

Below is DOL's press release regarding its issuance of a proposed rulemaking revising the H-2B program. You can find the NPRM on the Office of the Federal Register website today at <http://www.gpo.gov/fdsys/pkg/FR-2011-03-18/pdf/2011-6152.pdf>. As noted in the press release below, this NPRM is open for comments through May 17, 2011.

US Labor Department issues proposed rulemaking revising H-2B program

Proposed rule seeks to enhance access to jobs, benefits and protections for US workers

WASHINGTON – The U.S. Department of Labor's Employment and Training Administration and its Wage and Hour Division today announced the publication of a proposed rule that seeks to improve the H-2B temporary nonagricultural worker program. The proposed rule, to be published in the March 18 edition of the *Federal Register*, includes changes to several aspects of the program to ensure that U.S. workers receive the same level of protections and benefits as temporary foreign workers recruited under the H-2B program, and to provide better access for employers with legitimate labor needs.

The H-2B program allows the entry of foreign workers into the United States on a temporary basis when qualified U.S. workers are not available and when the employment of those foreign workers will not adversely affect the wages and working conditions of similarly employed U.S. workers. The H-2B program is limited by law to a program cap of 66,000 visas per year.

“As our economy continues to recover, it is important for U.S. workers to receive access to all jobs, and that the H-2B program is used as it was intended,” said Secretary of Labor Hilda L. Solis. “At the same time, workers employed through the H-2B program must be treated fairly.”

In order to streamline and improve the program for employers, the proposed rule would create an H-2B registration process that would allow employers to conduct labor market tests closer to their date of need before applying for a certification. It also would eliminate job contractors as users of the program.

The department further proposes to improve U.S. workers' access to jobs and increase worker protections by creating a national job registry for all H-2B job postings; requiring employers to provide documentation that they have taken appropriate steps to recruit U.S. workers, rather than permitting employers to attest to such compliance; enhancing transparency by requiring employers to submit agency agreements and through the use of foreign recruiters; reinstating the role of state workforce agencies in providing expertise on local labor market conditions and recruitment patterns; and increasing the amount of time during which U.S. workers must be recruited.

Additionally, the department proposes to extend H-2B program benefits to workers employed alongside those recruited under the H-2B program; require employers to pay transportation costs and other fees; and enhance enforcement by giving the department's Wage and Hour Division independent debarment authority.

To view a copy of the forthcoming *Federal Register* notice, visit <http://s.dol.gov/DK>. Members of the public are invited to submit comments on this proposed rule via the federal e-rulemaking portal at <http://www.regulations.gov>. The deadline for comments is May 17, 2011.

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