

§ 501.6

§ 501.6 Prohibition on interference with Department of Labor officials.

No person shall interfere with any official of the Department of Labor assigned to perform an investigation, inspection or law enforcement function pursuant to the INA and these regulations during the performance of such duties. Wage and Hour will seek such action as it deems appropriate, including an injunction to bar any such interference with an investigation and/or assess a civil money penalty therefor. In addition Wage and Hour may refer a report of the matter to ETA with a recommendation that the person's labor certification be denied in the future. (Federal statutes which prohibit persons from interfering with a Federal officer in the course of official duties are found at 18 U.S.C. 111 and 18 U.S.C. 1114.)

§ 501.7 Accuracy of information, statements, data.

Information, statements and data submitted in compliance with provisions of the Act or these regulations are subject to title 18, section 1001, of the U.S. Code, which provides:

Section 1001. Statements or entries generally.

Whoever, in any matter within the jurisdiction of any department or agency of the United States knowingly and willfully falsifies, conceals or covers up by any trick, scheme, or device a material fact, 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, shall be fined not more than \$10,000 or imprisoned not more than five years, or both.

§ 501.10 Definitions.

The definitions in paragraphs (a) through (d) are set forth for purposes of this part. In addition, the definitions in paragraphs (e) through (v) are promulgated at 20 CFR 655.100(b), are utilized herein, and are incorporated and set forth for information purposes.

(a) *Act* and *INA* mean the Immigration and Nationality Act, as amended (8 U.S.C. 1101 *et seq.*), with reference particularly to section 216.

(b) *Administrative Law Judge (ALJ)* means a person within the Department of Labor Office of Administrative Law

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Judges appointed pursuant to 5 U.S.C. 3105.

(c) *Administrator* means the Administrator of the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, and such authorized representatives as may be designated to perform any of the functions of the Administrator under this part.

(d) *Work contract* means all the material terms and conditions of employment relating to wages, hours, working conditions, and other benefits, including those terms and conditions required by the applicable regulations in subpart B of 20 CFR part 655, *Labor Certification Process for Temporary Agricultural Employment in the United States*, and those contained in the Application for Alien Employment Certification and job offer under that subpart, which contract between the employer and the worker may be in the form of a separate written document. In the absence of a separate written work contract incorporating the required terms and conditions of employment, entered into between the employer and the worker, the work contract at a minimum shall be the terms of the job order included in the application for temporary labor certification, and shall be enforced in accordance with these regulations.

(e) *Adverse effect wage rate (AEWR)* means the wage rate which the Director has determined must be offered and paid, as a minimum, to every H-2A worker and every U.S. worker for a particular occupation and/or area in which an employer employs or seeks to employ an H-2A worker so that the wages of similarly employed U.S. workers will not be adversely affected.

(f) *Agricultural labor or services*. Pursuant to section 101(a)(15)(ii)(a) of the INA (8 U.S.C. 1101(a)(15)(H)(ii)(a)), "agricultural labor or services" is defined for the purposes of this subpart as either "agricultural labor" as defined and applied in section 3121(g) of the Internal Revenue Code of 1954 (26 U.S.C. 3121(g)) or "agriculture" as defined and applied in section 3(f) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(f)). An occupation included in either statutory definition shall be "agricultural labor or services", notwithstanding the exclusion of that occupation from the