.

- **November 9, 2010:** The Permanent Labor Certification Debarment List has been updated. To view this list, click here.

- **October 29, 2010. DOL is Extending the Comment Period for the H-2B Rulemaking:** The Department will publish in the Federal Register a notice extending the comment period on a

AILA InfoNet Doc. No. 12010361. (Posted 01/03/12)

recently published proposed rule - Wage Methodology for the Temporary Non-agricultural Employment in the H-2B Program, 75 FR 61578 (October 5, 2010). In an order dated October 27, 2010, the U.S. District Court for the Eastern District of Pennsylvania in Comité de Apoyo a los Trabajadores Agricolas (CATA) v. Solis, et al., Civil No. 2:09-cv-240-LP, 2010 WL 3431761 (E.D. Pa.) extended the deadline by which the Department must promulgate the final rule until January 18, 2011. In order to provide the public with additional time to comment on the NPRM and to ensure that the Department has adequate time to review and address the comments, the Department has extended the public comment period through November 12, 2010. To read the text of the proposed rule and to learn how to submit comments, please click here.

- **October 27, 2010.** The Department has released *The Foreign Labor Certification Report: 2009 Data, Trends and Highlights Across Programs and States* (2009 Annual Report). The 2009 Annual Report presents employment-based immigration program data drawn from applications submitted to the Department by employers across the country. To read or download a copy of the 2009 Annual Report, please click here.

- **October 13, 2010. H-2B Regulation Mailbox Temporarily Suspended:** The Office of Foreign Labor Certification has temporarily suspended its H-2B.Regulation@dol.gov mailbox. The H-2B Regulation mailbox was temporarily suspended to avoid inadvertent and/or incorrect submission of comments on the recently published Notice of Proposed Rulemaking (NPRM) on the Wage Methodology for the Temporary Non-agricultural Employment in the H-2B Program. The NPRM includes instructions on how to appropriately submit public comments on the proposed rulemaking. To read the text of the NPRM and learn how to submit comments, please click here.

- **October 12, 2010. PERM ROUND 12 FAQs:** The Department has posted new Frequently Asked Questions (FAQs) addressing employer point of contact requirements. To view or download a PDF copy of the PERM Round 12 FAQs, please click here. The new FAQs are also separately available here on the FAQs page of the OFLC website under the PERM Program heading and the Filing - How to File subheading.

- **October 5, 2010. H-2B Prevailing Wage NPRM:** The Department has published in the *Federal Register* a Notice of Proposed Rulemaking (NPRM) on the Wage Methodology for the Temporary Non-agricultural Employment in the H-2B Program. The NPRM proposes to revise the methodology by which the Department calculates the prevailing wages to be paid to H-2B workers and U.S. workers recruited in connection with a temporary labor certification. The Department is accepting comments on the proposed rulemaking until Thursday, November 4, 2010. To read the text of the NPRM and learn how to submit comments, please click here.

  Read the news release here.

- **October 1, 2010. H-2A FAQs: Clarification of the Fifty Percent Rule.** The Department has posted Frequently Asked Questions (FAQs) interpreting the 2010 Final Rule requirement under 20 CFR § 655.135(d), that the employer hire any able, willing, qualified and available U.S. worker who applies for the employer's job opportunity before the end of the first 50 percent of the contract period, i.e. the 50 percent rule. To view or download a PDF copy of the FAQs, please click here. The new FAQs are also separately available here on the FAQs page of the OFLC website under the H-2A Temporary Labor Certification Program (Agricultural) heading, and the Job Offers, Assurances and Obligations subheading.

AILA InfoNet Doc. No. 12010361. (Posted 01/03/12)

- **September 30, 2010**. **Prevailing Wage: Validity Period for H-2B prevailing wage determinations**. On August 30, 2010, the U.S. District Court for the Eastern District of Pennsylvania in *Comitè de Apoyo a los Trabajadores Agricolas (CATA) v. Solis, et al.*, Civil No. 2:09-cv-240-LP, 2010 WL 3431761 (E.D. Pa.) invalidated the Department's use of skill levels in establishing prevailing wages and the Department's reliance upon Occupational Employment Statistics (OES) data in lieu of Davis Bacon Act and Service Contract Act rates. The court order requires the Department to complete a new rulemaking regarding the calculation of prevailing wage rates in the H-2B program within 120 days.

- The Department has been issuing prevailing wage determinations with a validity period ending on June 30, 2011, since the OES data is updated annually each June. Given that the Department has been ordered to promulgate a new regulation in approximately 3 months, which may result in changes to the calculation of the prevailing wage rates, the Department, beginning on **September 30, 2010,** will issue H-2B prevailing wage determinations with validity periods of three months, in accordance with § 655.10(d). This change does not affect the validity periods of existing prevailing wage determinations. It also does not affect any new requests for prevailing wage determinations that will be used in connection with PERM, H-1B, H-1B1 or E-3 applications.

- **September 17, 2010.** The National Prevailing Wage and Helpdesk Center (NPWHC) has changed its name to the National Prevailing Wage Center (NPWC). Contact information for the NPWC will remain the same except for the name change, as provided below:

  U.S. Department of Labor-ETA
  National Prevailing Wage Center
  1341 G Street, NW
  Suite 201
  Washington, DC 20005-3105

  Please continue to direct questions related to prevailing wage determinations or the prevailing wage determination process to FLC.PWD@dol.gov.

