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Bender's Immigration Regulations Service

Publication 695 Release 194

February 2009

HIGHLIGHTS

RECENT CHANGES

- This release 194 includes regulatory changes published in the Federal Register as of the issue dated Feb. 9, 2009. Included are changes to regulations of the Department of Homeland Security, the Executive Office for Immigration Review, the Department of State, and the Department of Labor. Please see below for details.

DEPARTMENT OF HOMELAND SECURITY—8 CFR (VOLUME 1)

Adjustment of Status for Aliens in T or U Nonimmigrant Status

Additions and revisions were made by interim final rule, 73 FR 75540, Dec. 12, 2008, eff. Jan. 12, 2009, as corrected, 74 FR 396, Jan. 6, 2009, eff. Jan. 12, 2009:

- New § 212.8 added;
- § 214.11(p)(1) & (2) revised; and 245.24 added.
- New §§ 245.23 and 245.24 added.

Documents Acceptable for Employment Eligibility Verification

Revision of § 274a.2(b) was made by interim rule, 73 FR 76505, Dec. 17, 2008 (as corrected, 74 FR 2838, Jan. 16, 2009). The original effective date of February 2, 2009, was extended to April 3, 2009, by interim rule, 74 FR 5899, Feb. 3, 2009 (FR document eff. Jan. 30, 2009).

H-2A Nonimmigrants; Changes to Requirements

Numerous changes were made by final rule, 73 FR 76891, Dec. 18, 2008, eff. Jan. 17, 2009. See Vol. 1, 8 CFR:

- § 214.2(h)(2)(i)(A) through (D) revised;
- § 214.2(h)(2)(iii) revised;
- § 214.2(h)(5)(i)(A) through (C) revised;
- § 214.2(h)(5)(i)(F) added;
- § 214.2(h)(5)(ii) last sentence removed;
- § 214.2(h)(5)(v)(B) revised;

- § 214.2(h)(5)(v)(C) revised;
- § 214.2(h)(5)(vi) revised;
- § 214.2(h)(5)(viii)(A) through (C) revised;
- § 214.2(h)(5)(ix) revised;
- § 214.2(h)(5)(x) revised;
- § 214.2(h)(5)(xi) and (xii) added;
- § 214.2(h)(11)(i)(A), new sentence at end of paragraph;
- § 214.2(h)(11)(ii) revised;
- New § 215.9 “Temporary Worker Exit Visa” added;
- § 264a.12(b)(21) added.

H-2B Nonimmigrants and Their Employers

Numerous changes were made by final rule, 73 FR 78104, Dec. 19, 2008, eff. Jan. 18, 2009 (as corrected 74 FR 2837, Jan. 16, 2009):

- § 204.5(o) added;
- § 215.1(k) added;
- § 214.2(h) was amended in numerous places:
 - (h)(1)(ii)(D) revised;
 - (h)(2)(ii) new sentence added to the end of paragraph;
 - (h)(2)(iii) revised;
 - (h)(2)(iv) redesignated as h)(6)(viii), and (h)(2)(iv) is now reserved;
 - (h)(6)(i) revised;
 - (h)(6)(ii)(B) introductory text revised;
 - (h)(6)(iii)(B) technical correction replacing “amendable” with “amenable”;
 - (h)(6)(iii)(C) revised by adding the word “favorable” immediately after the phrase “has obtained a”;
 - (h)(6)(iii)(E) revised by adding “favorable” immediately after the

phrase “After obtaining a”;

- (h)(6)(iv)(A) revised;
- (h)(6)(iv)(D) revised;
- (h)(6)(iv)(E) removed;
- (h)(6)(v)(A) revised;
- (h)(6)(v)(C) and (D) removed and reserved;
- (h)(6)(v)(E)(2)(iii) technical correction inserting the word “States”;
- (h)(6)(vi)(A) revised;
- (h)(6)(vi)(B) removed and reserved;
- (h)(6)(vi)(C) revised;
- (h)(6)(vii), technical correction replacing “or” with “to”;
- (h)(6)(viii), as newly designated, is revised;
- (h)(6)(ix) added;
- (h)(8)(ii)(A) revised;
- (h)(9)(i)(B) revised;
- (h)(9)(iii)(B)(1) revised;
- (h)(10)(ii) revised;
- (h)(11)(i)(A) new sentence added at end of paragraph;
- (h)(11)(iii)(A)(2) revised;
- (h)(13)(i)(B) revised;
- (h)(13)(iv) revised;
- (h)(13)(v) revised.

