

**eLABORate**

**DOL ISSUES NEW FEDERAL EMPLOYMENT POSTER FOR H-2A EMPLOYERS**

The Department of Labor's Employment and Training Administration and Wage and Hour Division published a final rule implementing changes to the H-2A program effective March 15, 2010. One of the requirements in the rule is for employers who employ H-2A workers to display a new H-2A poster. The poster can be accessed at [http://www.dol.gov/whd/posters/pdf/WHD1491Eng\\_H2A.pdf](http://www.dol.gov/whd/posters/pdf/WHD1491Eng_H2A.pdf). The poster must be displayed where employees can readily see it.

Employers certified under the H-2A program must keep records of the hours each worker actually works. The employer must also retain a record of time "offered" to the worker but which the worker "refused" to work. Each worker must be provided a wage statement showing hours of work, hours refused, pay for each type of crop, the basis of pay, whether the worker is being paid by the hour, per piece, by task, etc. The wage statement must also indicate the total earnings for the pay period and all deductions from wages, along with an explanation as to why deductions were made.

Finally, employers must maintain records concerning any worker who was terminated and the reasons for such termination. Employers must notify the Department of Labor when an employee leaves his position to avoid continuing liability for back pay to separated workers.

Employers that do not comply with these new reporting obligations may face civil monetary penalties and may be required to pay back wages to H-2A workers. Administrative proceedings and/or injunctive actions through federal courts may be instituted to compel compliance with employers' contractual obligations to employees.

Copies of the application forms, regulations and relevant directives may be obtained from the Department of Labor at <http://www.wagehour.dol.gov>.

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Inquiries concerning topics addressed in the eLABORate may be directed to any of our Employment Law attorneys listed below. Your comments, questions, and suggestions are encouraged.

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