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AWI Communiqué

DATE: March 17, 2010

TO: Workforce Florida, Inc. and Regional Workforce Boards (RWBs)

FROM: Lois A. Scott, Program Manager, One-Stop and Program Support

SUBJECT: Elimination of the Requirement that State Workforce Agencies Verify Employment Eligibility for H-2A Job Orders

PURPOSE:

To notify the Regional Workforce Boards (RWBs) of the elimination of the requirement to conduct an employment eligibility verification on referrals to H2-A job orders.

REFERENCES:

20 CFR Part 655
Wage and Hour Division 29 CFR Part 501
Temporary Agricultural Employment of H-2A Aliens in the United States, Final Rule published February 12, 2010 in the Federal Register

BACKGROUND:

The Department of Labor (DOL) has modified its regulations that govern the certification of temporary employment of nonimmigrant workers in temporary or seasonal agricultural employment and the enforcement of the contractual obligations applicable to employers of such nonimmigrant workers.

AUTHORITY:

United States Department of Labor

ACTION REQUIRED:

Effective March 15, 2010, RWBs are no longer required to verify the employment eligibility of a worker referred to an employer on an H-2A job order filed and accepted under the February 12, 2010 federal rule. Staff will need to continue to conduct employment eligibility verification for any worker referred to an H-2A clearance order filed and accepted under the previous 2008 H2-A rule until those clearance orders expire. This means some H-2A job orders on file after March 15, 2010 will still require staff to complete the employment eligibility/I-9s on referred job seekers. The Agency for Workforce Innovation will identify job orders that do not require the I-9 verification by noting this in the job order's job description field. The new rule does not change the requirement to conduct employment eligibility verification for workers referred to H2-B non-agricultural job orders. Staff are still required to conduct the employment eligibility verification in those cases.

Please distribute this guidance to the appropriate staff at the local levels.

LINKS:

Federal Register Notice – [New H-2A Program Regulation](#)

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