US-VISIT Program Expansion To Include Aliens Seeking Admission Under the Visa Waiver Program and Travelers Arriving at Designated Land Border Ports of Entry

Final rule, 73 FR 77473, Dec. 19, 2008, eff. Jan. 18, 2009 (as corrected, 74 FR 2837, Jan. 16, 2009), made revisions to § 215.8(a)(1) and § 235.1(f)(1)(ii).

Establishing U.S. Ports of Entry in the Commonwealth of the Northern Mariana Islands (CNMI) and Implementing

the Guam-CNMI Visa Waiver Program

An interim rule published by DHS-CBP at 74 FR 2824, Jan. 16, 2009, implements section 702 of Pub. L. 110–229, the Consolidated Natural Resources Act of 2008 (CNRA), which extends U.S. immigration laws to the Commonwealth of the Northern Mariana Islands (CNMI) and provides for a visa waiver program for travel to Guam and the CNMI. See, e.g., revised § 212.1(e), new § 212.1(q), new § 233.6 (Aliens entering Guam or CNMI pursuant to Title VII of Pub. L. 110–229 (CNRA of 2008)), and revised § 235.5(a).

Visa Waiver Program Country Designation: Malta

Final rule, 73 FR 79595, Dec. 30, 2008, made a technical amendment to § 217.2(a) adding Malta to the countries enumerated in that paragraph as designated countries.

EXECUTIVE OFFICE FOR IMMIGRATION REVIEW—8 CFR § 1001.1 et seq. (VOLUME 1)

Voluntary Departure; Effect of Motion To Reopen or Reconsider or a Petition for Review

Changes were made by final rule, 73 FR 76925, Dec. 18, 2008, eff. Jan. 20, 2009:

- § 1240.11(b) revised;
- § 1240.26 (b)(3)(iii) & (iv) added;
- § 1240.26(c)(3) & (4) revised;
- § 1240.26(e)(1) & (2) added;
- § 1241.1(f) revised.

Professional Conduct for Practitioners; Rules and Procedures, Representation, and Appearances

Changes were made by final rule, 73 FR 76914, Dec. 18, 2008, eff. Jan. 20, 2009:

- § 1001.1(f) & (i) revised;
- § 1003.102 (e), (h), (l), & (m) revised; new (n) thru (u) added;

- § 1003.103(a)(1) & (2) revised; (b) introductory text par. (2) revised, (c) revised;
- § 1003.104(a) thru (d) revised;
- § 1003.105(a), (b), (c)(1), and (d)(2) revised;
- § 1003.106(a)(1), (a)(2), (a)(3), (b), (c), and (d) revised;
- § 1003.107 (b)(1) revised, new (c) added;
- § 1003.108 — revisions to par. (a) introductory text & (a)(1) introductory text, (a)(1)(i) & (iv), and (a)(2);
- § 1292(a)(2) revised.

Reorganization of Regulations on Control of Employment of Aliens

An EOIR interim rule, 74 FR 2337, Jan. 15, 2009, made revisions in 8 CFR Part 1274a to delete regulations that were unnecessarily duplicative of regulations that are found in 8 CFR Part 274a and that pertain to matters within the jurisdiction of the Department of Homeland Security. In place of the duplicative sections that have been removed (§§ 1274a.2 thru 1274a.8), the EOIR regulations now make reference to the applicable DHS regulations (see revised § 1274a.1), and a revision was made to § 1274a.9(f).

DEPARTMENT OF STATE — 22 CFR (VOLUME 2)

Visas: Electronic Petition for Diversity Immigrant Status

Interim regulations at § 42.33, Diversity Immigrants, originally published at 68 FR 49353, Aug. 18, 2003, were adopted as final without change by final rule at 74 FR 2369, Jan. 15, 2009, as now reflected in the history information at the end of § 42.33.

DEPARTMENT OF LABOR—20 CFR (VOLUME 2)

Temporary Employment in Occupations Other Than Agriculture or Registered Nursing (H-2B Workers); Labor Certification Process and Enforcement

20 CFR 655 Subpart A was completely revised by final rule, 73 FR 78020, Dec. 19, 2008, eff. Jan. 18, 2009. See revised §§ 655.1 to 655.80.

Temporary Agricultural Employment of H-2A Aliens; Modernizing Labor Certification Process and Enforcement

20 CFR 655 Subpart B was completely revised by final rule, 73 FR 77110, Dec. 18, 2008, eff. Jan. 17, 2009, as corrected, 74

FR 201, Jan. 5, 2009. See revised §§ 655.90 to 655.119.

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February 2009

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