

pending applications for renewal or modification of such registration be, and they hereby are, denied. This order is effective November 1, 2004.

Dated: September 8, 2004.

**Michele M. Leonhart,**

*Deputy Administrator,*

[FR Doc. 04-21964 Filed 9-30-04; 8:45 am]

**BILLING CODE 4410-09-M**

## DEPARTMENT OF LABOR

### Employment and Training Administration

#### **Supplemental Guidance for Labor Certification Process for Temporary Employment of Nonimmigrant Workers in the United States (H-2B Workers); Fiscal Year (FY) 2005**

**AGENCY:** Employment and Training Administration (ETA), Department of Labor (DOL).

**ACTION:** Notice.

**SUMMARY:** On March 10, 2004, the United States Citizenship and Immigration Services (CIS) announced receiving sufficient H-2B petitions to reach the FY 2004 Congressionally mandated cap of 66,000. In light of CIS' announcement, ETA published a **Federal Register** notice on May 13, 2004 to provide guidance to the public regarding ETA's processing of H-2B applications that will count against the FY 2005 cap. ETA is publishing this notice to provide additional guidance due to the number of inquiries and questions that have arisen. This notice is intended to minimize confusion and burden to employers who use the H-2B program.

**DATES:** This notice is effective October 1, 2004.

**FOR FURTHER INFORMATION CONTACT:** William Carlson, Chief, Division of Foreign Labor Certification, U.S. Department of Labor, Room C-4312, 200 Constitution Avenue, NW., Washington, DC 20210. Telephone: 202-693-3010 (this is not a toll-free number).

**SUPPLEMENTARY INFORMATION:** DOL has continued to process alien labor certification applications since March 10, 2004, and many employers are in possession of a valid labor certification that has not been accepted by CIS for processing. CIS has advised that their practice has been to accept the H-2B labor certifications with periods of employment that cross fiscal years so long as some portion of the employment period remains. Employers with a valid H-2B labor certification with a date of need *prior to October 1, 2004*, but that

includes periods of planned employment after October 1, 2004, are encouraged to file H-2B labor certifications with CIS if some portion of the employment period remains.

ETA will continue to process new H-2B applications with dates of need within FY 2005 (that is, starting October 1, 2004 or later). For these new applications, employers must continue to follow existing filing rules, including regarding the timing of filing with the State Workforce Agency (SWA). Thus, employers must file a new H-2B application with the appropriate SWA no earlier than 120 days before the date of need and at least 60 days before the date of need.

The procedures described in this notice relate only to H-2B applications for nonimmigrant workers subject to the numerical limitation (cap) for FY 2005 and who will be engaged in temporary work to commence on or after October 1, 2004.

Signed at Washington, DC, this 28th day of September, 2004.

**Emily Stover DeRocco,**

*Assistant Secretary, Employment and Training Administration.*

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## DEPARTMENT OF LABOR

### Employment Standards Administration Wage and Hour Division

#### **Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions**

General wage determination decisions of the Secretary of Labor are issued in accordance with applicable law and are based on the information obtained by the Department of Labor from its study of local wage conditions and data made available from other sources. They specify the basic hourly wage rates and fringe benefits which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of a similar character and in the localities specified therein.

The determinations in these decisions of prevailing rates and fringe benefits have been made in accordance with 29 CFR part 1, by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR part 1, Appendix, as well as such additional statutes as may from time to time be enacted containing provisions for the

payment of wages determined to be prevailing by the Secretary of Labor in accordance with the Davis-Bacon Act. The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public comment procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in the effective date as prescribed in that section, because the necessity to issue current construction industry wage determinations frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions, and modifications and supersedes decisions thereto, contain no expiration dates and are effective from their date of notice in the **Federal Register**, or on the date written notice is received by the agency, whichever is earlier. These decisions are to be used in accordance with the provisions of 29 CFR parts 1 and 5. Accordingly, the applicable decision, together with any modifications issued, must be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR part 5. The wage rates and fringe benefits, notice of which is published herein, and which are contained in the Government Printing Office (GPO) document entitled "General Wage Determinations Issued Under The Davis-Bacon and Related Acts," shall be the minimum paid by contractors and subcontractors to laborers and mechanics.

Any person, organization, or governmental agency having an interest in the rates determined as prevailing is encouraged to submit wage rate and fringe benefit information for consideration by the Department.

Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Division of Wage Determinations, 200 Constitution Avenue, NW., Room S-3014, Washington, DC 20210.