  Important Note: The Chicago National Processing Center (temporary foreign labor certification programs) and the Atlanta National Processing Center (permanent foreign labor certification program) will continue to provide assistance with program-related inquiries.

- **September 15, 2010. H-2A FAQs Round 2:** The Department has posted the second round of Frequently Asked Questions (FAQs) interpreting the 2010 Final Rule which became effective on March 15, 2010. The FAQs address questions posed by the regulated community and cover a range of topics including: pre and post-filing requirements, job offers, assurances and obligations, time frames, recruitment, etc. To view or download a PDF copy of the Round 2 H-2A FAQs, please click here. The new FAQs are also separately available here on the FAQs page of the OFLC website under the H-2A Temporary Labor Certification Program (Agricultural) heading and relevant subject subheadings.

- **August 3, 2010. PERM ROUND 11 FAQs:** The Department has posted new Frequently Asked Questions (FAQs) addressing filing and documentation requirements in response to questions received from the regulated community. To view or download a PDF copy of the PERM Round 11 FAQs, please click here. The new FAQs are also separately available here on the FAQs page of the OFLC website under the PERM Program heading and relevant subject

AILA InfoNet Doc. No. 12010361. (Posted 01/03/12)

subheadings.

- **July 1, 2010:** In accordance with the H-2A 2010 Final Rule (in effect as of March 15, 2010), the Department has published in the Federal Register a Notice announcing the release of a new web-based tool, the H-2A Public Job Registry. The H-2A Public Job Registry will be fully integrated into the Office of Foreign Labor Certification's iCERT Visa Portal System (http://icert.doleta.gov), and will provide the public with access to both active and archived H-2A agricultural job orders submitted under the 2010 Final Rule. The H-2A Public Job Registry is part of the Department's Employment and Training Administration's Open Government Initiative and will be accessible to the public on July 8, 2010. To learn more about the H-2A Public Job Registry, please click here. To read the Federal Register Notice, please click here.

- **May 17, 2010, LCA Policy Mailbox Now Available:**
  The Department's Office of Foreign Labor Certification has established a mailbox for questions regarding LCA policies. Those seeking policy guidance should submit a question to LCA.Regulation@dol.gov. Questions will be answered in the form of FAQs. The interested public should continue to direct all general inquiries regarding the H-1B program to the Chicago National Processing Center at LCA.Chicago@dol.gov. For iCERT technical issues, questions should continue to be submitted to OFLC.Portal@dol.gov

- **March 29, 2010, H-2A 2010 Final Rule FAQs:** The Department has posted the first round of Frequently Asked Questions (FAQs) addressing the H-2A program under the new regulations, which took effect March 15, 2010. To see the FAQs click here.

- **March 24 Prevailing Wage FAQs:** OFLC has issued updated prevailing wage FAQs to assist employers and others. These FAQs replace those issued in December 2009 by updating certain information. To see the FAQs click here.

- **March 19, 2010 H-2A Webinar Briefing:** The Department will publish in the Federal Register on March 23, 2010, a Notice announcing a webinar briefing to educate stakeholders and other interested members of the public on the application process for H-2A temporary labor certifications using the ETA Form 9142, under the 2010 Final Rule, in effect as of March 15, 2010. The webinar briefing is scheduled for March 25, 2010, from 10:00 AM until 11:30 AM Eastern Daylight time. To read the full text of the Notice, please click here

- **March 12, 2010:** The Department published in the Federal Register a Notice announcing a technical change to the filing location address for the prevailing wage determination requests in the H-1B, H-1B1 (Chile/Singapore), H-1C, H-2B, E-3 (Australia), and Permanent Labor Certification Programs, as well as the prevailing wage determination requests for the use in the Commonwealth of the Northern Mariana Islands. To read the full text of the Notice, please click here.

- **March 2, 2010: H-2A Briefing Materials**
  The Office of Foreign Labor Certification and the Wage and Hour Division have conducted 3 public briefings to advise stakeholders of the contents of the new H-2A Final Rule, which will be effective March 15, 2010. For the materials used in the briefings, click here.

- **February 22, 2010:** Public disclosure data files for FY 2009 are now available on the Department's Foreign Labor Certification Data Center website. To access the data files, visit the FLC Data Center website at www.flcdatacenter.com

AILA InfoNet Doc. No. 12010361. (Posted 01/03/12)

- **February 12, 2010:**
  Temporary Agricultural Employment of H-2A Aliens in the United States. The Department has published in the Federal Register a Final Rule amending the regulations governing the labor certification process for the temporary agricultural employment of H-2A aliens in the United States, codified at 20 CFR part 655, and enforcement of employer obligations under the H-2A program, codified at 29 CFR Part 501. The new regulations will go into effect on March 15, 2010. Beginning on that date, all program users will be required to file their applications under the new regulations and to comply with all applicable program requirements. To read the full text of the Final Rule, please click each of the following links.
  - H2A Final Part 1
  - H2A Final Part 2
  - H2A Final Part 3

  To read a Fact Sheet on the Final Rule, please click here.

Note: Archived H-2A Program News is available at here.

Created: December 02, 2009 Updated: December 30, 2011

Employment and Training Administration
U.S. Department of Labor | Frances Perkins Building, 200 Constitution Ave., NW, Washington, DC 20210
www.doleta.gov | Telephone: 1-877-US-2JOBS (1-877-872-5627) | TTY: 1-877-889-5627 | Fax: 1-202-693-2726 | Contact Us

AILA InfoNet Doc. No. 12010361. (Posted 01/03/12)