

PUBLICATION UPDATE

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Bender's Immigration Regulations Service

Publication 695 Release 222

July 2013

HIGHLIGHTS

Regulatory Changes

- Release No. 222 includes regulatory changes published in the Federal Register as of May 31, 2013. See below for details of regulatory changes included in this release.

8 CFR (Volume 1)

DHS Regulations

Definition of Form I-94 To Include Electronic Format. DHS interim final rule, 78 FR 18457, March 27, 2013 (effective April 26, 2013), added a new 8 CFR 1.4, Definition of Form I-94, defining the Form I-94 to include the collection of arrival/departure and admission or parole information by DHS, whether in paper or electronic format. Subparagraphs (a) through (g) of the new section clarify the meaning of various other terms when used in the context of Form I-94.

Joint DHS-DOL Rule; Wage Methodology for the Temporary Non-Agricultural Employment H-2B Pro-

gram, Part 2. DHS/DOL-ETA Interim Final Rule, 78 FR 24047, April 24, 2013, amended 8 CFR § 214.2(b)(6)(iii)(D) and 20 CFR 655.10(b)(2). The rule was issued jointly by DOL and DHS in response to the court's order in Comite de Apoyo a los Trabajadores Agricolas v. Solis, which vacated portions of DOL's current prevailing wage rate regulation, and to ensure that there is no question that the rule is in effect nationwide in light of other outstanding litigation. The rule clarifies that DHS is the Executive Branch agency charged with making determinations regarding eligibility for H-2B classification, after consulting with DOL for its advice about matters with which DOL has expertise, particularly on questions about the methodology for setting the prevailing wage in the H-2B program.

Immigration Benefits Business Transformation, Increment I; Correcting Amendment. An amendment published by DHS published at 78 FR 22770, April 17, 2013, made technical corrections to amendments made by DHS's final rule titled

Immigration Benefits Business Transformation, Increment 1, 76 FR 53764, Aug. 29, 2011. The corrections were made to 8 CFR § 103.2 Submission and adjudication of benefit requests, paragraph (b)(18), and 8 CFR § 208.24, paragraph (f).

DOJ-EOIR Regulations

Forwarding of Asylum Applications to the Department of State. DOJ-EOIR final rule, 78 FR 19077, March 29, 2013 (effective April 29, 2013), made amendments to 8 CFR Parts 1208 and 1240 to alter the process by which EOIR forwards asylum applications for consideration by the Department of State (DOS), Bureau of Democracy, Human Rights, and Labor. The final rule amends the regulations to provide for sending asylum applications to DOS on a discretionary basis, replacing the procedure whereby EOIR would forward DOS all asylum applications submitted initially in removal proceedings before an immigration judge. Amended by the final rule are the following: § 1208.11 Comments from the Department of State; 8 CFR § 1240.11 Ancillary matters, applications, paragraph (c)(2); 8 CFR § 1240.33 Applications for asylum or withholding of deportation, paragraph (b); 8 CFR § 1240.49 Ancillary matters, applications, paragraph (c)(3).

Registry for Attorneys and Representatives. DOJ-EOIR final rule, 78 FR 19400, April 1, 2013 (effective May 31, 2013), amended CFR Part 1292 to authorize the Director of EOIR or his designee to register attorneys and accredited representatives as a condition of practicing before immigration judges and the Board of Immigration Appeals. The final rule amended 8 CFR § 1292.1, Representation of others, by revising paragraphs (a) (1) and (a)(4), and by adding a new paragraph (f). Subsequent to publication of the final rule, a notice of implementation of the registration requirement was published at 78 FR 28124, May

14, 2013. See note “Notice of implementation of registration requirement” set forth following 8 CFR § 1292.1.

Reorganization of Regulations on the Adjudication of Department of Homeland Security Practitioner Disciplinary Cases. DOJ-EOIR final rule, 78 FR 24669, April 26, 2013 (effective June 25, 2013), adopted without change amendments made by interim final rule, 77 FR 2011, Jan. 13, 2012. Notation has been added to the history at the end of each of the sections affected by the January 13, 2012, amendments. The affected sections were in 8 CFR Parts 1003 and 1292.

DOS Regulations (Volume 2)

Consular post records of visa applications. DOS final rule 78 FR 31398, May 24, 2013, amended 22 CFR 42.52(c)(1). In the preamble to the final rule, DOS noted that the amendment was made to eliminate the use of Form OF-224 as a method of recording an alien’s entitlement to an immigrant visa classification. Due to the availability of automated systems at all immigrant visa-issuing posts, this entitlement is now recorded automatically, rendering the use of Form OF-224 unnecessary and obsolete.

Exchange Visitor Program Fees and Charges. DOS final rule, 78 FR 28137, May 14, 2013 (effective June 13, 2013), revised 22 CFR 62.17, Fees and charges. The amendment increases fees to recover the costs of administrative processing of requests for program designation or redesignation (fee increased from \$2700 to \$3982), and certain services for exchange visitor benefits (fee increased from \$233 to \$367).

DOL Regulations (Volume 2)

Further Delay of Effective Date; Wage Methodology for the Temporary Non-Agricultural Employment H-2B Pro-

gram. DOL-ETA final rule, 78 FR 19098, March 29, 2013, further delayed until October 1, 2013, the amendments to 20 CFR 655.10 made by the Wage Methodology Final Rule originally published at 76 FR 3452, January 19, 2011. The previous delay of the effective date of the rule was a delay from October 1, 2012, to March 27, 2013, made by final rule published at 77 FR 60040 (October 2, 2012). Notations have been made at both the currently-effective and the delayed-effective date versions of 20 CFR 655.10.

Joint DHS-DOL Rule; Wage Methodology for the Temporary Non-Agricultural Employment H-2B Program, Part 2. DHS/DOL-ETA Interim Final Rule, 78 FR 24047, April 24, 2013, amended 8 CFR § 214.2(b)(6)(iii)(D) and 20 CFR 655.10(b)(2). The rule was issued jointly by DOL and DHS in response to the court's order in *Comite' de Apoyo a los Trabajadores Agricolas v. Solis*, which vacated portions of DOL's current prevailing wage rate regulation, and to ensure that

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July 2013

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