EMPLOYMENT AND TRAINING ADMINISTRATION H-2A Program ADVISORY SYSTEM CORRESPONDENCE U.S. DEPARTMENT OF LABOR Washington, D. C. 20210

CLASSIFICATION

H-2A Program

CORRESPONDENCE SYMBOL

OFLC

ISSUE DATE

February 12, 2007

ADVISORY: FOREIGN LABOR CERTIFICATION

TRAINING AND EMPLOYMENT GUIDANCE LETTER NO. 16-06

TO: OFLC-NATIONAL PROCESSING CENTER DIRECTORS

STATE WORKFORCE AGENCY ADMINISTRATORS

FROM: EMILY STOVER DeROCCO /s/

Assistant Secretary for Employment and Training

SUBJECT: Special Procedures for Processing H-2A Applications for

Multi-State Custom Combine Owners/Operators

- 1. <u>Purpose</u>. To update guidance to reflect the processing of H-2A applications through ETA's National Processing Centers and outline special procedures as part of the labor certification process for multi-state custom combine owners/operators, including Canadian, who desire to employ temporary foreign workers as members of their respective custom combine crews in the United States.
- 2. <u>References</u>. 20 C.F.R. Part 655, Subpart B; 20 C.F.R. Part 653, Subparts B and F; 20 C.F.R. Part 654, Subpart E; and Field Memorandum (FM) 5-04, Special Procedures: Labor Certification for Processing Applications for Multi-State Custom Combine Owner/Operators (January 28, 2004).
- 3. <u>Background</u>. The custom combine grain harvesting activity has been designated by the U.S. Department of Labor as a major crop activity because of its importance to the national economy. 20 C.F.R. 655.93(c) provides the Department with the authority to continue and, where appropriate, revise special procedures in effect for the handling of applications for custom combine crews. Historically, H-2A applications for custom combine owners/operators were processed through the Employment and Training Administration's (ETA) Regional Offices.

RESCISSIONS	EXPIRATION DATE
FM 5-04	Continuing

However, in December 2004, the Department opened two new National Processing Centers (NPCs), one each located in Atlanta and Chicago. The NPCs have been designated to process applications for DOL certification to employ foreign workers for temporary positions under the H-2A agricultural worker visa program. The Department published a notice in the <u>Federal Register</u> (Vol. 70, No. 137, pages 41430-41438) on July 19, 2005, clarifying that, effective August 1, 2005, employers must file original copies of their H-2A applications directly with the NPCs, coinciding with the area of intended employment, and simultaneously file a copy with the appropriate State Workforce Agency (SWA).

The special procedures outlined in this memorandum for multi-state custom combine owners/operators work in conjunction with this centralized filing process, ensure greater consistency in the processing of these H-2A applications through the NPCs, and rescind and replace previous guidance disseminated under FM 5-04, http://ows.doleta.gov/dmstree/fm/fm2k4/fm_05-04.htm.

- 4. **Special Procedures.** Attachment A outlines special procedures for applications submitted by multi-state custom combine owners/operators under the H-2A program. Unless otherwise specified in Attachment A, employer applications submitted by multi-state custom combine owners/operators must comply with the requirements for H-2A applications contained at 20 C.F.R. Part 655, Subpart B.
- 5. <u>Action Required.</u> NPC Directors and SWA Administrators are directed to provide all staff involved in the processing of H-2A applications for the multi-state custom combine owners/operators with a copy of these special procedures.
- 6. <u>Inquiries</u>. Questions from SWA staff should be directed to the appropriate NPC. Questions from NPC staff should be directed to the National Office of Foreign Labor Certification.

7. Attachments.

Attachment A Special Procedures for Multi-State Custom Combine Owners/Operators under the H-2A Program