

PUBLICATION UPDATE

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Bender's Immigration Regulations Service

Publication 695 Release 253 October 2022

HIGHLIGHTS

DEVELOPMENTS

- Release 253 of Bender's Immigration Regulations Service includes regulatory changes published in the Federal Register from March 9, 2022, through July 20, 2022.

Main Items:

Department of Homeland Security

8 CFR Parts 103, 212, 214, and 274a. Conforming Amendments Related to Temporary Entry of Business Persons Under the Agreement Between the United States of America, the United Mexican States, and Canada (USMCA). This CBP final rule changed references to NAFTA to ones to the USMCA. The effective date was July 11, 2022. 87

Fed. Reg. 41027 (July 11, 2022).

8 CFR Part 217. Electronic System for Travel Authorization (ESTA) Fee Increase. This CBP final rule increases the travel promotion fee (or "authorization charge") in § 217.5 by \$7, to \$17. 87 Fed. Reg. 30769, 30773 (May 20, 2022).

8 CFR Part 274a. Temporary Increase of the Automatic Extension Period of Employment Authorization and Documentation for Certain Renewal Applicants. In this temporary final rule, the Department of Homeland Security revised § 274a.13(d)(5) to increase the maximum extension allowed to 540 days from 180 days. The rule is effective from May 4, 2022, through October 15, 2025. 87 Fed. Reg. 26614, 26651-52 (May 4, 2022).

8 CFR Parts 103, 212, 217, 286. Implementation of the Electronic

System for Travel Authorization (ESTA) at U.S. Land Borders This CBP interim final rule was effective May 2, 2022. 87 Fed. Reg. 18967, 18980–81 (April 1, 2022).

8 CFR Part 106. Implementation of the Emergency Stopgap USCIS Stabilization Act. This final rule took effect on May 31, 2022. It amends 8 CFR § 106.4, Premium processing service. 87 Fed. Reg. 18227, 18260–61 (March 30, 2022).

8 CFR Part 208. Asylum Interview Interpreter Requirement Modification Due to COVID-19. USCIS again extended the effective date of its temporary final rule that modified regulations to help ensure that USCIS may continue with affirmative asylum adjudications during the COVID-19 pandemic. The original TFR was promulgated at 85 Fed. Reg. 59655 ((Sept. 23, 2020), effective from September 23, 2020, through March 22, 2021. It was extended to September 20, 2021, at 86 Fed. Reg. 15072 (Mar. 22, 2021). It was further extended to March 16, 2022, at 86 Fed. Reg. 51781 (Sept. 17, 2021). This latest extension is effective until March 16, 2023. Affected: § 208.9(h) introductory language. 87 Fed. Reg. 14757, 14763 (Mar. 16, 2022).

Department of Justice

28 CFR Parts 68, 85. Civil Monetary Penalties Inflation Adjustments for 2022. This is added as a note to 28 CFR § 68.52. The extensive tables set out useful information for readers consulting § 68.52. 87 Fed. Reg. 27519 (May 9, 2022).

Department of State

22 CFR Part 22. Schedule of Fees for Consular Services—Elimination of the “Return Check Processing Fee.” This final rule amends 22 C.F.R. § 22.1. 87 FR 16636, 16638 (Mar. 24, 2022).

22 CFR Part 42. Visas: Diversity Immigrants. The Department of State removed the IFR of June 5, 2019, requiring principal applicants seeking diversity visas to provide serial or issuance numbers for their passports or to claim an exemption. 87 FR 35414, 35415 (June 10, 2022). The section affected is 22 CFR 42.33

Departments of Homeland Security and of Justice

8 CFR Parts 208, 212, 235, 1003, 1208, 1235, 1240. Procedures for Credible Fear Screening and Consideration of Asylum, Withholding of Removal, and CAT Protection Claims by Asylum Officers. On March 29, 2022, the Departments of Homeland Security and Justice published a long interim final rule effective May 31, 2022. The IFR made some changes to the version propounded as a notice of proposed rule-making in August 2021. The Departments requested more comments, and said that they will address them “in a future rule.” 87 Fed. Reg. 18078, 18215–26 (Mar. 29, 2022).

Departments of Homeland Security and of Labor

20 CFR Part 655. Exercise of Time-Limited Authority To Increase the Numerical Limitation for Second Half of FY 2022 for the H-2B

Temporary Nonagricultural Worker Program and Portability Flexibility for H-2B Workers Seeking To Change Employers. Via temporary rule, the Secretary of Homeland Security, in consultation with the Secretary of Labor, increased the total number of noncitizens who may receive an H-2B nonimmigrant visa by authorizing the issuance of up to 35,000 additional visas during FY 2022 for positions with start dates on or after April 1, 2022, to those businesses that are suffering irreparable harm or will suffer impending irreparable harm, as attested by the em-

ployer on a form. In addition, DHS is again provided temporary portability flexibility by allowing H-2B workers already in the United States to begin work immediately after an H-2B petition (supported by a valid temporary labor certification) is received by USCIS and before it is approved. The amendments to 8 CFR §§ 214.2 and 274a.12 are effective through May 18, 2025. The new 20 CFR § 655.65 is effective through September 30, 2022; new 20 CFR § 655.66 is effective through September 30, 2025. 87 FR 30334 (May 18, 2022).

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October 2022

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