

8. Flight attendant duty period limitations and rest requirements in § 121.467(c)

The final rule intended to change this subsection so that it cross-references part 117 instead of subparts Q, R, and S, as the pertinent flight, duty, and rest provisions have been moved out of subparts Q, R, and S and into part 117. However, the regulatory text of the final rule also inadvertently deleted a number of other provisions that were in this subsection. As such, § 121.467(c) has been corrected so that this subsection cross-references part 117, but retains its other provisions. The FAA notes that, pursuant to § 117.13, an unaugmented crew of flight attendants who operate under part 117 would be subject to the flight duty period limits set out in Table B.

Accordingly, in the final rule, FR Doc. 2011-33078, published on January 4, 2012 (77 FR 330), make the following corrections:

**Effective Date [Corrected]**

■ 1. On page 330, in the first column, the text of **DATES** is corrected to read as follows:

**DATES:** Effective January 4, 2014.

■ 2. On page 398, in the third column, in § 117.3, the definition of “flight duty period (FDP)” is corrected to read as follows:

**§ 117.3 Definitions.**

\* \* \* \* \*

*Flight duty period (FDP)* means a period that begins when a flightcrew member is required to report for duty with the intention of conducting a flight, a series of flights, or positioning or ferrying flights, and ends when the aircraft is parked after the last flight and there is no intention for further aircraft movement by the same flightcrew member. A flight duty period includes the duties performed by the flightcrew member on behalf of the certificate holder that occur before a flight segment or between flight segments without a required intervening rest period. Examples of tasks that are part of the flight duty period include deadhead transportation, training conducted in an aircraft or flight simulator, and airport/standby reserve, if the above tasks occur before a flight segment or between flight segments without an intervening required rest period.

\* \* \* \* \*

■ 3. On page 399, in the second column, in § 117.3, the definition of “theater” is corrected to read as follows:

**§ 117.3 Definitions.**

\* \* \* \* \*

*Theater* means a geographical area in which the distance between the flightcrew member’s flight duty period departure point and arrival point differs by no more than 60 degrees longitude.

\* \* \* \* \*

■ 4. On page 400, in the third column, in § 117.19, paragraph (b)(4) is corrected to read as follows:

**§ 117.19 Flight duty period extensions.**

\* \* \* \* \*

(b) \* \* \*

(4) Each certificate holder must report to the Administrator within 10 days any flight duty period that exceeded the maximum flight duty period limits permitted by Tables B or C of this part by more than 30 minutes. The report must contain a description of the circumstances surrounding the affected flight duty period.

■ 5. On page 401, in the first column, in § 117.23, paragraph (b)(1) is corrected to read as follows:

**§ 117.23 Cumulative limitations.**

\* \* \* \* \*

(b) \* \* \*

(1) 100 hours in any 672 consecutive hours or

\* \* \* \* \*

■ 6. On page 401, in the first column, in § 117.25, paragraph (b) is corrected to read as follows:

**§ 117.25 Rest Period.**

\* \* \* \* \*

(b) Before beginning any reserve or flight duty period a flightcrew member must be given at least 30 consecutive hours free from all duty within the past 168 consecutive hour period.

\* \* \* \* \*

■ 7. On the third column of page 401 and the first column of page 402, in § 117.29, paragraphs (b) and (g) are corrected to read as follows:

**§ 117.29 Emergency and government sponsored operations.**

\* \* \* \* \*

(b) The pilot-in-command may determine that the maximum applicable flight duty period and/or flight time must be exceeded to the extent necessary to allow the flightcrew to fly to the closest destination where they can safely be relieved from duty by another flightcrew or can receive the requisite amount of rest prior to commencing their next flight duty period.

\* \* \* \* \*

(g) Each certificate holder must implement the corrective action(s) reported pursuant to paragraph (f)(2) of this section within 30 days from the

date of the extended flight duty period and/or the extended flight time.

\* \* \* \* \*

■ 8. On page 402, in the second and third columns, in § 121.467, correctly revise paragraphs (c) introductory text and (c)(1) to read as follows:

**§ 121.467 Flight attendant duty period limitations and rest requirements: Domestic, flag, and supplemental operations.**

\* \* \* \* \*

(c) Notwithstanding paragraph (b) of this section, a certificate holder conducting domestic, flag, or supplemental operations may apply the flightcrew member flight time and duty limitations and rest requirements of part 117 of this chapter to flight attendants for all operations conducted under this part provided that—

(1) The certificate holder establishes written procedures that—

(i) Apply to all flight attendants used in the certificate holder’s operation;

(ii) Include the flightcrew member requirements contained in part 117, as appropriate to the operation being conducted, except that rest facilities on board the aircraft are not required;

(iii) Include provisions to add one flight attendant to the minimum flight attendant complement for each flightcrew member who is in excess of the minimum number required in the aircraft type certificate data sheet and who is assigned to the aircraft under the provisions of part 117, as applicable, of this part;

(iv) Are approved by the Administrator and are described or referenced in the certificate holder’s operations specifications; and

\* \* \* \* \*

Issued in Washington, DC, on April 30, 2012.

