

section 214(c), 20 CFR part 655, subpart A, or the regulations in this part, either under a complaint or otherwise, as may be appropriate. In connection with such an investigation, WHD may enter and inspect any premises, land, property, worksite, vehicles, structure, facility, place and records (and make transcriptions, photographs, scans, videos, photocopies, or use any other means to record the content of the records or preserve images of places or objects), question any person, or gather any information, in whatever form, as may be appropriate.

(c) *Confidential investigation.* The WHD will conduct investigations in a manner that protects the confidentiality of any complainant or other person who provides information to the Secretary in good faith.

(d) *Report of violations.* Any person may report a violation of the obligations imposed by 8 U.S.C. 1184(c), INA section 214(c), 20 CFR part 655, subpart A, or the regulations in this part to the Secretary by advising any local office of the SWA, ETA, WHD or any other authorized representative of the Secretary. The office or person receiving such a report will refer it to the appropriate office of WHD for the geographic area in which the reported violation is alleged to have occurred.

#### **§ 503.8 Accuracy of information, statements, data.**

Information, statements, and data submitted in compliance with 8 U.S.C. 1184(c), INA section 214(c), or the regulations in this part are subject to 18 U.S.C. 1001, which provides, with regard to statements or entries generally, that whoever, in any matter within the jurisdiction of any department or agency of the U.S., knowingly and willfully falsifies, conceals, or covers up a material fact by any trick, scheme, or device, or makes any false, fictitious, or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious, or fraudulent statement or entry, will be fined not more than \$250,000 or imprisoned not more than 5 years, or both.

## **Subpart B—Enforcement**

### **§ 503.15 Enforcement.**

The investigation, inspection, and law enforcement functions that carry out the provisions of 8 U.S.C. 1184(c), INA section 214(c), 20 CFR part 655, subpart A, or the regulations in this part pertain to the employment of any H-2B worker, any worker in corresponding employment, or any U.S. worker improperly rejected for employment or improperly laid off or displaced.

### **§ 503.16 Assurances and obligations of H-2B employers.**

An employer employing H-2B workers and/or workers in corresponding employment under an *Application for Temporary Employment Certification* has agreed as part of the *Application for Temporary Employment Certification* that it will abide by the following conditions with respect to its H-2B workers and any workers in corresponding employment:

(a) *Rate of pay.* (1) The offered wage in the job order equals or exceeds the highest of the prevailing wage or Federal minimum wage, State minimum wage, or local minimum wage. The employer must pay at least the offered wage, free and clear, during the entire period of the *Application for Temporary Employment Certification* granted by OFLC.

(2) The offered wage is not based on commissions, bonuses, or other incentives, including paying on a piece-rate basis, unless the employer guarantees a wage earned every workweek that equals or exceeds the offered wage.

(3) If the employer requires one or more minimum productivity standards of workers as a condition of job retention, the standards must be specified in the job order and the employer must demonstrate that they are normal and usual for non-H-2B employers for the same occupation in the area of intended employment.

(4) An employer that pays on a piece-rate basis must demonstrate that the piece rate is no less than the normal rate paid by non-H-2B employers to workers performing the same activity in the area of intended employment. The average hourly piece rate earnings must result in an amount at least