

program’’), and to carry out other statutory responsibilities required by 8 U.S.C. 1188. The regulations governing WHD’s investigatory and enforcement functions, including those related to the enforcement of temporary agricultural labor certifications issued under this subpart, are in 29 CFR part 501.

(c) *Concurrent authority.* OFLC and WHD have concurrent authority to impose a debarment remedy pursuant to § 655.182 and 29 CFR 501.20.

§ 655.102 Transition procedures.

(a) The National Processing Center (NPC) shall continue to process an *Application for Temporary Employment Certification* submitted prior to November 14, 2022, in accordance with 20 CFR part 655, subpart B, in effect as of November 13, 2022.

(b) The NPC shall process an *Application for Temporary Employment Certification* submitted on or after November 14, 2022, and that has a first date of need no later than February 12, 2023, in accordance with 20 CFR part 655, subpart B, in effect as of November 13, 2022.

(c) The NPC shall process an *Application for Temporary Employment Certification* submitted on or after November 14, 2022, and that has a first date of need later than February 12, 2023, in accordance with all job order and application filing requirements under this subpart.

§ 655.103 Overview of this subpart and definition of terms.

(a) *Overview.* In order to bring non-immigrant workers to the United States to perform agricultural work, an employer must first demonstrate to the Secretary that there are not sufficient U.S. workers able, willing, and qualified to perform the work in the area of intended employment at the time needed and that the employment of foreign workers will not adversely affect the wages and working conditions of workers in the United States similarly employed. This subpart describes a process by which the DOL makes such a determination and certifies its determination to the DHS.

(b) *Definitions.* For the purposes of this subpart:

Act. The Immigration and Nationality Act, as amended (INA), 8 U.S.C. 1101 *et seq.*

Administrative Law Judge (ALJ). A person within the Department’s Office of Administrative Law Judges appointed pursuant to 5 U.S.C. 3105.

Administrator. See definitions of OFLC Administrator and WHD Administrator in this paragraph (b).

Adverse effect wage rate (AEWR). The wage rate published by the OFLC Administrator in the FEDERAL REGISTER for non-range occupations as set forth in § 655.120(b) and range occupations as set forth in § 655.211(c).

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Agent. A legal entity or person, such as an association of agricultural employers, or an attorney for an association, that:

(i) Is authorized to act on behalf of the employer for temporary agricultural labor certification purposes;

(ii) Is not itself an employer, or a joint employer, as defined in this subpart with respect to a specific application; and

(iii) Is not under suspension, debarment, expulsion, or disbarment from practice before any court, the Department, or the Executive Office for Immigration Review or DHS under 8 CFR 292.3 or 1003.101.

Agricultural association. Any non-profit or cooperative association of farmers, growers, or ranchers (including, but not limited to, processing establishments, canneries, gins, packing sheds, nurseries, or other similar fixed-site agricultural employers), incorporated or qualified under applicable State law, that recruits, solicits, hires, employs, furnishes, houses, or transports any worker that is subject to 8 U.S.C. 1188. An agricultural association may act as the agent of an employer, or may act as the sole or joint employer of any worker subject to 8 U.S.C. 1188.

Applicant. A U.S. worker who is applying for a job opportunity for which an employer has filed an *Application for*