**Rebecca MacPherson,**

*Assistant Chief Counsel for Regulations, AGC-200.*

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**DEPARTMENT OF LABOR**

**Employment and Training Administration**

**20 CFR Part 655**

**RIN 1205-AB58**

**Temporary Non-agricultural Employment of H-2B Aliens in the United States**

**AGENCY:** Employment and Training Administration, Labor.

**ACTION:** Guidance.

**SUMMARY:** The Department of Labor (the Department) is providing notice of the judicial order enjoining the Department from implementing and enforcing the Temporary Non-agricultural Employment of H-2B Aliens in the United States, published February 21, 2012 (the 2012 H-2B Final Rule). The 2012 H-2B Final Rule revised the requirements by which employers seeking H-2B workers apply for a temporary labor certification for use in petitioning the Department of Homeland Security (DHS) to employ a nonimmigrant worker in H-2B status. The effective date of the 2012 H-2B Final Rule was April 23, 2012. The operative date of the 2012 H-2B Final Rule was April 27, 2012. This document provides guidance to the regulated community of the injunction, by judicial order, of the 2012 H-2B Final Rule and the continuing effectiveness of the 2008 H-2B Rule until such time as further judicial or other action suspends or otherwise nullifies the order in the *Bayou II* litigation.

**DATES:** This guidance is effective May 16, 2012.

**FOR FURTHER INFORMATION CONTACT:** For further information, contact William L. Carlson, Ph.D., Administrator, Office of Foreign Labor Certification, ETA, U.S. Department of Labor, 200 Constitution Avenue NW., Room C-4312, Washington, DC 20210; Telephone (202) 693-3010 (this is not a toll-free number). Individuals with hearing or speech impairments may access the telephone number above via TTY by calling the toll-free Federal Information Relay Service at 1-800-877-8339.

**SUPPLEMENTARY INFORMATION:** On February 21, 2012, the Department published a Final Rule amending the H-2B regulations at 20 CFR part 655, Subpart A. 77 FR 10038, February 21, 2012. On April 23, 2012, the Department published guidance which provided that applications filed under Labor Certification Process and Enforcement for Temporary Employment in Occupations Other Than Agriculture or Registered Nursing in the United States (H-2B Workers), and Other Technical Changes, 73 FR 78020, December 19, 2008 (the 2008 H-2B Rule), must be sent to the Office of Foreign Labor Certification's (OFLC's) Chicago National Processing Center (CNPC) and postmarked no later than midnight April 26, 2012. The guidance also provided that applications postmarked on or after April 27, 2012 will be adjudicated in accordance with

the requirements described in the 2012 H-2B Final Rule.

On April 16, several plaintiffs challenged the 2012 H-2B Final Rule in the U.S. District Court for the Northern District of Florida (*Bayou Lawn & Landscape Services, et al. v. Hilda L. Solis, et al.*, 3:12-cv-00183-MCR-CJK), seeking to preliminarily enjoin the Department from implementing the rule on the basis that the Department lacked authority to issue the 2012 H-2B Final Rule and that the rule violated both the Administrative Procedure Act and the Regulatory Flexibility Act. *Bayou Lawn & Landscape Services, et al. v. Solis*, Case 3:12-cv-00183-MCR-CJK, Complaint at 5 (Apr. 16, 2012). On April 26, 2012, the U.S. District Court for the Northern District of Florida issued an order temporarily enjoining the Department from implementing or enforcing the 2012 H-2B Final Rule pending "the court's adjudication of the plaintiffs' claims." *Bayou Lawn & Landscape Services et al. v. Solis*, Case 3:12-cv-00183-MCR-CJK, Order at 8 (Apr. 26, 2012).

Therefore, employers must file H-2B labor certification applications under the 2008 H-2B Rule, using those procedures and forms associated with the 2008 H-2B Rule for which the Department has received an emergency extension under the Paperwork Reduction Act. However, please be aware that this preliminary injunction necessarily calls into doubt the underlying authority of the Department to fulfill its responsibilities under the Immigration and Nationality Act and DHS's regulations to issue the labor certifications that are a necessary predicate for the admission of H-2B workers. OFLC will post additional filing guidance on its Web site at <http://www.foreignlaborcert.doleta.gov/>.

Signed in Washington, DC, this 11th day of May 2012.

**Jane Oates,**

*Assistant Secretary, Employment and Training Administration.*

[FR Doc. 2012-11859 Filed 5-15-12; 8:45 am]

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## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

### 24 CFR Parts 91 and 576

[Docket No. FR-5474-C-02]

RIN 2506-AC31

#### Homeless Emergency Assistance and Rapid Transition to Housing: Emergency Solutions Grants Program and Consolidated Plan Conforming Amendments; Correction

**AGENCY:** Office of the General Counsel, HUD.

**ACTION:** Interim rule; correction.

**SUMMARY:** The document advises that the interim rule for the Emergency Solutions Grants program, published on December 5, 2011, displayed an incorrect RIN number. This document advises of the correct RIN number, 2506-AC31, as displayed in the heading of this document.

**DATES:** This correction is effective May 16, 2012.

**FOR FURTHER INFORMATION CONTACT:** Camille E. Acevedo, Associate General Counsel for Legislation and Regulations, Office of General Counsel, Department of Housing and Urban Development, 451 7th Street SW., Room 10282, Washington, DC 20410-0500; telephone number 202 708-1793 (this is not a toll-free number). Hearing- and speech-impaired persons may access this number through TTY by calling the Federal Relay Service at 800-877-8339 (this is a toll-free number).

**SUPPLEMENTARY INFORMATION:** On December 5, 2011, at 76 FR 75954, HUD published its interim rule on the Emergency Solutions Grants program. The heading for this rule displayed a RIN number of 2506-AC29, which was incorrect. RIN number 2506-AC29 is already assigned to another HUD rule, but not yet published, on HUD's Continuum of Care program. The correct RIN number for the Emergency Solutions Grant interim rule is 2506-AC31, and this document advises of the correction.

Dated: May 10, 2012.

**Camille E. Acevedo,**

*Associate General Counsel for Legislation and Regulations.*

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