EMPLOYMENT AND TRAINING ADMINISTRATION ADVISORY SYSTEM U.S. DEPARTMENT OF LABOR Washington, D.C. 20210	CLASSIFICATION Foreign Labor Certification
	CORRESPONDENCE SYMBOL ONP
	DATE June 22, 2005

ADVISORY: **EMPLOYMENT AND TRAINING ORDER NO. 2-05**

TO: **NATIONAL AND REGIONAL OFFICES**

FROM: **EMILY STOVER DeROCCO**
Assistant Secretary

SUBJECT: **Reassignment and Delegation of Functions under 20 CFR Parts 655 and 656 from the Employment and Training Administration Regional Administrators and the United States Employment Service Director to the Chief, Division of Foreign Labor Certification**

1. **Purpose.** To reassign certain functions under 20 CFR parts 655 and 656 from the Regional Administrators of the Employment and Training Administration (ETA) and the Director of the United States Employment Service (USES) to the Chief , Division of Foreign Labor Certification (DFLC) within ETA, and to provide for further delegation and assignment of these functions.

2. **Authority and Directives Affected.**

   a. Immigration and Nationality Act, as amended, 8 U.S.C. 1101, *et seq.*, and U.S. Citizenship and Immigration Services Regulations, 8 CFR parts 204 and 214.
   b. Employment and Training Administration Regulations, 20 CFR parts 655 and 656.
   c. Secretary's Order 4-75, Delegation of Authority and Assignment of Responsibilities for Manpower Programs, 40 FR 1815 (April 28, 1975).
   d. Manpower Administration Order 4-75 (July 14, 1975).

3. **Background.** Under Secretary's Order 4-75, the Assistant Secretary for Employment and Training was delegated authority and assigned responsibility for carrying out certain of the Secretary of Labor's responsibilities under the Immigration and Nationality Act and for making organizational changes within policies established by the Secretary.

Pursuant to this authority, ETA has promulgated regulations at 20 CFR part 655 establishing procedures related to the temporary employment of aliens in the United States, including procedures under the H-2A, H-2B, and other nonimmigrant programs. Part 655 provides that certain functions will be performed by ETA Regional Administrators (*see, e.g.*, § 655.3(a) and § 655.92) and the USES Director (*see, e.g.*, § 655.92 and § 655.93(b)).

RESCISSIONS	EXPIRATION DATE Continuing

ETA regulations at 20 CFR part 656 establish procedures related to labor certification for the permanent employment of aliens in the United States. Effective March 28, 2005, a new part 656 regulation known as "PERM" provides streamlined procedures for processing of new permanent labor certification applications filed on or after that date, and pending applications refiled under the new regulation. *See* 69 FR 77326 (December 27, 2004). The new regulation contains no role for ETA Regional Administrators or the USES Director. However, pending permanent labor certification applications filed through March 27, 2005, will continue to be processed under the prior regulation at centralized backlog elimination centers (unless the employer elects to refile under PERM procedures). *See* Interim Final Rule, 69 FR 43716 (July 21, 2004) (establishing backlog elimination procedures). The prior regulation on permanent labor certification provided that certain functions would be performed by ETA Regional Administrators (*see, e.g.,* definition of "Certifying Officer" in prior § 656.3) and the USES Director (*see, e.g.,* prior § 656.24(a)).

4. **Scope and Policy.** All functions of the Director of the United States Employment Service and of the Regional Administrators of the Employment and Training Administration (ETA) as set forth in 20 CFR part 656 in effect through March 27, 2005, and in 20 CFR part 655 hereby are reassigned to and vested in the Chief, Division of Foreign Labor Certification (DFLC), ETA. The DFLC Chief may further delegate this authority within DFLC or reassign it to other ETA officials as appropriate.

This reassignment and transfer of functions affects only agency organization, procedures and practice within ETA and does not affect the rights of individuals or the public. To effectively administer the regulations described above, I find good cause to make this reassignment and transfer of functions effective immediately. The standards for making determinations under these regulations remain unchanged.

This order supersedes § 4(g)(4) of Manpower Administration Order 4-75 and any contrary provisions of ETA General Administrative Letters or other policy directives related to 20 CFR parts 655 or 656 and that reference action by the USES Director, ETA Regional Administrators, or ETA Regional Offices.

5. **Effective Date.** This Order is effective immediately.

[FR Doc. 05–13319 Filed 7–6–05; 8:45 am]
BILLING CODE 4510–30–C