§ 655.2 Authority of the agencies, offices, and divisions in the Department of Labor.

(a) Authority and role of the Office of Foreign Labor Certification (OFLC). The Secretary has delegated her authority to make determinations under this subpart, pursuant to 8 CFR 214.2(h)(6)(iv), to the Assistant Secretary for the Employment and Training Administration (ETA), who in turn has delegated that authority to OFLC. Determinations on an Application for Temporary Employment Certification in the H–2B program made by the Administrator, OFLC who, in turn, may delegate this responsibility to designated staff members, e.g., a Certifying Officer (CO).

(b) Authority of the Wage and Hour Division (WHD). Pursuant to its authority under the INA, 8 U.S.C. 1184(c)(14)(B), DHS has delegated to the Secretary certain investigatory and law enforcement functions with respect to terms and conditions of employment in the H–2B program. The Secretary has, in turn, delegated that authority to WHD. The regulations governing WHD investigation and enforcement functions, including those related to the enforcement of temporary labor certifications, issued under this subpart, may be found in 29 CFR part 503.

(c) Concurrent authority. OFLC and WHD have concurrent authority to impose a debarment remedy under § 655.73 or under 29 CFR 503.24.

§ 655.3 Territory of Guam.

Subpart A of this part does not apply to temporary employment in the Territory of Guam, except that an employer seeking certification for a job opportunity on Guam must obtain a prevailing wage from the Department in accordance with § 655.10 of this subpart. The U.S. Department of Labor (Department or DOL) does not certify to the United States Citizenship and Immigration Services (USCIS) of DHS the temporary employment of nonimmigrant foreign workers under H–2B visas, or enforce compliance with the provisions of the H–2B visa program, in the Territory of Guam. Under DHS regulations, administration of the H–2B temporary labor certification program is undertaken by the Governor of Guam, or the Governor’s designated representative.

§ 655.4 Special procedures.

To provide for a limited degree of flexibility in carrying out the Secretary’s responsibilities, the Administrator, OFLC has the authority to establish, continue, revise, or revoke special procedures in the form of variances for processing certain H–2B applications. Employers must request and demonstrate in writing to the Administrator, OFLC that special procedures are necessary. Before making determinations under this section, the Administrator, OFLC may consult with affected employers and worker representatives. Special procedures in place on the effective date of this regulation, including special procedures...