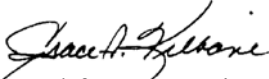


<b>U. S. Department of Labor</b> Employment and Training Administration Washington, D.C. 20210	<b>CLASSIFICATION</b> OWS
	<b>CORRESPONDENCE SYMBOL</b>
	<b>DATE</b> September 20, 2001

DIRECTIVE: EMPLOYMENT SERVICE POLICY LETTER 01-01, Change 2

TO: ALL STATE EMPLOYMENT SECURITY AGENCIES

FROM: GRACE A. KILBANE   
Administrator, Office of Workforce Security

SUBJECT: Policy Clarification for Processing H-2B Temporary  
Certifications for Occupations in the Landscaping  
Industry 2001 - 2002.

1. Purpose. To change the OES Code provided in ESPL 01-01, Change 1 (see 4. “Action Required”, Item b). Since the 2000 - 2001 policy clarification provided to the State Employment Service Agencies was effective, it is being extended through the 2001-2002 season. This policy clarification applies to the processing of H-2B temporary applications for limited jobs in the landscaping industry which include only those activities addressed in this guidance.

2. References. General Administration Letter No. 1-95, Procedures for H-2B Temporary Labor Certification in Non-Agricultural Occupations; Field Memorandum 25-98: H-2B Temporary Non-Agricultural Labor Certification Program requirements; General Administration Letter 2-98: Prevailing Wage Policy for Non-Agricultural Immigration Programs.

3. Background. It has been brought to our attention that there are system wide inconsistencies in the processing of H-2B applications for limited jobs in the landscaping industry particularly with respect to two issues; a) the interpretation of DOT descriptions for landscaping, and b) the assignment of a wage rate to the landscaping job. Many applications for landscaping jobs list various activities and combination of activities that make it difficult to achieve a match with a specific DOT code. This problem has led to inconsistent classification of landscaping jobs and consequently, inconsistent assignment of wage rates, specifically Service Contract Act (SCA) wage rates.

<b>RESCISSIONS</b> ESPL No. 01-01, Change 1	<b>EXPIRATION DATE</b> <b>September 30, 2002</b>
--	---

4. Action Required. SESA Administrators are requested to provide the following clarification and guidance to appropriate staff:

a) Any application received for landscaping jobs which includes the following activities and only the following activities: “mow, cut, water, and edge lawns; rake and blow leaves; dig holes for bushes; pull and chop weeds, prune, and haul topsoil and mulch,” should be coded as a Laborer, Landscape - DOT Code 408.687-014.

b) Any landscaping job with the above description should be given the Occupational Employment Statistics (OES) wage rate for OES/SOC Code 37-3011 (Landscaping and Groundskeeping Worker)

c) This directive will not apply to H-2B applications where the state agency has already provided a wage rate to the employer and recruitment has begun. Employers are free to withdraw and refile to obtain a new wage determination.

d) This directive does not affect the processing of any applications involving jobs containing duties other than those described above. If there are any questions or concerns regarding how to process a particular application, contact your Regional Certifying Officer.

This guidance is intended for use only in processing applications for the 2001 - 2002 landscaping season. The National Office is reviewing this matter and additional guidance will be provided well before the next landscaping season.

This guidance should be provided to staff immediately so that processing can be completed on applications pending for jobs in the landscaping industry.

6. Questions: Inquiries should be directed to Charlene Giles at (202) 693-3010 (x2950).